

NATURAL RIGHTS, PHILOSOPHICAL REALISM, AND HUME'S THEORY OF COMMON LIFE

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The primeval identification of the good with the ancestral is replaced by the fundamental distinction between the good and the ancestral; the quest for the right way or for the first things is the quest for the good as distinguished from the ancestral.

— Leo Strauss

“Origin of the Idea of Natural Right,”
Natural Right and History

To argue that someone, let us call him William, has a natural right to liberty is to argue for a right which exists prior to any convention or agreement, regardless of whether he is a member of a particular society or community. Such a right is due to the possession of certain natural attributes in virtue of which William is said to be a human being and is based on a normative understanding of human nature. It thus involves more than a mere appeal to “natural powers,” but it does not require that William be in some original state of nature. The natural right to liberty is used to determine what duties ought to be legally required of others. It is used to morally evaluate and criticize a legal system, e.g., Apartheid in South Africa, and when change is not forthcoming, it is the moral basis for revolution.

The claim that William has a natural right to liberty has certain ontological, epistemological, metaethical, and ethical

presuppositions. They are: (1) that William exists and is what he is independent and apart from human cognition; (2) that William can be known as he really is; (3) that what William is is essential to showing what his ultimate end or *telos* is and thus what is truly valuable for him; (4) that William's *telos* provides the normative standard for determining what William ought to desire and do; and (5) that the natural right to liberty protects the self-directedness of William when he is in the company of others and thereby provides the social and political condition necessary for the possibility that William might flourish, attain his natural end. (1) and (2), when generalized, constitute the ontological and epistemological position called "philosophical realism." (3) and (4) are the fundamental premises of a "natural end" ethics, and (5) is a contemporary formulation of a justification of the natural right to liberty in terms of what Leo Strauss called "classic natural right."¹

It is, of course, no news that David Hume rejects the natural right to liberty. How Hume's phenomenalism undercuts the presuppositions of natural rights is well-known. Further, responses to phenomenalism, though not as well-known, have been made.² What is not so well-known, however, is that Hume scholars³ are interpreting his fundamental views in a different manner, and this new interpretation poses a different set of objections to the natural right to liberty. These objections to the presuppositions of the natural right to liberty, as well as to the function of this natural right itself, will be the concern of this essay. It will be argued that, by and large, these new objections do not apply to either philosophical realism, natural end ethics, or the natural right to liberty. Rather, the proper target of these objections is a Cartesian or, more generally, rationalist conception of these positions. We will begin by considering one of the new interpretations of Hume.

HUME'S HISTORICAL EMPIRICISM

In *Hume's Philosophy of Common Life*⁴ Donald W. Livingston persuasively argues that Hume's philosophy is not a form of phenomenalism. Rather, Livingston believes that the best way to read Hume's philosophy is as a transcendental perspective on the nature and limits of philosophical theories of experience. This

perspective, which Hume terms "true philosophy," holds that philosophy must give up any authority to direct belief and judgment independent of the practices, traditions, customs, passions and prejudices of the world of common life. "True philosophy" presupposes the authority of common life as a whole. It is only through the customs and practices of common life that we can think about reality. Common life or popular thinking is the ultimate conceptual framework for interpreting perceptions. Though any particular judgment or practice of common life may be criticized, the entire order of common life cannot be questioned. Philosophy cannot claim to test common life as a whole against reality. "True philosophy" is post-pyrrhonian. It recognizes its alienation from ultimate reality—reality as it is apart from how it is conceived through the customs and practices of common life.

When philosophy tries to answer ultimate questions apart from the framework of the world of common life, that is, when it assumes that it has the authority to reject the entire set of customs and conventions which constitute common life, it is "false philosophy" and leads to total skepticism if consistently followed. False philosophers are, however, seldom consistent and do not recognize that they presuppose the customs and conventions of common life. They suppose they have insights into ultimate reality as opposed to the appearances of common life. They lack "Pyrrhonian illumination."

When practiced in the academy, false philosophy is amusing and ridiculous, but when it declares an entire social and political order illusory and proclaims the moral necessity of razing this order and replacing it with a new one, it is dangerous. It threatens the peace and well-being of society; for it would destroy the very customs and practices that give moral standards their force and meaning. Accordingly, Hume can be interpreted as performing two tasks: a positive one of exploring common life and explaining reality, e.g., causality, within the confines of common life and a negative, therapeutic, one of purging from common life the dangerous illusions of false philosophy.

