Moral Individualism and Libertarian Theory

Eric Mack

To every Individuall in nature, is given an individual property by nature, not to be invaded or usurped by any: for every one as he is himselfe, so he hath a selfe propriety, else could he not be himselfe, and on this no second may presume to deprive any of, without manifest violation and affront to the very principles of nature, and of the Rules of equity and justice between man and man.

Richard Overton, “An Arrow Against All Tyrants” (1646)

1. Introduction

The synoptic libertarian norm is that individual liberty must be respected and that coercive action, whether by individuals or political institutions, is legitimate only insofar as it protects people in their peaceful enjoyment or exercise of their liberties. The only morally permissible coercion is the counter-coercive suppression of coercion. There is much more to life than jealous regard for one’s own liberties and fastidious respect for the liberties of others. But the teaching of libertarianism is that none of life’s other concerns—whether they be social or aesthetic ideals, scientific or religious projects, or personal aspirations—justify the deployment of freelance or institutionalized force.

Liberty cannot, of course, guarantee that the particular aspirations of individuals will be fulfilled or that general societal conditions such as increased prosperity, cultural vibrancy, scientific progress, and environmental preservation will obtain. According to the libertarian, however, a social
order that is respectful of liberty, viz., a regime of personal and economic freedom, of markets and other freely entered forms of association, of private initiative and virtue, will advance these diverse and sometimes competing ends as well as can be expected of any social order. In support of this contention, the libertarian asserts the efficiency and stability of social and economic structures that emerge from agents’ noncoerced decisions and transactions and the inefficiency and irrationality of imposed, centrally planned structures. The libertarian maintains that moral virtues and economic values are fostered when individuals are held responsible for their own lives and decisions and are undermined when political policies penalize productive behavior and subsidize destructive conduct. The libertarian emphasizes the dangerously persistent human drive for coercive control over others, the distinctive allure of political power for the satisfaction of this drive, the limitless array of pretenses that have been offered in support of coercive power, and the need for eternal vigilance to constrain coercive institutions and to unmask power-serving pretenses. This essay, however, cannot address these crucial theoretical and empirical assertions. Its focus is confined to the core moral principles underlying the libertarian endorsement of liberty.

While many different philosophical accounts of this endorsement of liberty have been offered, the account I propose gives pride of place to the moral rights of individuals. An agent’s liberty, correctly understood, consists in the nonviolation of her moral rights. To delineate the liberties endorsed by libertarian theory, we must specify what rights individuals possess and explain why they possess them. To this end, I present the basic elements of a general moral theory, Moral Individualism (MI), whose fundamental theme is the ultimate and irreducible moral importance of each person’s life. In section 2, I argue that any adequate moral theory must include two components, a theory of the good and a theory of the right, neither of which is reducible to the other. Within MI, these two components, each of which partially articulates MI’s fundamental theme, are Value Individualism (VI) and Rights Individualism (RI). RI is the rights doctrine that best supports libertarian theory. The next two sections are devoted to presenting these two mutually supportive strands of MI. Section 3 explicates the major features of VI, whose central claim is that, for each individual, that individual’s well-being is the ultimate good. Section 4 explicates salient features of RI. This section focuses especially on the rationale for the right of self-ownership but also attends briefly to justice in economic holdings and the right of property.

Other important moral elements of libertarian theory are, most unfortunately, beyond the confines of this essay. These include its fuller account of the generation of entitlements to extrapersonal resources, its attention to permissible procedures rather than mandated ends, its rejection of legal paternalism and the enforcement of morality, its vindications of self-defense and punishment, its conceptions of equality, legal neutrality among persons, and the rule of law, and its stance on what types of rights-enforcing institutions are legitimate.

2. The Two Primary Tasks of Ethical Theory

Ethical theory must discover both what ends are to be attained and what means may be employed in attaining those ends. Ethical theory needs to identify what is of ultimate value, what ends impart instrumental value to intermediary goals and to the actions that serve intermediary and final goals. In addition, ethical theory must identify what means—especially what forms of interaction among agents—are morally acceptable in the pursuit of valued goals.

Consequentialist moral theorists believe that the identification of ultimately valuable ends directly governs the determination of morally acceptable means. They believe that one ought to do precisely the action (or set of actions) that will most promote the ultimate value. Rightness of action, in the consequentialist view, consists in an action’s propensity to yield valuable outcomes. So, if an action is more productive of the summum bonum than any other available action, that action cannot be wrong. Thus, according to consequentialism, the end—as long as it is correctly assessed as more valuable than any other available end—always justifies the means. The production of the best outcome always justifies the action necessary for that outcome.

