UNIVERSITY OF CALIFORNIA, SAN DIEGO

Justice as Fairness Modified: A Contractarian Coherentist Response to MacIntyre

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in

Philosophy

by

Robert Charles Gillis

Committee in charge:

Professor Georgios Anagnostopoulos, Chair
Professor David Brink
Professor Harvey Goldman
Professor Gary Jacobson
Professor S. Nicholas Jolley

2018
The Dissertation of Robert Charles Gillis is approved, and it is acceptable in quality and form for publication on microfilm and electronically:

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Chair

University of California, San Diego

2018
DEDICATION

I dedicate this to the memory of my parents, Herbert and Paula Gillis, and
my Uncle, Charles Englund. Their hard work made it possible for me to study
philosophy.
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VITA

1985  Bachelor of Arts, Philosophy and Political Science, University of California, San Diego

1990  Master of Arts, Philosophy, University of California, San Diego

1993–2001 Adjunct Instructor, Department of Philosophy, Portland State University

2002–2009 Instructor of Philosophy, Department of Philosophy, Portland State University

2009–2017 Senior Instructor of Philosophy, Department of Philosophy, Portland State University

2018  Doctor of Philosophy, Philosophy, University of California, San Diego
Alasdair MacIntyre regards the cultivation of virtues as the telos for human beings. The final end, the pursuit of which incorporates all the others, is the quest for the good. His account of human well-being and justice is thus perfectionistic: ethical life is the development of excellences of character in non-coerced deliberation about the good. With the Enlightenment-era demise of teleological thinking, however, he believes that we moderns disagree not only about issues in applied ethics, but also about normative ethics, that is, substantive accounts of value. We represent our judgments and their normative justifications as being true or false, despite not
knowing how to settle conflicts. Meanwhile, we use moral language to manipulate others although its ostensive purpose is stating propositions with truth-values. In the political realm, liberalism is the attempt to adjudicate among heterogeneous ends, but has produced a tradition of dispute among incommensurable beliefs about justice. He thinks that a life of virtue is still possible—within communities whose practices have common goods in which one both helps others and is in turn helped by them to develop excellences of character.

I refute his claim that moral statements are now used emotivistically by showing that this claim depends on an implausible account of the relationship between the subjective meaning and the intersubjective use of moral language. Moreover, that moral disputes have become interminable assumes they result from incommensurable first principles, which assumes foundationalism, which is implausible. I reject the claim that moral concepts and precepts are the pieces of a once-coherent teleological order and argue for moral pluralism. Moral pluralism is something to which MacIntyre is himself committed. The quest for the ordering of the constitutive goods of one’s life is aporetic. Even among those virtuously pursuing the goods internal to practices, there remains stable, reasonable disagreement about the good. MacIntyre is ultimately a kind of liberal in spite of himself.

I develop a modified Rawlsian position, arguing that the dispute between Rawls and Nozick is not rationally interminable, because justice as fairness exhibits a greater degree of reflective equilibrium with moral and non-moral beliefs.
Chapter 1: MacIntyre’s Positive Account of Morality and Practical Reason

Section I: Who’s MacIntyre? Which Book?

Restless iconoclast, ceaseless critic of the self-images of the age, fierce opponent of received truisms—Alasdair MacIntyre is nothing if not provocative. Over a span of now sixty years, he has contributed a remarkable body of scholarship that shows him to be as self-critical as he is scathing of the liberal culture around him. Locating the one true MacIntyre is difficult, and (considering his Protean intellectual character) maybe even impossible, but some rough outlines emerge from a sustained study of his work. The purpose of the present chapter is expository: to provide a partial reconstruction of his work in moral and political philosophy. This will set up for an examination in Chapter 2 of what he sees as its critical implications for liberal Enlightenment moral and political philosophy. Chapter 3 is a preliminary assessment of the material presented in the first two chapters, directed at both his moral philosophy and his political philosophy. Chapters 4 and 5 will be a response, drawing heavily on the work of Rawls, to MacIntyre’s challenge that reason cannot be practical for the purposes of generating a liberal theory of justice.