Central to Livingston's overall interpretation of Hume is his claim that

Hume has told us precious little about the meaning of "impression" and "idea." We know that they are the same, differing only in force and vivacity, that the difference is roughly that between

feeling and thinking, and that ideas represent impressions. But these expressions are just so many variables in search of values.... There is no support in the text for substituting phenomenistic values for the variables and, further, no support for taking impressions as the paradigm for understanding ideas.⁵

Hume's "first principle" that all ideas are derived from past impressions should not, then, be taken to require that impressions are sense data or that ideas are mere faint impressions. Though impressions are causally prior, they are not prior in the order of intelligibility. "Ideas are not the ghosts of simple impressions conceived as sense data. We cannot understand simple impressions without first understanding the a-priori structure of ideas...."⁶

The egocentric starting point that Locke seemed to uncritically accept from Descartes is also not Hume's. According to Livingston, "perceptions of the mind"—by which Hume understands the actions of seeing, hearing, judging, loving, hating, and thinking—are conceived in a common way. They cannot exist apart from public objects. They are not mental images that we somehow know or inspect privately before we know anything else. Further, the meanings of words are not private mental images. Rather, the meaning of words is fixed by historically developed human convention and agreement. Language arises unreflectively over time out of the human need to communicate. All the conventions, practices, and rules of common life involve the convention of language. Linguistic convention historically developed is considered fundamental when it comes to explaining the meaning of a word.⁷

Hume's "first principle" does, according to Livingston, require that all ideas are past-entailing, and this is where Livingston's interpretation is most novel. Hume is interpreted as advocating an "historical empiricism." Its deep paradigm of significance and understanding is that of stories or narrative associations. We only understand things after they have occurred and are compared to later occurrences. A simple impression of, for example, scarlet is at first not intelligible. It becomes so only after it is past, and we compare it with a resembling perception, called an idea. "Narrative significance is conveyed to the earlier perception by viewing it in the light of the later perception, which because it bestows this light is thought of as an idea."⁸ Tenseless ideas, e.g., "man,"

"red," "elastic," "rose," and so on, are possible by abstraction from the temporal features of resembling existences. Yet, no full comprehension of an idea is possible apart from the appropriate narrative encounter, that is, apart from the experience of the impression and idea in recollection. One only fully comprehends an idea when one knows its story.

Tensed ideas, like "nephew," "friend," "U. S. senator," "priest," "Tudor rose," "queen," cannot be applied to present existences unless certain statements about the past are true. These ideas correspond to past-entailing existences, that is real nephews, friends, senators, Tudor roses, and queens which have the past ontologically built into their present existence. Such ideas as "men," "women," "red," "elastic," and "rose," and the like, do not. They refer to things that have no tensed properties.

What Hume calls the moral world, and what Livingston calls the world of common life, is constituted by individuals and institutions with past-entailing existences. A woman, for example, is a natural object, and the criteria for predicating "woman" is based on observation, but the same is not true of "queen." There are no properties of being a queen to observe because "the past that constitutes a queen cannot, in principle, be observed."⁹ The properties for being a queen is a narrative relation to the past. "To understand this relation we would have to understand the principles governing the narrative unity of action that constitutes it. These principles determine a vast system of narrative relations which inform the rank, status, privileges, rights, and duties of an entire social and political order of which the queen is a part."¹⁰ Such existences as a queen do not exist independent of the temporally reflective mind. They are narrative existences.

Not only, however, are the individuals and institutions which constitute the world of common life narrative existences, they are also normative entities. They have a normative character, for they do not exist apart the passions and sentiments we naturally attach to them. Anything with tensed properties is emotionally charged. We have an original propensity to view the past normatively, a temporal passion which gives narrative existences, e.g., the Bill of Rights, Founding Fathers, a queen, a U.S. senator, authority and prescriptive power. The moral world for Hume, then, is not the natural world, if that is understood to mean the spatiotemporal world existing independently of mind. Rather,

the moral world is the natural world viewed in light of temporal human passions from certain points of view—namely, points of view which relate present occurrences to the past and evaluates them in light of it. “Objectivity in the moral world is constituted by these points of view and is manifest in the conventions of common life and the language that informs them.”¹¹

The rules for the use of moral language, which result unreflectively over time from reconciliations of conflicting sentiments and judgments, provide a common point of view and express moral norms. This common point of view, which everyone feels, is social utility. Yet, utility is not an abstract norm which can be used to evaluate and reconstruct social and political institutions. Rather, utility is a value immanent in existing institutions. It is only used to explain why social and political institutions break down.