This implication is the basis for a decisive objection to consequentialism. Consequentialism is incapable of recognizing norms of justice or rights that place principled limits on what may be done to people in the name of desirable consequences. Of course, according to most particular consequentialist theories, on most occasions, one ought not to kill, maim, deceitfully manipulate, or ensnare other individuals. But this implies that on these occasions, these actions do not pay to engage in killing, maiming, and so on. Nevertheless, whenever it is expedient that individual I be killed, maimed, or so on, that action ought to be performed and I can have no claim in justice or rights against it. Moreover, even when the killing, maiming, or so on of I is inexpedient and hence the consequentialist judges that the action against I is wrong, this action is condemned for the wrong reason.
It is merely condemned as inexpedient, as not sufficiently useful under the circumstances. I can never invoke any principle of justice or any right against the contemplated treatment. I am to be spared only because the killing, maiming, or so on would not serve the consequentialist’s purposes; he is to be spared only because, on this occasion, it is not expedient to sacrifice him to the sumnum bonum. These considerations show that the second task of ethical theory, viz., the determination of the means by which value may be attained, is not directly governed by an identification of what is of ultimate value. This second task requires the identification of an independent (albeit not utterly detached) dimension of morality—a dimension that delineates moral constraints on the acceptable means for attaining the good. What is needed is a theory of the right (i.e., of principles of justice or rights) that is independent of the theory of the good and, hence, is capable of issuing moral restrictions on what may be done in the pursuit of the good.

MI offers both a theory of the good and a nonsubordinate theory of the right that provide plausible and mutually coordinate and supportive answers to the primary questions of ethical theory. VI, MI’s theory of the good, maintains that, for each individual person, well-being is the ultimate value, the ultimate end that merits its attainment. The well-being of each person is valuable-in-itself and not merely in virtue of some contribution that it may make to some transpersonal objective, such as the aggregate well-being. VI asserts that individuals are moral ends-in-themselves in the sense that each has, within his life and as the realization of his life, an end of ultimate value.

RI, MI’s theory of the right, maintains that any being who has, for and within his life, rational ends of his own, is not among the means, the disposable resources, available for others’ use in the advancement of their objectives. Each individual has sole moral authority over himself so that, while he may direct and utilize his person, e.g., his faculties, talents, and bodily parts, in the pursuit of his ends, no other agent (without the noncoerced consent of the individual) may direct or utilize that individual’s life or person. RI asserts that individuals are moral ends-in-themselves in the (second) sense that each possesses a moral authority over himself that makes it impermissible for others to treat that individual as a means to their ends. It is this right of self-ownership that bars killing, maiming, deceitfully manipulating; or enslaving the individual independent of how effective these actions would be in the promotion of the goals of their perpetrators. RI also advances a doctrine of property rights to extrapersonal resources. These rights extend the domains within which individuals may freely pursue their chosen ends with moral immunity from subordination to others’ purposes.

3. Value Individualism

According to VI, for each individual person, his own well-being is the ultimate value, the ultimate end for the measurement of his life. Individuals are not morally subservient to ends outside themselves; they do not have to justify their existence by service to some purportedly higher, impersonal purpose. The model of practical rationality offered by VI is that of the truly prudential agent who, not only in his choice of means and practical strategies, but even in his selection of life-defining ends, genuinely promotes his well-being. I’s having or adopting any formative end is, in the final analysis, desirable if and only if under the circumstances that confront him, I’s having, adopting, striving for, or attaining that end will make or will be apt to make his life more worth living. In commending to I any life-defining enterprise, the final reason one can offer is, “You’ll be happier (or more apt to be happy), your life will be more enviable (or be more apt to be enviable) if you incorporate this enterprise into your plan of life.” According to VI, no further ends-oriented reason is necessary or possible.

The conception of well-being employed by VI is inclusive. Rather than being composed of one type of state, e.g., one or another species of sensual pleasure, a persons’ well-being is composed of a wide variety of different types of constitutive ends. These include various pleasant sensations and satisfying feelings, efficacy in challenging interactions with one’s environment, knowledge, sustained allegiance to persons and causes, integrity, self-mastery, and the development of the character traits that support these achievements. Any given individual’s well-being will be composed of a cohesive set of particular instantiations of these types of formative ends. Which instantiations of these human goods will compose I’s well-being will depend upon I’s natural propensities and capacities, his personal and cultural environment, and his own commitment to particular instantiations (this specific career ambition or that particular scientific project) as formative for his life. I ought to have or adopt a particular project or commitment or relationship as a formative end if and only if I’s having or acquiring that instantiated end enhances I’s prospects for his integrated attainment of the goods of human life.

Each agent has goal-oriented reasons to perform those actions that effectively advance or sustain his well-being. But this is not to say that the only reason I can have for or against his performance of some action is the tendency of that action to advance or inhibit his well-being. For VI does not assert that the only assessments of I’s actions are to be in terms of their promotion of valuable outcomes. VI at least leaves open the possibility that I’s actions may also be assessed in terms of independent principles of the
right—in particular in terms of moral constraints upon how valued ends may be pursued.

