

**Symposium: Part II: Douglas J. Den Uyl and
Douglas B. Rasmussen's *The Perfectionist Turn***

Responsibility, Respect, and Justice: Skepticism about
Metanorms¹

Billy Christmas
New York University School of Law

1. Introduction

*The Perfectionist Turn*² represents the next stage in Douglas Den Uyl and Douglas Rasmussen's project of grounding a liberal political order in neo-Aristotelian perfectionist ethics. Their previous book, *Norms of Liberty*,³ frames the fundamental question to which their project provides a neo-Aristotelian answer. "Liberalism's problem," they claim, is that it needs to avoid promoting any particular form of the good life, while carrying normative weight.⁴ Without a normative basis, there is no reason to comply with a liberal order. Den

¹ This article is a slightly modified version of a paper presented at the American Association for the Philosophic Study of Society at the Eastern Division Meeting of the American Philosophical Association, January 5, 2017. I thank the audience at the session for useful discussion, and especially thank Doug Den Uyl and Doug Rasmussen for their reply to my remarks. I also thank Jason Lee Byas for useful comments on a previous draft of this article.

² Douglas J. Den Uyl and Douglas B. Rasmussen, *The Perfectionist Turn: From Metanorms to Metaethics* (Edinburgh: Edinburgh University Press, 2016). Hereafter, all references to *The Perfectionist Turn* will be cited parenthetically in the text.

³ Douglas J. Den Uyl and Douglas B. Rasmussen, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (University Park, PA: Pennsylvania State University Press, 2005).

⁴ *Ibid.*, chap. 5.

Uyl and Rasmussen's previous work develops their distinctive approach to politics and defends it against other political applications of perfectionist ethics, such as communitarianism and conservatism. *The Perfectionist Turn*, however, compares their neo-Aristotelian basis for liberalism with other such bases, such as the capabilities approach and public reason.

Den Uyl and Rasmussen ground our political obligation to respect each other's right to liberty in a more basic responsibility to strive to perfect ourselves as rational, social, flesh-and-blood creatures. They do so by identifying what is common to each of our distinct forms of human flourishing, namely, self-directedness. Since preserving the possibility of self-directedness is a necessary (though insufficient) condition for any normative conduct whatsoever, we have a *metanormative* obligation to respect each person's sphere of authority over their lives, or in other words, their respective rights to liberty.

I am skeptical of the need to invoke a metanormative framework in order to explain our obligations to respect individual rights. I will defend the view that within the context of the individualistic perfectionism that Den Uyl and Rasmussen defend, respect for rights, while preserving the possibility of flourishing within society, is also *constitutive* of the flourishing of the rights-respecter. Fulfilling the content of metanorms is therefore already part of what it means to flourish, and hence the normative framework we started out with.

My skepticism about metanorms applies as much to *Norms of Liberty* as it does to *The Perfectionist Turn*. However, the present work, inasmuch as it offers new resources with which to understand their ethical framework, also offers resources with which to express my skepticism about the need for metanorms. Den Uyl and Rasmussen begin the book by locating their metaethics within a framework of responsibility rather than a framework of respect. As I argue here, however, a framework of responsibility can explain how respect for persons is constitutive of the good life, and hence, why respecting the rights of others is as well.

2. Responsibility and Respect

Den Uyl and Rasmussen take a responsibility-based account of metaethics in opposition to the respect-based account that is prevalent in the contemporary literature (pp. 4-30). This roughly correlates with what has been parsed as ethical pushes rather than pulls,⁵ or what Den

⁵ Robert Nozick, *Philosophical Explanations* (Cambridge, MA: Harvard

Uyl elsewhere parses as supply-side rather than demand-side ethics.⁶ This pre-modern approach to ethics (and I do not say that pejoratively) frames ethical conduct primarily in terms of what kinds of actions cultivate one's own goodness as a person and as an individual, rather than primarily in terms of what is owed to others out of a basic respect for persons.