Moral principles for Hume are true in virtue the rules governing the application of the terms that constitute them. The conventions of morality and the conventions of language are internally connected. They constitute the public conditions to be met by any participant in the convention of morality. It is only through the use of moral language that self-consciousness of moral conventions is achieved. The moral world is fundamentally a system of historically developed conventions.

Hume's historical empiricism has no place for natural ends. Such an approach to ethics is clearly out of place. As Hume noted in a letter to Francis Hutcheson:

I cannot agree to your *Sense of Natural*. Tis founded on final Causes; which is a Consideration, that appears to me pretty uncertain and unphilosophical. For pray, what is the End of Man? Is he created for Happiness or Virtue? For this Life or for the next? For himself or for his Maker? Your definition of *Natural* depends on solving these Questions, which are endless, & quite wide of my Purpose.¹²

The idea that human nature might be a *telos* or final cause is considered to be part of a providential conception of nature and history. Neither an empirical study of nature nor history provides any evidence that the universe was designed for a purpose or that this purpose constitutes some normative standard. According to Livingston, only the past can be normative for Hume, and the providential view of nature and history treats the future as a

normative standard. To think of the future as normative conflicts with the temporal passions which for Hume are fundamental and internal to the function of reason itself.

In social and political philosophy, Hume's historical empiricism requires that the conceptual effects of "Cartesianism in politics" be eliminated. The attempt by social and political philosophers to deny the rational authority *and* reality of the existing social and political order by appealing to standards, e.g., the natural right to liberty, set forth by an ahistorical use of reason must be challenged. There must be a recognition that society is a sacred order. Without it, moral reform is impossible, for it is the basis from which our moral ideals are taken. As Livingston states:

In knowing the present as constituted by common life, it is *logically* necessary that we also know the past. Descartes is wrong, then, to think that the past must be bracketed out *in order* to know the present. Such bracketing would conceptually destroy the past-entailing structure of the present and with it the world of common life. We should then be left with merely tenselessly conceived individuals (men, persons, rational agents, and the like), pursuing tenseless goals, disconnected from each other and preceding generations *like*, to use Hume's memorable image, the silkworms of a season.¹³

Revolutionary activity which seeks to upset the entire social and political order is ultimately incoherent. Instead, we must uncover the moral standards that make up the whole of common life, put them into order, and use them as the basis for evolutionary reform.

In Hume's historical empiricism we thus "find a conceptual structure designed to rebut revolutionary thought and capable of explaining in broad outline the conservative view of legitimate social and political order."¹⁴ It is in fundamental opposition to the idea that an entire social and political order might have to be changed. According to Livingston, any standards that might be used to evaluate a social and political order are either abstract tenseless standards or concrete narrative ones. If they are the former, then they are vacuous unless interpreted in terms of some actual historical social and political order. If they are the latter, then ultimately one is not revolting against the entire social and political order.¹⁵

It would certainly seem that Livingston presents us with a

much different Hume, but this new interpretation of Hume is like the older, phenomenalist one in, at least, one respect—namely, philosophical realism, natural end ethics, and natural rights do not fare very well. In the hands of Livingston's Hume, philosophical realism is considered as an example of false philosophy, because it supposes that it can provide an account of reality, not merely reality as conceived through the beliefs and practices of common life. A commitment to natural ends is seen as not only involved in endless metaphysical disputes but tied to an untenable providential conception of nature and history. The natural right to liberty is viewed as a "metaphysical rebellion" against the reality of the status quo. It involves an ahistorical use of reason which tries to appeal to a timeless order of nature that somehow exists independent of historical processes. Ultimately, the natural right to liberty is an empty standard. It only succeeds in tearing down the very basis for standards—the actual historical social and political order. These are the basic objections that Livingston's Hume has to the natural right to liberty and its presuppositions. The following sections will not attempt to argue for philosophical realism, natural end ethics, and the natural right to liberty. Instead, they will simply attempt to show that these objections, by and large, miss their mark. These objections are more properly aimed at a rationalistic conception of philosophical realism, natural end ethics, and natural rights.