The crucial structural feature of VI is its claim that the value of personal well-being and the actions and conditions conducive to it are agent-relative. Each individual’s well-being is the ultimate good for that individual. It is not just that this well-being occurs within I’s life, but also that the value of I’s well-being arises within and obtains in relationship to I’s life. The value is not generic, it is not value-at-large; it is essentially value-for-I. Whatever is genuinely valuable is valuable relative to this or that particular agent—either ultimately valuable as a constituent of this or that agent’s well-being or instrumentally valuable as productive of his well-being. VI differs radically from impersonal (or agent-neutral) theories of the good in that VI asserts the existence of many ultimate goods, many summa bona. All persons must acknowledge that I has reason to promote his well-being. But this does not imply that all persons themselves have reason to promote I’s well-being. Affirming that everyone’s well-being is of ultimate value in no way implies, pace John Stuart Mill, that everyone’s well-being is part of a single, global, impersonal value to which everyone ought to be prepared to sacrifice anyone’s well-being. Indeed, a crucial lesson for political theory of the agent-relativity of value is the radical undercutting of all putatively agent-neutral rankings of alternative social states that are supposed to provide everyone with reason to bear or impose costs for the sake of the social state that is impersonally most highly ranked.

Let us understand a social state to consist in a set of pairings of an individual with a degree of attainment of well-being (or whatever is judged to be of ultimate value). For instance, one social state is represented by row I of the matrix below, where the numerals in the boxes represent the amounts of ultimate good attained by the designated individuals. (An empty box signifies the nonexistence of that individual in the relevant social state.) Agent-neutral theories of the good each offer some formula for ranking such alternative states. For example, aggregative theories will give pride of place to II, while egalitarian theories will anoint III. In each case, the priority of the favored state is supposed to provide all agents with reason to contribute to the creation of that state rather than to any of the lower-ranked alternatives. Hence, the egalitarian will assert that, since state III is most valuable, I ought to be prepared to forego the additional five units of value he would enjoy under I, J ought to be prepared to forego the additional ten units of value she would enjoy under IV and L ought to be prepared to forego the ten units of value that would characterize her existence under IV.

VI denies that there is any such most highly ranked state. The values of alternative states are themselves always agent-relative. State I is the most valuable state for I. Period. State III is the most valuable state for K. Period. State IV is the most valuable state for J and also for L. Period. The promotion of any one of these states will advance the good of some while inhibiting the good of others. That is all. There is no agent-neutral best end that all should endeavor to or be required to serve. There is no social goal on the altar of which the good of individuals may justifiably be sacrificed. VI rejects the idea that it is part of the task of moral theory to provide any impersonal ordering of competing social states. Perhaps, in the course of diverse lives and their trials and tribulations, state I will emerge. Perhaps, instead, state II or III or IV will emerge. According to VI, moral theory ought not and cannot proclaim which of these states is ordained to exist.

The rejection of agent-neutral rankings rebuts all arguments that appeal to such rankings in order to justify coercive impositions on individuals. For example, it rebuts any attempt to justify subjecting I to a day of forced labor in order to move from state I to the purportedly more valuable state II. However, it is one thing to rebut a proposed justification for a coercive imposition. It is another thing to establish the wrongfulness of that imposition. It is one thing to show that a certain argument on behalf of subjecting I to forced labor fails. It is another thing to show that there is some interpersonally valid norm that condemns this subjugation. (Perhaps justice neither endorses nor condemns I’s subjugation.) Interpersonally valid norms that identify certain actions as wrongful—indeed, as violations of rights—have their primary location, not within MI’s theory of the good, but within MI’s theory of the right to which we now turn.

4. Rights Individualism

The advocate of MI maintains that a libertarian institutional framework that restrains political power, sustains the rule of law, and protects individu-

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als in their legitimate private spheres and in their voluntary interactions—all in the service of individual rights—would be of great instrumental value, if not for everyone, then for nearly everyone. 7 To begin with, nearly everyone would have a direct, pragmatic, agent-relative stake in complying with and promoting others’ compliance with such a framework of rules because of the degree to which that framework enhances peace and mutually advantageous coordination. Moreover, at least most individuals are naturally disposed to internalize allegiance to and abide by norms that are seen to facilitate peaceful cooperation and mutually beneficial interaction and that affirm each person’s status as a moral end-in-himself. Such internalization adds moral structure to people’s lives. 8 Furthermore, the effective and justifiable enforcement of these rules will provide to even more individuals—especially to those individuals who are not naturally disposed to internalize moral rules—additional agent-relative reasons to abide by these rules. And the greater the resulting overall compliance, the greater the likelihood that, for any given individual, the libertarian framework will serve him well and earn his support. These are important considerations that indicate the extent to which people blessed with a libertarian framework will be motivated to abide by and uphold its strictures.