But how to proceed? His earliest works show an effort to make sense of the Presbyterian Christianity of his youth and a heightened sense of commitment to the demands of the working classes. This period includes MacIntyre’s brief membership in the British Communist Party, followed by affiliation with two separate Trotskyite groups. During this time, he also published works on Freud, numerous articles in analytic philosophy, a savage short book on Marcuse, among many others. By his own account, upon emigration to the United States, he began to think that he had been attempting to combine too many inconsistent concerns and beliefs and that

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perhaps this was a condition which similarly afflicted many of his contemporaries (philosophers and non-philosophers alike)—a view which came into full force with the publication of After Virtue in 1981. Indeed, he reports in this same interview that as he was writing the first draft of After Virtue in 1977, he had identified “in main outline the framework and subsequent theses of my subsequent enquiries.” Thus, despite the remarkable range of topics about which he has written, it is by his own lights apparently fair and reasonable to treat After Virtue as the locus classicus. Since this is his best-known work, there is an agreeable consonance between the expectations of those with a modest familiarity with his work and what he himself reports to be of most significance among his publications. Thus, although I will throughout refer to several other books and articles (particularly regarding contemporary politics), my treatment of MacIntyre in this and the subsequent chapter will center on After Virtue.

Section II: MacIntyre’s Positive Account of Practical Reasoning

This chapter has two main roles: first, to reconstruct sympathetically the outlines of MacIntyre’s ‘positive’ account of morality, and second, to set up for the discussion in Chapter 2 of his critical assessment of contemporary moral and political life. To understand what he sees as the condition of loss or deprivation under which we labor in our thinking about ethics and justice, it is appropriate first to see what his positive alternative is—MacIntyre’s “deprivation history”, as one critic\(^2\) calls it, can only make fuller sense if we have a clear idea of what it is we have supposedly lost.

A. The Aristotelian Character of Practical Reasoning

Practical reasoning, according to MacIntyre, is in its most basic form Aristotelian in character—this is a theme that is prominent in *After Virtue* and elaborated in subsequent works, especially “Plain Persons and Moral Philosophy” (1992) and “How Aristotelianism Can Become Revolutionary” (2011). We’ll start here with *After Virtue* and see how MacIntyre clarifies and elaborates on the Aristotelian character of practical reasoning in subsequent works, leading to the conclusion that ordinary individuals (‘plain persons’, in his expression) “are in fact generally and to a significant degree proto-Aristotelians.”

We will then be in a position to understand how it is that MacIntyre believes we inheritors of the failed Enlightenment project have gone so wrong in abandoning a form of moral deliberation where it is most needed: in conferring an intelligible order on human lives both individually and collectively.

What is this moral scheme? Whether in its classical, pagan, or medieval Christian form, it has the following structure: Within that teleological scheme, there is a fundamental contrast between man-as-he-happens-to-be and man-as-he-would-be-if-he-realized-his-essential nature. Ethics is the science which is to enable men to understand how they make the transition from the former to the latter. Ethics therefore in this view presupposes some account of potentiality and act, some account of the essence of man as a rational animal and above all some account of the human telos.

The key part of the passage above is that on this classical or Aristotelian view, ethical deliberation requires some account of a human end, a telos. So understood, MacIntyre’s conception of practical reason is perfectionistic, in that the account of right action (and thus also deliberation about right action) involves an account of the final good for human beings. Once we have settled on such a notion—that is, on what it is that we (either as individuals or as members of a community of individuals who are similarly minded) have sound reason to believe

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is an appropriate and natural end for us to pursue, then what remains is some account of how to
guide us as we presently are to what we will be when we realize our nature. The virtues
promote, and the vices inhibit, our advance from potentiality to actuality, from our given desires,
(passions, etc., to the telos the achievement of which would constitute human flourishing. To
flourish and be truly well-souled is to exercise the virtues which allow one to achieve the good
which is peculiar to one’s species (the good of eudaimonia, for Aristotle, or the good of
reconciliation with God, in the Christian account to which MacIntyre implies he gives his
allegiance). There is, in other words, what he calls a ‘three-fold scheme’:

1. A conception of untutored human nature, human nature as it is.
2. A conception of the precepts of rational ethics, the virtues.
3. A conception of human nature as it would be if it realized its telos.6

This untutored nature can be radically at odds with the natural end (as in specific versions of the
Christian account of human beings as fallen creatures—though this presumably is not exactly
MacIntyre’s position, as he is more Thomistic than Calvinist), but by no means necessarily so (as
in the case of Aristotle, to whom the Christian account would have appeared strange, I suspect).
Either way, a rational ethics would consist of those precepts and (even more) those virtues which
lead to the achievement of this natural end. Virtues turn out to be those habits of action which
lead us to our natural end.