PHILOSOPHICAL REALISM

Philosophical realism is characterized by two theses. The first thesis is metaphysical.

1. There are beings which exist, and are what they are, independent and apart from anyone's cognition of them.

The second thesis is epistemological.

2. These beings can be known in human cognition, more or less adequately, often with great difficulty, but still known as they really are.

The second, epistemological, thesis, will be examined. The first, metaphysical, thesis will not be examined, but its importance will be noted at the end of this essay.

Crucial to the maintenance of philosophical realism's epistemological thesis are four distinctions. The first distinction regards how human percepts and concepts are understood. They can be understood as direct, self-contained objects of awareness or not. If they are understood as direct, self-contained objects of awareness, then philosophical realism's epistemological thesis becomes highly dubious. Indeed, the central epistemological problem of modern philosophy almost immediately appears: How one can ever know the nature of, or even the existence of, extramental beings? Once percepts and concepts are treated as objects which can be known directly without making reference to something other than themselves, then the entire dialectic of modern philosophy is in place. Can we know extramental reality? Is there extramental reality? How can skepticism be avoided? What are the conditions and limits of human knowing? What are the conditions and limits of objectivity?

If, on the other hand, percepts and concepts are not understood as direct, self-contained objects of human awareness, but instead as the activities by which human awareness occurs, then the problem of moving from what is "inside" consciousness to what is "outside" does not immediately appear. Further, if percepts and concepts cannot be identified as conscious states if they are not first of or about something other than themselves, then the epistemological thesis of philosophical realism is not dubious, and the dialectic of modern philosophy's epistemological investigations can be largely avoided.

The Cartesian egocentric starting point which, according to Livingston, Hume so justly rejects is not one that philosophical realism accepts. Further, if percepts and concepts are not direct, self-contained objects of human awareness, then it does not follow from the rejection of the claim that a word's meaning is some private mental image that the rules of language are fundamental when it comes to the determination of linguistic meaning. A realist theory of linguistic meaning which uses abstraction and involves ultimate reference to extramental reality remains a possibility.

The second distinction is between an "absolute" and an "objective" account of human cognition. An absolute account of human cognition requires that human knowledge not be something partial or incomplete, that knowledge claims must be made *sub specie*

aeternitatis, and that humans cannot claim to know some proposition, *P*, unless they know both that they cannot be wrong regarding *P* and that not-*P* cannot possibly be true. An objective account of human cognition holds that not everything can be known in all its detail all at once, that knowing is achieved in pieces, step by step, and can change and develop, and that neither human fallibility nor limitations preclude one from knowing that *P*.

In order to maintain its commitment to cognitive realism it is not necessary for philosophical realism to accept an "absolute" account of human knowledge. It can be admitted that there is a sense in which human knowledge is relative. As Roger Trigg notes:

Our knowledge is still correct, since partial, or relative, knowledge is knowledge, and the mere use of the term "relative" need not make us fear that we are lapsing into the kind of position which makes truth and reality themselves relative matters. "Relative" is in fact here being opposed to "absolute" rather than "objective."¹⁶

The objective account of human knowledge readily acknowledges that there is no privileged position, no "God's vantage point," from which to determine the truth of propositions and that the procedures for determining their truth will vary with subject matter and the evidence and methods currently available. The objective account of human cognition recognizes that knowledge is achieved by a human subject—a subject which has a mode of cognition and whose interests and needs can determine the starting point as well as extent of theories and investigations. Yet, the objective account of human knowledge does *not* hold that since human knowledge is not "absolute," but is "relative" in the sense admitted, that one is, "therefore," not capable of knowing what things really are.

Accordingly, philosophical realism does not assume that in order to have an adequate account of reality, it is necessary to raze all the opinions, beliefs, and practices of the world of common life. Since there is no intrinsic "barrier" between a knower and reality, and since conceptual awareness is not conceived of as a closed a-contextual repository of omniscience, the world of common life need not be regarded as being nothing more than mere appearance. The rationalistic hubris which holds that only the philosopher (or

the scientist) knows true reality and that the world of common life deals with something less than reality is entirely foreign to philosophical realism.