These considerations in themselves, however, fall short of fully vindicating those institutions and the rights for the sake of which those institutions are championed. For these considerations presuppose and build upon, but do not in themselves provide, an independent delineation and justification of those libertarian rights. Once such rights are identified, justified, and made the object of moral allegiances and legal enforcement, the mutually advantageous libertarian framework will be at hand. But the benefits of the system arise as the product of our identification of and commitment to these individual moral rights. Thus, we need to discover a grounding for these rights that does not merely invoke the beneficial results of our identifying and committing ourselves to abide by them. More specifically, we need to inquire into what basis exists within MI for affirming rights that morally constrain others’ pursuits of their valued ends.

I believe that there are two complementary bases within MI for affirming these rights and I propose to set out two arguments that articulate these grounds for rights: (A) the prerogative argument; and (B) the recognition argument. Each of these is an argument for the moral right of self-ownership.

(A) The prerogative argument.

As a component of MI, VI upholds the propriety of each person’s articulation and promotion of his own well-being through his adoption and championing of formative projects and commitments. An adequate MI must articulate the moral condition of agents in a way that accords with their effectual pursuit of well-being. The central contention of the prerogative argument is that an agent’s effectual pursuit of his well-being requires that he (at least tacitly) take himself to have a moral authority over himself that entitles him to decide toward what ends his personal resources will be directed. If this is true, then upholding the propriety of each person’s articulation and promotion of his well-being requires an ascription to each person of a right of self-ownership. 9 The central contention of this argument rests on four subsidiary claims.

(1) A condition of an agent’s effectual pursuit of his well-being is his wholehearted fidelity to the goals and commitments through which his well-being is articulated. In the absence of this tenacious allegiance, the agent will not merely lack motivation for attaining his well-being but may not even achieve a stable articulation of his well-being. Only resolute allegiance provides cohesive structure to one’s life.

(2) For each agent, a condition of his wholehearted fidelity to his projects and commitments is that agent’s (at least tacit) sense of being justified vis-à-vis other agents in his devotion of himself to these enterprises. Each agent must have a sense that morality authorizes his devotion of himself to these ends even in the face of challenges by others who propose that, instead, he devote himself to their ends or at least stand ready to abandon his ends for their sake. For each person to be vindicated vis-à-vis others in the devotion of his person to his favored plan of life, each person must possess the prerogative of determining by his choice the disposition of his own person—so that there is an asymmetry between his setting the bearing of his person and others’ setting that bearing.

(3) This set of prerogatives cannot be accounted for by any appeal to agent-relative values or agent-neutral values. The agent-relativity of value allows each individual to rebut demands that he be prepared to forego his enterprises and the prospects for personal well-being that they provide in order to serve some pretended agent-neutral good. However, this rebuttal falls short of justifying the agent vis-à-vis other agents in his devotion to his own enterprises. For the judgment that it is reasonable for him to cherish his projects and commitments simply invites the response that it is also reasonable for others to press or even compel him to abandon those ends should that abandonment serve their purposes. The agent’s citation of the value for him of self-determination as such provides no reason for others to honor or allow that self-determination. Nor can a vindication with interpersonal force derive from any agent-neutral value, for no agent-neutral value is available to vindicate anything. Moreover, for a theory of agent-neutral
value to account for each person’s prerogative of self-determination, it would have to show how each person’s enjoyment of this prerogative would yield more agent-neutral value than any compromise of that prerogative. It is most unlikely that this could be shown for any theory of agent-neutral value.

What is needed to ground each person’s prerogative of self-determination is the ascription to each of moral authority over himself. It is because people possess this moral authority that morality can be said to side with each individual’s chosen disposition of his person as against any of the dispositions favored by others. It is each person’s right of self-ownership that supplies him with this interpersonal vindication of his self-determination. This right supports each agent’s sense that, of course, he is entitled to devote himself to the enterprises in which he seeks personal value—as others are entitled to devote themselves to their chosen plans of life—and that, therefore, it would be outrageous for others to impress him into the promotion of their ends even if this impression were to have agent-relative value for them. Therefore, since an adequate MI must represent the moral condition of agents in a way that accords with their effectual pursuit of well-being, and since resolve fidelity to their respective goals and commitments is required for agents’ effectual pursuit of their well-being, and since a prerogative of self-determination is required to support each agent’s wholehearted fidelity to his goals and commitments, and since the right of self-ownership is required to ground this prerogative of self-determination, an adequate MI must ascribe to all agents this right of self-ownership.

