

Ethics

Discussion

Rejoinder to Douglas J. Den Uyl and Douglas B. Rasmussen, “Defending *Norms of Liberty*” (Fall 2008)

Difficulties in *Norms of Liberty*

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The argument of *Norms of Liberty* seeks to establish that the proper foundation of the human right to liberty is not to be located in the human passion for self-preservation but in the human “potentiality” and “inclination” to self-perfect or flourish. The authors reject the classical liberal foundation of liberalism because they believe that it implies the rejection of the “moral propriety” of individualism and leads in the end to a kind of collectivism in the form of a liberal “socialization of ethics.”

The authors’ account of the derivation of the right to liberty from the human potentiality to flourish is this: human flourishing presupposes the acquisition and actualization of moral virtue. Moral virtue either presupposes or is the perfection of self-directed choice, which is the essence of human liberty. Individuals, to be moral agents, must choose their own individualized mode of flourishing and must acquire and actualize the moral and intellectual virtues necessary to make possible and perfect this mode of flourishing. Self-directed choice is that without which human beings could not actualize their potentiality to flourish, i.e., achieve their “mature state” or “moral purpose.” Because acts of human liberty are required in order for human beings to achieve their moral purpose, they possess the right to liberty.

Our review attempted to clarify two difficulties present in the authors’ account of the foundation of the right to liberty. The first concerned the nature of human liberty and its relation to moral virtue; the second concerned the nature of human equality and its relation to

the human good or end of human life. The authors understand human liberty to be freedom of choice. Choice presupposes an awareness of alternative means to an end and is, therefore, necessarily informed by deliberation concerning the optimal means to the proposed or desired end. What is chosen, then, is chosen for the sake of something else and not for its own sake. The morally virtuous, however, deny that either their excellent psychic disposition or character or their acts can be properly interpreted as consequences of deliberation for they understand themselves to be virtuous and to act virtuously on account of the beauty of virtue itself and to actualize the moral virtues for their own sake. The morally virtuous insist that their acts be regarded as manifestations of their own excellent psychic condition or character. From the standpoint of the self-understanding of the morally virtuous, then, the deliberative calculator comes to light as a kind of slave or chameleon. It is, of course, true that the morally virtuous possess the power to act contrary to their nature or psychic condition and, consequently, are certainly free in the authors' sense of freedom. If the morally virtuous were to choose to act contrary to their excellent character, however, they would, by their own choice, forfeit their claim to be what they say they are. Hence, the authors' understanding of human liberty is incompatible with moral virtue at least insofar as it is understood by the morally virtuous.

The root of the first difficulty appears to have its source in the authors' conflation of three distinct species of human liberty. The liberty present in acts of choice belongs to the freedom enjoyed by the law-abiding. The law insists that both lawful and unlawful acts are voluntary acts. The citizen, to be lawfully responsible, must be free to choose either the lawful or the unlawful act. The virtuous, however, regard the acts of the law-abiding to be just only in an incidental sense precisely because their acts do not follow from a psychic condition of justice but from a calculation of the rewards to be enjoyed for obedience or of the penalties to be suffered for disobedience to the law. The conflation of the species of human liberty present in the virtuous with that present in the law-abiding is possible because the authors grant the law-abiding practical wisdom. The activity determined by practical wisdom, the third and highest species of human liberty, however, can follow neither from an excellent psychic condition or an opinion concerning the beautiful,

nor from the passions of fear and hope, but solely from actual knowledge of the human good.

The second difficulty is rooted in the authors' conception of the human good. The authors affirm that human beings possess an "inherent potentiality" to achieve the "mature state" or "moral purpose" of human nature. The mature state of human nature, however, may be achieved through a variety of quite distinct modes of flourishing. It is possible for an individual to enjoy a mode of flourishing that is best for that individual if the individual's choice of mode is made on the basis of practical wisdom. To "each person, the way of being-at-work that results from his own condition is the most choiceworthy" mode of flourishing for that person (*Nicomachean Ethics* 1176b25–26). From this Aristotelian proposition the authors draw the non-Aristotelian conclusion that no mode of flourishing is naturally superior to any other mode of flourishing. This conclusion, however, is inconsistent with the authors' own account of the human good. Human flourishing "comprises basic or 'generic' goods and virtues—for example, such goods as knowledge, health, friendship, creative achievement, beauty, and pleasure; and such virtues as integrity, temperance, courage, and justice" (Rasmussen and Den Uyl 2005, 129–30).

We note in passing that the authors affirm the existence of certain goods and virtues the goodness of which are not dependent on acts of human freedom. More importantly, some modes of human flourishing that are best for certain individuals impede, while other modes enhance, the possibility of actualizing all of the potentialities, goods, and virtues of human nature. Those modes of flourishing that make possible the actualization of more of the goods and virtues of human nature certainly appear to be more choiceworthy in themselves than those that constrain the individual to actualize less of the human goods and virtues.

The doctrine of the equality of all forms of human flourishing follows not from the authors' eudaimonism but from their identification of the human good with the moral purpose of each individual. The authors' identification of the morally good with the human good effectively conceals from them two species of human liberty that are not comprehended by the freedom present in self-directed choice, namely, the freedom of the virtuous and the freedom present in a life

governed by the intellect or practical wisdom. The authors' abstraction from the legal foundation of political liberty makes it inevitable that they adopt as their own the law's understanding of human obligation and human freedom.

References

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