The third distinction is between the mode and content of human cognition. As Aquinas notes:

Although it is necessary for the truth of cognition that the cognition answer to the thing known, still it is not necessary that the mode of the thing known be the same as the mode of its cognition.¹⁷

It is not necessary to assume that the mode of existence of human cognition must be the same as the mode of existence of what is cognized in order for human cognition to be of realities which exist, and are what they are, independent of human cognition. For example, it can be true that "man" cannot exist independently and apart from human cognition without the same being true of the beings to which it refers. Most generally stated, our knowledge can be of reality without being identified with it. It is not necessary to assume that what can be truly predicated of our mode of knowledge must also be truly predicated of what we know. Philosophical realism does not require this assumption.

This distinction has important implications when it comes to understanding the nature of social institutions, practices, customs, and conventions. Just as it can be true that "man" cannot exist independently and apart from human cognition without the same being true of the beings to which it refers, so it can be true that social institutions, practices, customs, and conventions cannot exist apart from human cognition and effort without the same being true of the realities upon which they are based. There is nothing inconsistent about claiming that nephews, friends, queens, and U. S. senators are narrative existences that do not exist apart from the human mind and at the same time holding that these narrative existences also depend on certain characteristics and features of the extramental reality we call "human being." Further, the fact that there is great diversity in social institutions in various times and places is not inconsistent with there being fundamental features about human nature that are true in various times and places and upon which social institutions are based.

The fourth distinction pertains to how the empiricist maxim,

"Nihil in intellectu quid non prius erat in sensu," is interpreted. This maxim could mean either (a) that all objects of knowledge are without exception presented *in* sense perception and recognized *by* sense perception or (b) that all objects of knowledge are without exception presented *in* sense perception but not necessarily recognized *by* sense perception. If interpretation (a) is followed, then human knowledge is confined to what the senses explicitly grasp. If interpretation (b) is followed, then it is possible for all human knowledge to be based on sense perception but not confined to what the senses explicitly grasp. Thus, sense perception could involve an implicit awareness of the intelligible character of extramental realities which we discover by abstraction.

Interpretation (b) is the approach taken by Aristotle and Aquinas. As Etienne Gilson once noted when explaining this approach, "the senses carry a message which they cannot interpret." It is human reason which discovers and interprets what the senses present. Human knowledge is not something that can be divided into the sensory/empirical and the rational/conceptual. These aspects of human knowledge are distinguishable, but they are not separable. Both are necessary. Yet, what is crucial to interpretation (b) is that it allows for human reason to play an active role in discovering, but not creating, the intelligible character of reality.

Interpretation (a) of the empiricist maxim is the basis for the traditional claim that Hume has a phenomenalistic ontology, and it is this view of Hume that Livingston's interpretation challenges. Livingston argues that for Hume the intelligibility of impressions is found in understanding the a priori structure of ideas—that is, the way present impressions are narratively linked to past ones. In effect, it is the beliefs, customs, practices, and conventions of the world of common life that provide intelligibility. Without the past as concretely presented in the institutions of common life our world would be a booming, buzzing confusion. Yet, interpretation (a) of the empiricist maxim is not the only alternative. If interpretation (b) is used, then it could be possible for the world of common life to be understood not as an a priori source of intelligibility but as an historical context in which new discoveries are made. As noted before, human knowledge does not exist in a vacuum. Human knowledge is not like a static, timeless, snapshot or picture. Yet, to admit this is not to

suppose that the world of common life is a transcendental structure which provides intelligibility but prevents us from knowing what reality truly is. Livingston may indeed be correct in interpreting Hume as neither holding interpretation (a) of the empiricist maxim nor adopting a phenomenalist ontology, but this does not show that the case has been closed for interpretation (b) of the empiricist maxim or philosophical realism.

NATURAL END ETHICS

Natural end ethics involves a commitment to the existence of a human *telos*, but this commitment need not require either involvement in endless metaphysical disputes or an acceptance of a providential conception of nature and history. The question of whether there are natural ends is primarily a question of whether there are some facts which cannot be explained or adequately understood without appealing to a natural end or function. Specifically, when it comes to understanding what living things are and how they act, can the laws in terms of which organic phenomena are explained be reduced to laws which make no mention of the end or goal of the living process but only to how the material constituents interact? If such a reduction cannot be made, then there is a case to be made for teleology.