Allegiance to VI’s proclamation of the propriety of each agent’s pursuit of his well-being requires, then, that one go beyond MI’s theory of the good to a central tenet of RI, viz., the right of self-ownership. This right is included within MI for the sake of its role within individuals’ pursuit of their good. Nevertheless, what is included to fulfill this role is a genuine right, i.e., a principled claim for each individual of discretionary authority over his own person and life.

(B) The recognition argument.

The advocate of MI subscribes to a radical version of value pluralism. He rejects all forms of normative monism—whether it be a monism that asserts the existence of one impersonal ultimate value or a monism that asserts the existence of one personal ultimate value. Each agent is affirmed as the possessor of rational ends of his own. Each is identified as a being who has reason to devote himself, i.e., his personal endowments, capacities, and energies, to the fullest feasible realization of value for himself. To acknowledge this pluralism is to attest to the propriety of each agent’s dedication of his value-pursuing powers to the realization of value for this agent.

To this reiteration of MI’s claim that each person has in his being an end that, within his life, is of ultimate value, the recognition argument adds two contentions. The first is that the existence of other persons as beings with rational ends of their own must itself have practical significance for one’s own behavior. The normative reality of other persons as possessors of ultimate rational ends of their own itself makes rational demands upon one’s own behavior. It is unreasonable for us to fail to adapt our behavior to the fact of others’ existence as beings rationally directed to ends of their own. There is a failure of rationality in an individual who acknowledges that others are each separate beings with rational ends of their own but who, nevertheless, insists that this has no practical significance for him or no rational bearing on how he ought to behave. In failing to constrain one’s behavior toward other persons, one manifests the cognitive fault of failing to recognize the existence of others as beings with rational ends of their own.

There are two finer delineations of this cognitive fault of failing. According to one delineation, agent J’s failure of rationality consists in J’s failure to constrain her behavior upon J’s genuinely grasping the existence of others as beings with rational ends of their own. Here the cognitive fault is failure of restraint in light of certain beliefs. According to the other delineation, J’s failure of rationality consists in J’s failure genuinely to grasp the existence of others. On this delineation, J’s failure to constrain her behavior is merely (!) especially compelling evidence of her failure genuinely to appreciate the existence of others. Whichever delineation is emphasized, failure to contour one’s behavior to others’ status as beings with ultimate ends of their own constitutes a failure of rationality.

Consider psychopathology. The psychopath seems to be a normative monist of the sort who (at most) grasps the existence of one personal ultimate value—his own. He seems to be a normative solipsist. While the psychopath may comply with certain constraints for strategic value-promoting reasons, he never genuinely recognizes the existence of others. This is to say either that the psychopath never genuinely grasps their existence as beings with ends of their own or that, while he does grasp their existence as beings with ends of their own, he never takes this to have any bearing on his conduct. Whichever more fine-tuned account of his psychopathology we opt for, the psychopath remains cognitively defective—perhaps irredeemably so. Either with respect to his beliefs or his conduct, he does not get it—where the “it” is either the fact of the existence of others with ends of their own or the bearing of this fact on his conduct. How else could the cognitive defectiveness of the psychopath be explained?
Another way to get at the relevance of the fact of others’ directedness to ultimate values of their own is to picture individual J’s convictions being altered by the addition of a belief in this fact and see whether it is reasonable for this alteration in itself to make a difference in J’s behavior. Suppose that J begins as a normative solipsist. As J sees it, the only real values in the universe are values-for-the-unique-J. Under these conditions, nothing could be more natural than that J perceive other persons as having no more independent moral standing than brute animals, vegetables, and minerals. J will perceive all of these, other persons included, to be available to be exploited for her purposes. Each may be put to whatever use maximally promotes J’s ends.

Of course, a prudent J will handle exploitable resources with care and foresight. While J disbelieves in the value of others’ ends, she does not doubt that they will respond to threats and to opportunities just as J herself will. J will design her interactive strategies accordingly. It is, then, entirely consistent with J’s normative solipsism that she have agent-relative reasons for constraining her behavior toward others in extensive and complex ways. Nevertheless, J accepts only one measure of her practical rationality, which is the cost-effective use of all available materials for the enhancement of agent-relative value.10 In this single-minded focus on value promotion, J is like any other normative monist, who believes in the maximal promotion of agent-neutral value unconstrained by any independent principles of right.