For our purposes, it is important to note as well that on MacIntyre’s account, each of
these three elements in the scheme above “requires the other two if its status and function are to

5 Flourishing is not identical with happiness as a subjective state, but rather being ‘well-souled’ or
fulfilling one’s species-essence. See Alasdair C. MacIntyre, “How Aristotelianism Can Become
Revolutionary: Ethics, Resistance, and Utopia,” in Virtue and Politics: Alasdair MacIntyre’s
Revolutionary Aristotelianism, eds. Paul Blackledge and Kelvin Knight (Notre Dame, IN: University of
6 MacIntyre, After Virtue, 53.
be intelligible.” Now I don’t suppose that this claim is strictly true; after all, one might well make sense of a notion of untutored human nature (#1, above) all by itself. But no matter, because the main point MacIntyre wants to make here is unaffected: namely, that for the precepts of ethics to have their place, some conception of the true ends of human beings must be in place. Otherwise, as we’ll see in more detail in the next chapter, we are left with two remaining elements, the status of each of which has become unclear.

Let’s spell out some important implications of this classical or Aristotelian moral scheme. First off, the three elements of that scheme—human nature as it is, the essential nature or telos of human beings, and the precepts or virtues which make possible the transition from the former to the latter—jointly allow us to say meaningfully what someone ought or ought not to do in a specific situation, given certain features of that situation which the phronetic individual is in possession of. To say what someone should do is just to say what action will lead him toward his natural end (whether this end is altogether this-worldly, as in Aristotle, or principally other-worldly, as in Christianity). To do otherwise would be to frustrate oneself, to remain incomplete as a human being. As well, for MacIntyre, as soon as one element of this triad is removed, the status and function of each of the other two is rendered unintelligible. Moreover, it is precisely within this framework that moral claims are understood to be true or false (i.e., have a truth-value), or more to the point, actually are true or false. For to enjoin a certain course of action—one of Christian charity or humility, say, or one of courage or temperance in the Aristotelian scheme—is to utter the following truth: because one wants or should want to realize one’s true nature, and given that a certain action will lead to the cultivation of a given virtue which in turn constitutes and promotes the good of achieving one’s nature, it is true that that action should be

7 Ibid.
8 Ibid. This is the basis for what I will be calling the “fragmentation thesis.”
done. In other words, it is from the three-part scheme described above that moral claims derive both their meaning and their truth-value, that is, both their cognitive content and their status as either-true-or-false. In Chapter 2, we will see how a number of modern thinkers (in MacIntyre’s pantheon of Enlightenment philosophers) responded to the breakdown of this three-part scheme and the resulting need for some alternative account of the meaning and defensibility of moral claims. But more remains to be said in this present section if we are to understand MacIntyre’s positive account of practical reason.

B. The Narrative Structure of a Human Life

Perhaps the best way to continue the exposition of MacIntyre’s attempt at a neo-Aristotelian, telos-based account of practical reason and morality is with his theory of action. “We cannot,” he writes, “characterize behavior independently of intentions, and we cannot characterize intentions independently of the settings which make those intentions intelligible both to agents themselves and to others.” The only way to explain human actions (as contrasted, presumably, with such things as autonomic function, which has no conscious or volitional component) is to make reference to the beliefs and desires of the agent in question. Actions are in turn not discrete, disconnected units; instead, MacIntyre writes, “action itself has a basically historical character.” What does it mean to have a “historical character”? “Narrative history,” he says, “…turns out to be the basic and essential genre for the characterization of human actions.” And elsewhere: “…we understand our lives in terms of the narratives that we live out…” What does all this mean?