Contemporary developments in biology seem to support the idea that such a reduction cannot be made, and the core idea of Aristotle's natural teleology—namely, that a living thing has an irreducible potential for its mature state—seems vindicated.¹⁸ This is, of course, an empirical matter and cannot be answered from the philosopher's arm chair. Yet, it is clear that if there is a biocentric basis for natural ends, then teleology need not be regarded as universal or cosmic in order to be defended. Nor is it necessary to adopt a theistic conception of the universe or somehow view history as unfolding according to some divine plan.

This is, of course, not yet to explain what the *human telos* is. This is a huge task and cannot be handled here. Yet, once it is realized that the claim that an entity has a nature or essence need not be tied to Platonic or even rationalistic formulations,¹⁹ that is, once it is realized that the nature of something is discovered from sense perception and need not be eternally fixed, then this task becomes less ominous. Furthermore, current discussions

regarding such topics as human flourishing, the nature of the relationship between reason and the passions, and how an ethics of virtue differs from deontologism and consequentialism are part of the process of explaining the ethical dimensions of the human *telos*. This also is much too huge an issue to be discussed here, but there are two points that can be made regarding natural end ethics that are particularly relevant.

1. Hume's realization that morality must involve human passions and desires is not something that a natural end ethics rejects. The use and control of passions, the creation of rational desire, is central to this ethics. The rationalistic attempt to make morality something that does not involve the passions, ultimately something impersonal which exists apart from an individual and his history, has no place.

2. The actual form that a person's flourishing takes will be determined by factors that cannot be abstractly formulated. Though there are virtues which everyone can be said to need if they are to flourish, what they actually involve, what conduct they concretely require, depends on the person's circumstances, in a word, on the person's *history*. Prudence, the fundamental intellectual virtue of a natural end ethics, determines what ought to be done. Yet, being prudent is not merely a manner of following moral virtues in the way one follows a recipe in cooking a meal. What the moral virtues require, what they concretely involve, is determined by a person's own insight into the situation. Morality cannot be divorced from the particular and the contingent. A natural end ethics holds that moral abstractions that try to be tenseless and universal, with no role for the individual's own insight and history, are both useless and dangerous.

There are many insights of Hume's historical empiricism which are not alien to a natural end ethics, but this is, of course, not to say that there are not important differences between Hume's approach to morality and that of a natural end ethics. These differences cannot be discussed at this time, but they are worthy of mention. There are five. (1) A natural end ethics holds that human nature is such that reason can create rational desires. Thus, even though passions or desires are always present in normative matters, they do not rule. A natural end ethics sees itself as occupying a middle ground between a rationalistic deontologism and a theory of moral sentiments which makes the

passions the basis for normativity. (2) Even though understanding the narrative history of something is crucial to its full comprehension, the past qua past can only be of instrumental value to a natural end ethics. The past has no intrinsic value. (3) A natural end ethics sees the ethical life as being concerned with the attainment of human flourishing of the individual human being. While acknowledging that there is a social and interpersonal dimension to the ethical life, it does not assume that ethics must attain a common or impersonal point of view. (4) A natural end ethics does not assume that the meaning of "utility" or "human need" is determined merely by what someone desires or wants. Something deeper is required. (5) Ultimately, according to Livingston, Hume holds that we have an original propensity to view the past normatively. In other words, the past is ultimately valuable, because of our temporal passion, and there is nothing more fundamental. A natural end ethics, on the other hand, seeks to reverse the causal order by claiming that there is something which is valuable in itself, e.g., the flourishing of the individual human being, and passions and desires are for the sake of this state of being. If there is no state of being which is an end in itself, then one is trying to move from what is desired to what is desirable. Even though it may be impossible for us to consider the past without temporal affection and piety, this only shows our desires. It does not make the past valuable. From the perspective of a natural end ethics, Livingston's Hume seems to be either guilty of trying to derive an "ought" from an "is" or guilty of not really providing a normative theory—that is, a theory which tells people what they ought to do. Instead, it may only be an account of what they in fact do.