Den Uyl and Rasmussen work through rival accounts of the connection between ethics and liberal politics that start from frameworks of respect (pp. 96-168). What is found to be endemic to these approaches is an attempt to arrive at political principles (or procedures for selecting among principles) through an understanding of our real or imagined negotiations as persons mutually owed and owing a debt of respect, which in one way or another overly formalize our ethical reasoning. As socially embedded, material creatures, deriving ethical reasons from abstract or hypothetical models leaves us without normative push, whereas "[t]he force of an ethical proposition should come from reality itself, not the formal structure of the rule" (p. 88). That reality is what Den Uyl and Rasmussen refer to as one's "nexus" (pp. 33-64). One's nexus is one's existence within a material and social context, a culmination of our circumstances, preferences, talents, relationships, potentialities, etc. As such, it is necessarily left out of any formal deliberation or contractualist procedure.

The move from a framework of respect to one of responsibility does not, as one might think, lead to a crude egoism in which all of our reasons for acting are self-regarding at the expense of being other-regarding. Our own goodness is constituted by the incorporation of a variety of goods and virtues into one's life, many of which are essentially social. It is part of one's nature as a social and rational being to recognize, and appropriately act on, the value of personal relationships and other social goods. Most, if not all, of these kinds of goods require one to value others for their own sake and not merely as instrumental to external goals. The sociality that is imputed to our flourishing therefore means that the framework of responsibility does not *preclude* valuing others intrinsically, and hence, of respect being a basis for ethical action.

University Press, 1984), pp. 499-570.

⁶ Douglas Den Uyl, "The Right to Welfare and the Virtue of Charity," *Social Philosophy & Policy* vol. 10 (1993), pp. 192-224.

What is distinctive about a framework of responsibility, then, is not its stark contrast with a framework of respect, but its grounding that very respect in what is expressive and constitutive of what it means to cultivate one's own goodness. Respect for persons then becomes not a cost to be balanced or traded-off against self-interest, but one among many aspects of one's self-interest to be integrated into a harmonious composition of goods and virtues. Therefore, while our reasons for ethical action might often include respect for others, that respect is not a primitive ethical pull. Rather, it is grounded in the ethical push of being responsible to our own humanity.⁷

It is from the sociality of flourishing that the question of politics becomes unavoidable. We need to live among others in order to flourish, so what can a framework of responsibility tell us about how the political order ought to be structured?

3. The Move to Metanormativity

Den Uyl and Rasmussen reject the political perfectionism that is embraced by other ethical perfectionists.⁸ Their reasons for doing so are internal to their account of individualistic perfectionism (pp. 33-64). I will briefly give an overview of those reasons.

They hold that flourishing is agent-relative: everything that is good is good *for* some agent. There is not what is good for humanity outside of what contributes to the flourishing of its constituent individuals at any given time (pp. 34-37). Moreover, flourishing is *inclusive* of the goods that contribute to it (pp. 38-41). Goods and virtues are not valuable as mere means to eudaimonia, but rather, they *constitute* eudaimonia when they are brought into harmony with each other. The way in which different goods and virtues must be brought into harmony is a function of one's personal nexus. Therefore, the way

⁷ I leave the possibility open that while respect for persons is not primitive in moral theory, it may be primitive in moral psychology. We may recognize that we ought to respect others (which we should) prior to recognizing that this is good for us (which it is). Den Uyl and Rasmussen make a similar distinction themselves when they warn against conflating the basis for "one's *constructing* a judgment about what is good or ought to be done with that judgment's *constituting* what is good or what ought to be done" (*The Perfectionist Turn*, p. 274).