Suppose, however, that J abandons her normative solipsism and replaces it with the normative pluralism associated with VI. This new acceptance of the reality of other persons as beings with ultimate values of their own involves an enormous shift in what J takes to be the furniture of the moral world. The world now is seen as populated by beings who are as strikingly different in rational directedness from, for example, plants and mineral deposits, as J previously took herself to be different from all other beings. It is incredible that this enormous transformation in J’s view of the normative facts—the move from the solipsistic conviction that the only real values in the universe are the values of her unique self to the inclusion of other persons as beings comparably rationally oriented to final values of their own—should have no implications for how J, as a reasonable individual, ought to act. It is incredible that J should convert to this normative pluralism and still reasonably believe that she has a totally free hand in how she treats other persons—as long as she is effectively maximizing agent-relative value. Indeed, it seems that this conversion must introduce a new measure of practical rationality—a nonconsequentialist measure distinct from the gauge of cost-effective use of whatever is encountered in the world. For although this conversion radically revises J’s view of the moral facts, it does not alter her view about what ends she ought to serve. J’s acknowledgement that each other person has rational ends of his own does not imply that any of those ends are among J’s rational ends. J’s conversion to normative pluralism does not at all present her with goals that she now has reason to substitute for the goals she previously cherished.

Nor does J’s new belief dictate any change in her goal-based assessment of actions and strategies. Prior to J’s conversion, she has had the view that others act and react as though they have value-based reasons akin to hers. So she already has, to the best of her ability, factored these expectations about their actions and reactions into her assessment of which strategies would best promote her valued goals. And she has already been prepared to continue to factor these expectations into any subsequent, goal-oriented revisions of her strategies. J’s adoption of normative pluralism does not as such make any difference in the goal-oriented, value-promoting reasons she has for or against any actions or strategies. Hence, if the conversion to pluralism does provide J with reasons she otherwise would not have—reasons that contravene value-based endorsements of actions or that supplement value-based endorsements of constraint—those reasons must not derive from any value that J is to seek. Rather, they must reflect limits upon how J may seek value. Those reasons, revealed in her conversion to pluralism, must correspond to moral constraints on what means J may employ in the pursuit of her ends. Only by constraining her conduct towards others can J give expression to her otherwise inchoate affirmation of their existence as beings with ultimately valuable ends of their own. Here we see the second contention within the recognition argument, the appropriate practical response to the existence of other persons as beings with ultimate ends of their own is restraint on the treatment of those persons as means to one’s own ends—restraint that amounts to affirming each person’s moral authority over himself.

Through her conversion from solipsism to pluralism, the bright line by which J divides objects in the world shifts. While previously it set her apart from all other beings, now it divides her and many other beings with ultimate ends of their own from all the remaining entities. If the adoption of normative pluralism has practical significance for J, then after conversion it must become reasonable for her to discriminate between her treatment of those beings now on her side of the bright line and those entities still on the other side. Since prior to conversion it was reasonable for J to view everything on the other side of the line as material available for her exploitation, the natural form of discrimination between the beings now on her side of the line and those entities still on the other side is that those now
on her side are not to be viewed as exploitable material. Those beings now perceived by I as having ultimate moral purposes of their own are morally excluded as means available for J’s purposes.

Those beings are, of course, persons constituted by their bodily parts, faculties, talents, and forms of endeavor. While each person other than I is morally constrained from employing I as a resource for her purposes, I is not so constrained. I is morally free to direct his person as he chooses and this moral freedom combined with others’ exclusion constitutes his moral authority over himself. I possesses an inviolability in his person and in his discretionary control of his person which is captured in the ascription to him of a right of self-ownership.

The conclusion of the recognition argument accords nicely with that of the prerogative argument, which focused on the need for a moral theory that endorses each agent’s pursuit of personal value to support each agent’s sense of being justified in dedicating himself to the enterprises through which his good is articulated. That argument maintains that there is a type of incoherence in perceiving oneself as a being with rational ends of one’s own and not also perceiving oneself as having a right of self-ownership. The recognition argument maintains that there is a type of incoherence in perceiving another as a being with rational ends of his own and not perceiving that other person as having a right of self-ownership. Both arguments articulate the idea that because each agent is an end-in-himself in the sense of having (in his well-being) an ultimate end for and within his own life, each is also an end-in-himself in the sense of possessing a moral inviolability against being treated as a means to attainment of values external to himself.

It is important to appreciate that the right of self-ownership is a negative right. It merely requires that others abstain from trespass upon the rightholder. J’s right does not require that others serve him in any way, but merely that they not conscript him into service to them. The negativity of the right of self-ownership accords with its representing a moral side-constraint upon how individuals may pursue value, rather than a dictate that certain ends be pursued. The negativity of this right also insures its compensability. That is, this right can always be accorded to everyone; no one’s enjoyment of discretionary authority over himself requires that any other person undergo a loss of authority over himself. Thus, no conflicts among rights need arise for the resolution of which one might be tempted to seek out standards of impersonal value.