THE NATURAL RIGHT TO LIBERTY

To claim that William has a natural right to liberty is indeed to uphold a moral concept by which to evaluate legal systems. On the basis of this right, particular laws and entire legal systems can have their moral authority challenged. Yet, this does not mean that the reality of the particular laws or the legal systems is denied. To uphold that the nature of a human being provides a basis for determining not only how one ought to live but what the character of a legal system should be like is only to say what ought

to be. This is not to endorse what Livingston regards as the ultimate ontological principle of Cartesianism in politics—namely, Hegel's claim that the rational is the real and the real is the rational. To claim that there ought to be a legal system which protects the right to liberty and to argue for, and indeed establish, the rationality of this claim is not to show that the present legal system is unreal or illusory.

Yet, why does Livingston think that the natural right to liberty involves denying the reality of an illegitimate legal system? In describing Cartesianism in politics he states: "True social and political order is viewed as an order of *nature*: a timeless object of reason existing independently of the historical process."²⁰ Hence, anything that is not timeless is not real. Yet, there is an ambiguity here. When we speak of "a timeless object of reason" do we mean, for example, the concept "man" or what this concept signifies—namely, men. When the concept "man" is the object of reason, then this object is timeless, for we are considering our abstraction. But when we do not consider the concept "man" but instead what it signifies, then, of course, the objects of reason are not timeless. Human beings are born, mature, grow old, and die. The Cartesian view of nature involves a confusion of concepts and realities or, as old-time Aristotelian logicians would say, a confusion of second and first intentions. Such a confusion is the basis for Platonism and many other forms of idealism, but it is not something a proponent of the natural right to liberty needs to accept.

Generally, unless we have some interest in doing so, when we abstractly consider features of human beings and form the concept "man" we are not attending to their temporal dimension. This is, of course, not to deny the reality of this dimension or the many other features of human beings that are not specified when we form the concept "man." An awareness of how the process of abstraction works is vital to all areas of philosophy. It is, however, especially important to ethics, and, if possible, even more so for the ethics of revolution. What actions are to be taken against a morally illegitimate legal system must involve considerations that go far beyond a mere determination that the natural right to liberty is not respected. The natural right to liberty tells us what a morally appropriate legal system must do, but it does not tell us what the proper procedures for the elimination of illegitimate

legal systems are or how to create and implement legitimate ones. The natural right to liberty is not the only moral principle that is relevant here. Contrary to what Livingston suggests,²¹ there is no inconsistency for an advocate of the natural right to liberty to regard no existing government as legitimate, and yet, at the same time, not to call for all of them to be overthrown. Surely, an advocate of the natural right to liberty does not have to be blind to the difference between, for example, the government of the United States and that of the Soviet Union's.

According to Livingston's Hume, the central objection to the natural right to liberty is its vacuity. In other words, this right has to be interpreted "by the standards of some actual historical order having independent authority."²² The crucial issue here is not whether the natural right to liberty can take various forms in various cultures and times. Certainly, no advocate of this right needs to deny this. Rather, the issue is whether there is any substantive content to this right. Does it provide a way of determining what liberty is and when it is violated in any society at any time? Indeed, this also seems to be the central issue when it comes to discussing the nature of anything: Can an abstract understanding of, for example, human beings have any content so that regardless of the culture or time we can determine what is a human being and what is not?

Granting the nature of a human being is not be some timeless reality that exists in some metaphysical heaven and that our knowledge of human nature can be partial and incomplete and subject to error, and even admitting that there can be borderline cases, we can still nonetheless claim that a human being is an animal whose consciousness can, when self-directed, grasp the world in conceptual form. An abstract understanding of human beings is not contentless. This is not, however, the place for a detailed discussion of the process of discovering the real definition of something. Further, this has been done elsewhere.²³ Yet, it can be said that unless Hume's historical empiricism takes a rationalistic turn and announces a priori that there *is* and *can be* nothing that abstraction can discover from sense perception regarding the entities we call "human," there is no principled basis for an historical empiricism to hold that an abstract understanding of man is contentless. And if this is true, then there can be no principled objection, even though this is a more complicated

matter, to the natural right to liberty having sufficient content to judge actual historical and political orders. The historical empiricism of Livingston's Hume does not seem, nor does it need, to be historicist.