⁸ Alasdair MacIntyre, *After Virtue*, 2nd ed. (Notre Dame, IN: University of Notre Dame Press, 1984); Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 1988).

in which each individual flourishes is thoroughly individualized (pp. 41-42). This brings us to the most important aspect of individualistic perfectionism: that it is self-directed (pp. 51-52). The fact that our flourishing is individualized means that the choices we make between different goods and which character traits to develop, must be taken *by us*. We must employ practical reason in balancing different goods in light of our nexus. This process of reasoning is what *individualizes* the generic goods out there in the world and actually *incorporates* them into one's eudaimonia. Being free to employ and develop one's practical reason is a necessary, though insufficient, condition of living a truly self-directed and therefore flourishing life.⁹

In order to have even the possibility of flourishing, we must be free to choose between projects. Forced enrollment into others' projects, without the right of exit, blockades our self-directedness and therefore our flourishing. Political regimes that enroll everyone into "shared" enterprises, then, are not an option. We must always have a right of exit; we must always have the freedom to choose. This does not mean that shared enterprises cannot contribute to our flourishing; there are shared and common goods that enable us to flourish in communion with our fellows. What it does mean is that the common good does not really count as a good unless we incorporate it into our flourishing through free choice, as a result of self-directed, practical reason. What constitutes an individual's good cannot be known in advance, but must be discovered through an active process of practical enquiry.¹⁰

⁹ "Practical reason is the intellectual faculty employed in guiding conduct, and practical wisdom is the excellent use of practical reason. Practical wisdom is, however, more than mere cleverness or means-end reasoning. It is the ability of individuals at the time of action to discern in particular and contingent circumstances what is morally required. It involves the intelligent management of one's life so that all the necessary goods and virtues are coherently achieved, maintained, and enjoyed in a manner that is appropriate for the individual human being. It is *the* intellectual virtue of a neo-Aristotelian conception of human flourishing"; Douglas B. Rasmussen, "The Importance of Metaphysical Realism for Ethical Knowledge," *Social Philosophy & Policy* vol. 25 (2008), p. 79, n. 91. Also, on the centrality of practical reason to a flourishing life, see Douglas J. Den Uyl, *The Virtue of Prudence* (New York: Peter Lang, 1991).

¹⁰ There is an intriguing analogy here between the role of the individual's practical reason in pursuing the good, and the role of the individual's economic subjectivity in pursuing economic value as described by the

Traditional communitarian and perfectionist forms of politics are thus out. So what are we left with? Den Uyl and Rasmussen first examine those theories that attempt to untether political philosophy from what John Rawls called *comprehensive doctrines*,¹¹ that is, substantive ethical views of the good life (Chapter 3). They find that the views of Rawls, Martha Nussbaum, and Amartya Sen smuggle in comprehensive doctrines through a particular definition of respect (in Nussbaum) and in what counts as reasonable (in Rawls and Sen). Thus, untethering seems to have been a failure. They then examine other varieties of anti-perfectionist politics that embrace tethering (Chap. 4). Gerald Gaus¹² and Stephen Darwall¹³ both attempt to establish a *social* or *second-person* morality—in other words, a framework of respect—that is not grounded in a framework of responsibility. The problem here is that the social rules they derive lose any normativity for us, since they are unconnected to our own flourishing and, hence, our own particular *telos* (“purpose” or “end”).

My sketch of Den Uyl and Rasmussen’s analysis of each of these varieties of anti-perfectionism is necessarily cursory. My intention, however, is that it highlights just what is needed for an anti-perfectionist politics actually to have some normative bearing on us—and hence illuminates what Den Uyl and Rasmussen are trying to do. What is needed for the development of a plausible anti-perfectionist

Austrian school of economics. While the former implies that the good life of all citizens cannot be imposed, the latter implies that the economy cannot be centrally planned. Indeed, this parallel is explicitly borne out in the penultimate chapter, under the unapologetically Randian title, “The Entrepreneur as Moral Hero”; Den Uyl and Rasmussen, *The Perfectionist Turn*, pp. 284-319.

¹¹ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); John Rawls, “Justice as Fairness: Political not Metaphysical,” *Philosophy & Public Affairs* vol. 14 (1995), pp. 223-51; John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001).

¹² Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge, MA: Cambridge University Press, 2011).

¹³ Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006).

politics is the identification of something which each agent has a moral stake in, which is not simply one of the substantive constituents of a particular person's eudaimonia. The political order must therefore not be goal-directed, but nonetheless tethered to our goal-directed perfectibility. It cannot be goal-directed because this would engender the "moral cannibalism" of communitarian and perfectionist politics.¹⁴ Yet it must be tethered to our perfectibility because that is the source of all normativity. For us to be obliged to comply with the political order, it must somehow be linked with our *telos*.