Moreover, because of the negativity of this right, even though J’s right constrains J’s value-promoting behavior, it is misleading to say that J’s right requires that J sacrifice her well-being. First, it is odd to describe the requirement that J not violate others’ negative rights as the imposition of a sacrifice upon J—since this requirement imposes no service upon J and provides nothing to others except immunity from J’s predation. Second, the requirement that J forgo trespassing upon J leaves open the possibility of innumerable other strategies for the promotion of her well-being. Especially if J can anticipate the enforcement of these constraints, J is very likely to be able to develop talents, dispositions, formative ends, and suitable nontrespassing strategies that will be at least as apt to promote her well-being as any rights-violating strategy she might otherwise have pursued. Third, J’s constraint by J’s right is part of a general system of moral constraints that is very likely greatly to benefit J—directly by precluding others’ trespassing upon J and indirectly by establishing a set of salient interpersonal rules from which peaceful coexistence and mutually beneficial cooperation within J’s social environment can emerge. Fourth, belief in the right of self-ownership fortifies J in her dedication to her formative ends and provides a (partial) map of a just (and profitable) social order, allegiance to which itself may serve J as a rewarding commitment. These last three considerations can be summarized as the claim that, for any given individual J, given her reasonable adaptation to a regime of these rights, the costs of her compliance are likely to be very low and the benefits from her own compliance and the compliance of others are likely to be very high.

Libertarian theory is, of course, notorious not merely for its assertion of individuals’ rights over themselves, but also for its claims about individuals’ rights over extrapersonal resources. Unfortunately, all that can be offered here is a quick survey of the most familiar features of libertarian property theory along with some supplementary claims that arise naturally out of the arguments of this essay, especially out of the recognition argument. Libertarian accounts of property almost always attempt to analyze property rights as extensions of a single fundamental right—typically, the right of self-ownership—which is not itself a right of (extrapersonal) property. Thus, it is often argued that, since I owns his talents or labor as aspects of himself, I’s rights of self-ownership will be violated if others seize objects within which he has (permissibly) invested his talents or labor. The process of purposive transformation of natural material generates an entitlement on behalf of the transforming agent to the now transformed object. Owned objects may also be transferred among agents by voluntary donation or exchange so that individuals can acquire entitlements to objects that they themselves have not produced. I will be entitled to whatever objects he has acquired either by transformation from (unowned) natural materials or by free donation or exchange from other individuals who themselves had title to those objects.

A distribution of holdings among individuals will be just insofar as the
particular holdings of those individuals arise through these entitlement-generating procedures. If the distribution is just, it is so simply by virtue of the justice of its parts and not by virtue of any pattern that the distribution as a whole realizes, such as maximizing aggregate wealth or well-being or maximizing the wealth or well-being of the worst-off participants. There is no comprehensive pattern, no overall structural feature, like maximizing aggregate wealth or the wealth of the worst-off individuals, that the distribution of holdings ought to satisfy and that would have to be sustained by coercive political action.\(^{12}\) The absence of any privileged pattern reflects the fact that there is no standard of impersonal value for ranking alternative distributions, for identifying one of them as morally mandated. (Recall VI’s rejection of impersonal rankings of alternative social states.)\(^{13}\) Instead of there being one mandated distribution, whichever set of holdings in fact arises through the actual entitlement-generating procedures that people have chosen is just in the sense that any forcible interference with those holdings will violate valid property rights. However, had individuals engaged in other entitlement-generating procedures, had I sowed rather than reaped and I hesitated rather than leaped, then the different set of holdings that would have emerged would be just.

The only weak link in this familiar chain of contentions is the presumption that the entitlement-generating capacities of procedures of initial acquisition and transfer can satisfactorily be traced to persons’ rights of self-ownership (or to some equivalent right to liberty). I suggest instead that the entitlement-generating powers of these procedures be traced to a sui generis right of property. This fundamental right of property is not a right of individuals to any particular extrapersonal items or a right to any share or distributive pattern of extrapersonal holdings. Any such right for I would contravene I’s self-ownership by obligating I (independent of any voluntary agreement) to supply the designated item or promote the ordained pattern. Rather, this right of property is a right to the practice of private property, i.e., a right to others’ compliance with a system of rules under which individuals may peacefully acquire, transform, and otherwise exercise exclusive and discretionary control over extrapersonal objects.