Hume could, of course, argue against abstractions having any content by denying the first, metaphysical, thesis of philosophical realism, but if this is done, then he abandons his status as "true philosopher" and becomes a brother metaphysician. This was certainly an option for the older phenomenalist Hume, but it is not one for Livingston's Hume.

1. See Douglas B. Rasmussen and Douglas J. Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (La Salle, Ill.: Open Court, 1991).
2. Rom Harré and E. H. Madden, *Causal Powers* (Totowa, N.J.: Rowman and Littlefield, 1975) and Milton Fisk, *Nature and Necessity* (Bloomington and London: Indiana University Press, 1973) offer especially powerful criticisms of phenomenalist ontology.
3. See David Fate Norton, *David Hume: Common-Sense Moralist, Skeptical Metaphysician* (Princeton: Princeton University Press, 1982); Donald W. Livingston, *Hume's Philosophy of Common Life* (Chicago and London: University of Chicago Press, 1984); and Frederick G. Whelan, *Order and Artifice in Hume's Political Philosophy* (Princeton: Princeton University Press, 1985).
4. Donald W. Livingston, *Hume's Philosophy of Common Life* (Chicago and London: University of Chicago Press, 1984).
5. *Ibid.*, p. 55.
6. *Ibid.*
7. For Hume, the meaning of a term is "the *custom* framed in some linguistic convention of applying the term to resembling objects along with the capacity to form mental imagery of the appropriate sort on the occasion of using the term. The meaning of a term does not change by having different images annexed to it as long as those images are of a resembling set." *Ibid.*, p. 75.
8. *Ibid.*, p. 104.
9. *Ibid.*, p. 148.
10. *Ibid.*
11. *Ibid.*, p. 137.
12. Quoted in David Fate Norton, *David Hume: Common-Sense Moralist, Skeptical Metaphysician*, p. 205.
13. Livingston, *Hume's Philosophy of Common Life*, p. 103.
14. *Ibid.*, p. 310.

15. Ibid., p. 335.
16. Roger Trigg, *Reality at Risk* (Totowa, N.J.: Barnes and Noble, 1980), p. 196.
17. Aquinas, *Summa Contra Gentiles*, II, 75.
18. See Allan Gotthelf, "Aristotle's Conception of Final Causality," *The Review of Metaphysics* (December 1976): 226-54 and Michael Bradie and Fred Miller, Jr., "Teleology and Natural Necessity in Aristotle," *History of Philosophy Quarterly* 1 (April 1984): 133-46.
19. See Baruch Brody, *Identity and Essence* (Princeton: Princeton University Press, 1980).
20. Livingston, *Hume's Philosophy Common Life*, p. 277.
21. Ibid., pp. 281-82.
22. Ibid., p. 335.
23. Douglas B. Rasmussen, "Quine and Aristotelian Essentialism," *The New Scholasticism* 58 (Summer 1984): 316-35.

**Abbreviations for David Hume's Works
Used Throughout This Volume**

E *Essays, Moral, Political, and Literary*, ed. Eugene F. Miller. Indianapolis: Liberty Classics, 1985.

EU *David Hume's Enquiries Concerning Human Understanding*, ed. L. A. Selby-Bigge, 3rd ed. revised P. H. Nidditch. Oxford: Clarendon Press, 1975.

I *An Inquiry Concerning Human Understanding*, ed. C. W. Hendel. Indianapolis, Ind.: Bobbs-Merrill, 1955; *EM* *Enquiries Concerning the Principles of Morals*, ed. L. A. Selby-Bigge, 3rd ed. revised P. H. Nidditch. Oxford: Clarendon Press, 1975.

H *The History of England, From the Invasion of Julius Caesar to the Abdication of James the Second, 1688*, based on the edition of 1778 with the author's last corrections and improvements. 6 vols. Indianapolis: Liberty Classics, 1983.

L *The Letters of David Hume*, J. Y. T. Grieg. 2 Vols. Oxford: Clarendon Press, 1932.

NHR *The Natural History of Religion*, ed. A. Wayne Colver and *DHR* *Dialogues Concerning Natural Religion*, ed. John Valdimir Price. Oxford: Clarendon Press, 1976.

T *A Treatise of Human Nature*, ed. L. A. Selby-Bigge, 2nd edition with text revised and variant readings by P. H. Nidditch. Oxford: Clarendon Press, 1978.

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