What is it that we all have a moral stake in that is not simply a particular good? The answer is self-directedness. A prerequisite to our goal-directed behavior is that we can direct ourselves toward any goals whatsoever. Therefore, we each have a stake in the maintenance of a political order that protects the possibility of our respective self-directedness (p. 156). The content of political rules, then, is a set of individual rights against interference, rights to negative liberty. We each have a moral stake in upholding those rights, and hence ought to comply with their correlative duties. But how is it that we can normatively be compelled to follow a set of political rules and its attendant duties, if they do not guide us toward our ultimate end, namely, eudaimonia? If these duties are not directed toward our own perfection, then why ought we to fulfill them?

The key to understanding the normativity of political rules, Den Uyl and Rasmussen argue, is in rejecting "equinormativity." Equinormativity is the idea that there can be only one type of reason for ethical conduct. Den Uyl and Rasmussen reject that in favor of the concept of *metanormativity*. Political rules can be normative for us in virtue of the fact that their universal acceptance is a prerequisite for our flourishing among others. Discharging our metanormative obligations does not contribute to our flourishing, yet as flourishers we must do so in order to protect the possibility of flourishing.

4. Double Justice in Jeopardy

In much of contemporary political philosophy, "justice" refers to our legitimately enforceable obligations, which can typically be formalized in such a way as to be universally and determinately applicable to all agents. The content of metanorms may be identified with the content of justice in this sense: call this justice₁. However, there is also the interpersonal virtue of justice which embodies our

¹⁴ Den Uyl and Rasmussen, *Norms of Liberty*, pp. 85, 95, and 272.

interpersonal obligations more generally (in other words, not just the “political” or enforceable ones): call this justice₂. The cultivation of the virtue of justice₂ is constitutive of our flourishing and explains, in part, how a framework of responsibility grounds respect for persons. Being responsible to our social, rational nature means treating other rational agents as such: respecting their choices, honoring their legitimate expectations, etc. If it were the case that all that is required of us by metanorms (justice₁) is already included in justice₂, then our political obligations would already be included in our ethical obligations. That is, a good person would be a just person in the sense of justice₁, and there would be no need to reject equinormativity and invoke metanormativity.

Den Uyl and Rasmussen believe that justice₂ cannot perform the role required of justice₁ because justice₂ is directed at particular persons. As a virtue, it is developed and practiced in accordance with practical reason, which takes account of the concrete circumstances of one’s relationship with those to whom one treats justly. All of the contingent circumstances that are included in one’s nexus, which include the facts about those to whom one is just₂, must be reflected upon in order to know what is required by justice₂ in any given instance. Justice₁, however, provides an ethical basis for our *political* obligations to each and every person, regardless of personal circumstances. Den Uyl and Rasmussen acknowledge that there may be functional *overlap* between justice₁ and justice₂, but maintain that justice₁ is not exhausted by justice₂.

Den Uyl and Rasmussen make an analogy with sports to illustrate the point: flourishing is analogous to playing baseball well. However, in order for there to be a game in which there is the possibility of us all playing well together, there must be rules we all follow that are distinct from what it means to play well. The rules of baseball are justice₁, while the virtue that guides successful and skillful play is justice₂ (as well, perhaps, as other virtues).¹⁵ This analogy illustrates well what the *function* of justice₁ is. However, it seems to me that it also serves to highlight just how it is that the content of justice₁ is already included in justice₂.¹⁶ While one can follow the rules

¹⁵ Ibid., p. 228.