The acknowledgement of this right of property is a second element both in the vindication of people’s dedication to their distinctive, life-defining, ends and in the recognition of others as beings with ultimate ends of their own. This element, beyond self-ownership itself, is required because human beings live in and through a world of objects that extends beyond the space occupied by their respective bodies. It is in this extended world that people’s lives are projected and enacted through their purposive employment of their capacities, talents, insights, and energies. In this process, particular extrapersonal objects enter into and help define the specific ambitions that comprise agents’ lives. Since people live their lives in and through the extrapersonal domain, any recognition of them as moral ends-in-themselves who are owed immunity in their peaceful pursuit of values must extend to immunities regarding the extrapersonal objects through which they form and advance their lives. People must have moral immunity against the destruction, disruption, or seizure of extrapersonal objects incorporated into their ongoing projects that is comparable to the immunity they have against the destruction, disruption, or seizure of their persons. This means that people must be able to acquire, by appropriately defined procedures, entitlements over particular extrapersonal items—entitlements that provide individuals with the same sort of exclusive, discretionary, and stable control over extrapersonal items as they rightfully have over themselves. The rights of individuals to others’ compliance with a system of rules under which individuals may peacefully acquire, transform, and exercise exclusive and discretionary control over extrapersonal objects is what gives the rules of such a practice their entitlement-conferring power.\(^{14}\) Respect for the entitlements conferred by an appropriately articulated practice of private property enormously extends the realm of peaceful coexistence and the prospects for mutually beneficial cooperation. Even more to the point, respect for these entitlements is respect for individuals as beings with ultimate ends of their own, whose values and lives are defined and fulfilled through their engagement in the extrapersonal world.

Notes

1. A more precise statement is that individual I’s liberty consists in the absence of those interferences that violate his rights or would violate his rights had those rights not been waived or forfeited by I. The justly incarcerated does suffer a loss of liberty even though no right of his is violated because he is subjected to interferences that would violate his rights had he not forfeited them.


4. The value of I’s well-being is not subjective either in the sense that I merely has certain favorable feelings about his well-being or in the sense that the value of I’s well-being is conferred upon it by I’s preference for or endorsement of it. Rather, I’s well-being objectively has value-for-I.

5. It is a fantasy to suppose that we can assign such commensurable well-being scores to the individuals who populate these social states. That this is a fantasy strengthens the agent-relationist’s rejection of putatively neutral rankings of the states represented by the rows on this matrix.

6. A social state in which each individual would be better off than he or she would be in any other social state would be most valuable-for-I, most valuable-for-J, and so on. But even that would not add up to its being agent-neutrally best.

7. The claim is not that almost everyone who is a recipient of governmental largess that violates libertarian strictures would benefit from the elimination of that particular largess. Closer is the claim is that nearly everyone, including nearly all recipients of largess, would benefit from the general elimination of all policies contrary to libertarian strictures. Even this is more than the libertarian need or should assert. A tragic residue of some current policies may be that their recipients are disabled from benefiting from a transition to the libertarian framework. (This does raise difficult questions about second-best transitional policies.)

8. In the matrix of social states, this rights-based recontouring of agents’ respective well-being is not factored in.

9. It is not just that MI endorses each agent’s belief in self-ownship as having agent-relative value for that agent. Rather, the principle of self-ownship is revealed as part of the most adequate explication of the root thesis that each person’s life is of ultimate and irreducible moral importance.

10. In order to give assurance to others and secure their cooperation, I may publicly profess a belief in abiding by these constraints for their own sake. She may even attempt to create in herself a firm (and detectable) disposition to abide by them. But I’s normative solipsism will undermine these stratagems.

11. Necessary self-defense against an aspiring trespasser is not a counterexample to this compossibility claim. The trespasser forfeits his rights not to be subject to the force that is necessary for his being repelled.

12. The contrast between procedural ("historical nonpatterned") principles and patterned principles is especially developed in Nozick’s Anarchy, State and Utopia, (New York: Basic Books, 1974) 149-74.

13. Nor are any other attempts to establish some pattern of holdings as morally preordained successful, e.g., attempts to show that some pattern is just because it would be unanimously agreed to by agents who have no idea who they are or what they care about.


“Rights” as MetaNormative Principles

Douglas J. Den Uyl and Douglas B. Rasmussen

THOMAS MORE: The law is not a “light” for you or any man to see by; the law is not an instrument of any kind. The law is a causeway upon which, so long as he keeps to it, a citizen may walk safely.

—Robert Bolt, A Man For All Seasons

If the free institutions fostered by the Enlightenment are to be maintained, if the liberal order is to overcome its current malaise, an adequate moral vision is absolutely necessary. Indeed, whatever else may sustain a political order on a day-to-day basis, it is the sense that the order is legitimate that will ultimately determine its fate. The moral vision that most eloquently characterizes our own sense of political legitimacy is the American Declaration of Independence. Its leading concept can be summed up in two words: individual rights.

Yet the doctrine of individual rights suffers from many difficulties and misinterpretations. Chief among these problems is explaining the exact relationship among rights, morality, and law or politics. This problem is primarily a result of a failure to grasp the moral function of individual rights. Indeed, this failure is found almost as often among defenders of individual rights as its opponents. In our book, Liberty and Nature, we offered a theory of rights that was designed both to support individual rights and to be rooted in a solid moral framework. To construct this theory, we needed to do two things simultaneously. One was to explain the purpose or function of rights in such a way that the work they do is not reducible to the work done by some other moral concept. The other was to show how rights are