¹⁶ One need not reject the normative contribution of justice to the just agent in order to recognize its metanormative function: that it ensures the possibility of persons with diverse forms of life to flourish. Geoffrey Plauché makes this point explicitly in his *Aristotelian Liberalism: An Inquiry into The*

of baseball without playing with any particular excellence (and analogously, one can fulfill the requirements of justice₁ without living a fully flourishing life), one cannot play baseball with any particular excellence without following the rules. When one breaks the rules occasionally, this will take away somewhat from one's excellence as a player. Yet when one breaks the rules systematically, one is a thoroughly bad player; one is not fulfilling even the minimal requirements for playing well. Someone who follows the rules of baseball, but plays poorly, is a better player than someone who shows up for the game but does not follow the rules.¹⁷ The disposition to play well *subsumes* the disposition to follow the rules.

The need to reject equinormativity and invoke metanormativity is avoided when one recognizes that justice₂ includes justice₁. This becomes even clearer when one considers what this means in concrete terms. Justice₂ requires that we not violate any other agent's right to liberty. How could we ever engage in virtuous interpersonal relations, if we failed to respect that right? When we violate someone else's

Foundations of a Free and Flourishing Society (Ph.D. dissertation, Louisiana State University, 2009), pp. 62-63. Roderick T. Long, "Why Does Justice Have Good Consequences?" *Alabama Philosophical Society Presidential Address*, October 26, 2002, accessed online at: <http://praxeology.net/whyjust.htm>; David Schmidtz, *Functional Property, Real Justice* (Berlin: European Liberal Forum, 2009); and David Schmidtz, "Property and Justice," *Social Philosophy & Policy* vol. 27 (2010), pp. 79-100, also argue that the requirements for mutually beneficial social coordination are part of what makes justice a virtue. Adam J. Tebble argues, though, that epistemic uncertainty about how to achieve a diverse range of goods is crucial to the virtue of justice; see Adam J. Tebble, "On the Circumstance of Justice," *European Journal of Political Theory* (2016), accessed at online first DOI: 10.1177/1474885116664191. The virtuousness of justice ought not be strongly separated from its social utility.

¹⁷ It might be thought that systematically breaking the rules means that the player is not playing badly, but just is not playing baseball, he is playing something else, or nothing at all. That is a fair characterization, but it would be wrong to draw from that conclusion that he is not a bad baseball player. Analogously, it would be wrong to conclude that if one violates justice₁, one is not a bad person, one just simply is not playing the moral game. If one shows up to a baseball match, accepts a role on the team, steps onto the field of play, one enters the game. If one proceeds to break all of the rules, one is a bad player. As moral agents, we are always in the field of moral play—breaking the rules is immoral. When you are a person, amorality is immorality.

liberty, we use her as a mere means to our own ends. Respect for others means recognizing their status as moral agents and treating them as conversation partners to be engaged with on the basis of rational discourse, not coercion. Rational and social beings use language, not violence, to interact.¹⁸ Respect for rights represents the formal core of what is required by justice₂ and all of the other interpersonal virtues. No virtuous social interaction is coercive, whatever else it might be.

The worry that Den Uyl and Rasmussen might have with this is that it appears to collapse politics into ethics, thus taking away the distinctive political character of respect for rights: justice₁ is owed to everyone and anyone, regardless of concrete circumstances.¹⁹ In order to know one's obligations of justice₁ to a particular person, we need not know *who* they are, only *what* they are, whereas in order to know one's obligations of justice₂ to a particular person, one needs to reflect upon the concrete circumstances of one's relationship: who they are and who you are.

The political nature of justice₁ comes from the *generality* of its directedness, as opposed to the *particularity* of the directedness of justice₂. However, the generality and hence the political character of justice₁ is not lost in its subsumption into justice₂. Regarding respect for individual rights as a *necessary* condition for virtuous interpersonal relations means that it is the formal core of all potentially good social relations. While our political obligations of justice₁ are directed

¹⁸ Roderick T. Long, *Reason and Value: Aristotle versus Rand* (Washington, DC: The Objectivist Center, 2000), pp. 49-50.

¹⁹ Well, almost regardless. In circumstances where the possibility of social cooperation breaks down entirely, the need for metanorms evaporates; see Douglas J. Den Uyl and Douglas B. Rasmussen, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (La Salle, IL: Open Court, 1991), pp. 144-51; cf. Ayn Rand, "The Ethics of Emergencies," in Ayn Rand, *The Virtue of Selfishness: A New Concept of Egoism* (New York: Signet, 1964); Roderick T. Long, "Eudaimonism and Non-Aggression," *Bleeding Heart Libertarians*, April 30, 2013, accessed online at: <http://bleedingheartlibertarians.com/2013/04/eudaimonism-and-non-aggression/>; Roderick T. Long, "Hungering and Thirsting After Righteousness: Eudaimonism and Modified Rothbardianism versus Public Reason," *Bleeding Heart Libertarians*, May 12, 2013, accessed online at: <http://bleedingheartlibertarians.com/2013/05/hungering-and-thirsting-after-righteousness-eudaimonism-and-modified-rothbardianism-versus-public-reason/>.

generally at everyone and anyone, they are only ever fulfilled on the basis of actual interactions with flesh-and-blood individuals. We always discharge duties of justice₁ alongside, to some extent, duties of justice₂.

Another worry might be that without invoking metanormativity, we cannot explain the *enforceability* of justice₁. Enforceability is what makes it political and the basis for a legal framework. Justice₂ is a virtue and hence, as with the other virtues, cannot be coerced or enforced.²⁰ So if justice₁ is part of justice₂, how is it enforceable? In fact, understanding our obligations of justice₁ as part of justice₂ clarifies rather than obscures the ground of their enforceability.

As Roderick Long argues, while the enforceability of rights is usually seen as the purview of strictly deontological theories, a plausible account of it can be given within a neo-Aristotelian framework.²¹ For it to be true that a duty is enforceable, it needs to be the case that persons ought to be forced to comply with it, and when they do not comply, that others ought to use force to make them comply. To abstain from using force against those who violate one's liberty would be to *undervalue* oneself as a flesh-and-blood being.²² One's capacity to pursue the good in accordance with one's own reason is the most central thing for one's flourishing, so if one fails to protect that when it is threatened, one acts imprudently. To fail to protect one's freedom, where protection is feasible, is a vice, whereas to defend oneself with proportional force is a virtue. If it is the case that we *ought* to defend liberty, this is functionally identical to one's

²⁰ Cf. John Tomasi, "Individual Rights and Community Virtues," *Ethics* vol. 101 (1991), pp. 521-36.

²¹ Roderick T. Long, "The Irrelevance of Responsibility," *Social Philosophy & Policy* vol. 16 (1999), pp. 118-45.

²² There are of course cases where a person can use her liberty in immoral ways, so it may not always be the right thing for her to enforce her right to liberty in such cases. However, it would always be wrong to interfere with a person's defending her liberty, since this would be to disrespect her as a moral agent with her own decisions to make. While there are cases where persons ought not enforce their rights, it is always the case that we ought not interfere with their enforcing their rights. Not all exercises of rights are good, but all violations of them are bad. Thanks to Jason Byas for pressing me on this point.

right to liberty, and hence justice₁, being enforceable. Understanding justice₁ as part of justice₂, and thereby as constitutive of the good life, renders a plausible understanding of its enforceability, and hence accounts for its political nature.

5. Conclusion

A framework of responsibility ought not be regarded as an alternative to a framework of respect, but rather as the proper grounds for a framework of respect. Being responsible to our natures—as rational, social, flesh-and-blood creatures—implies that our social relations ought to have a particular character. Any ethical or political theory that does not provide a proper metaethical grounding for respect for persons in the *telos* of the one doing the respecting, fundamentally lacks normativity. The subsumption of respect into responsibility helps to explain how our metanormative obligations are subsumed into our normative ones. A necessary condition for our social relations being just—in the sense of the virtue of justice—is that each party recognize the other’s sphere of moral agency and does not interfere in her acting in accordance with her own practical reason. The virtue of justice necessarily includes justice in the metanormative sense. Den Uyl and Rasmussen are right to stress the metanormative function of the individual right to liberty as well as the fact that rules enabling people to live different sorts of good lives can be grounded in considerations of the good. However, the idea that metanormativity is a kind of normativity, is one I must resist.