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9 Ibid., 206.
10 Ibid., 212. My emphasis.
11 Ibid., 208.
12 Ibid., 212.
So far, the claim here is a polemic not just against materialist philosophy of mind or those who think that psychology need not make use of intentional states in describing, explaining, predicting, or categorizing human actions. As well, the target is any defender of intentional psychology for whom an action is to be characterized as the outcome of the matrix: agent A, having desire D plus empirical beliefs x, y, and z, acts thus and so. For MacIntyre, the desires and beliefs of an agent cannot be understood as discrete units, as simply or merely given. To neglect the fact that desires and beliefs are always and only intelligible in virtue of the stories the agent tells himself concerning what his life is about, what is valuable to him, and what redeems his life is to start too late in one’s attempt to understand—describe, explain, predict, and categorize—human agency. But what exactly are these narratives? MacIntyre tells us that “man is in his actions and practices, as well as his fictions, essentially a story-telling animal” and that “I can only answer the question ‘What am I to do?’ if I can answer the prior question ‘Of what story or stories do I find myself a part?’”13 In other words, an individual desires, hopes, aspires, fears—fill in the blank with the catalog of intentional verbs—within the framework of the stories or accounts she tells herself about herself, about her relationship to other human beings, to her nation, to the natural world, to the divine, to past and future generations, stories about her sexuality, her profession, and so on.

The term ‘story’ may sound quaint, but the point here is worthy of attention: it is not just that we are self-interpreting beings, but also and moreover that those self-interpretations are cast in the form of accounts which, ideally at least, make sense of a whole human life. MacIntyre writes that the very notion of selfhood “is a concept of a self whose unity resides in the unity of a narrative which links birth to life to death as narrative beginning to middle to end.”14 What I

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13 Ibid, 216.
14 Ibid., 205.
take this to mean is that the unity of the self, the very idea that there is a self at all (insofar as selfhood necessarily involves some sort of unity or oneness across time and through change) requires that the self understand itself as someone enmeshed in a number of projects and concerns which constitute that person’s life. On this view, personal identity is more than mere psychological continuity, however rich in details an individual’s memory may be, since a more comprehensive account of selves must include narratively cast interpretations of the beliefs and attitudes individuals have about what their lives amount to.

Some continuity of psychological states would doubtless be necessary for identity across time, but on MacIntyre’s view not sufficient. Empiricists thus “have failed to see that a background has been omitted the lack of which makes the problem [of identity] insoluble. That background is provided by the concept of a story and of that kind of unity of character which a story requires.”

In sum, then, MacIntyre has argued so far that the notion of an action needs to be understood in the context of the intentions of agents, that those intentions are best understood by means of the narrative self-understandings of agents, and thus that the concepts of personal identity and intelligibility of behavior are to be understood in terms of the narrative unity of the self.

C. From Narrative to Telos

At this point, the following question arises: what is the telos in terms of which an individual life is ordered? If a life is lived narratively (whether from the first-person perspective, as we all do, or in our third-person survey of another’s story), and that narrative is structured in terms of the goal or goals pursued and the success or failure in such a pursuit, then we need to

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15 Ibid., 217. Whether this settles the issue is not clear. After all, we might ask, what is it in which or through which the narrative occurs? What unifies that entity (the self) which is the subject of the narrative? This puzzle is beyond the scope of my inquiry.
hear more from MacIntyre about what the *telos* of human life is, and indeed why he thinks that it is reasonable even to suppose that there is one. Fortunately, at this point in MacIntyre’s argument we can locate ourselves in everyday practical contexts which provide grist for his theoretical mill. The crucial aspect of human beings to bear in mind, he writes, is

> the goal-directedness which from a relatively early age one discovers in different types of norm-informed activity in which one has become involved. Some goals are biologically given, some are social. But in activities as elementary as those which sustain and preserve one’s life, as universal among human beings as those which arise from kin, familial, and household relationships, and as open-ended as those which provide one’s first education into productive, practical, and theoretical arts, one inescapably discovers oneself as a being in norm-governed direction towards goals which are thereby recognized as goods.¹⁶

The most familiar things—self-preservation, family relations, growing food, keeping a household, and so forth—turn out then to provide a kind of clue or indication as to the highest and most important concern in human life. Goal-directedness is implicit in the practical concerns of daily life, and so the concept of teleology—which McIntyre thinks is of the highest importance in moral deliberation—is already quite familiar to us. But so what? We farm in order to grow food in order to eat in order to live—what do these truisms mean in the present discussion of whether there is and what might be a kind of ordering principle of human life?

Frequently in MacIntyre’s writings, a discussion of practical and productive arts provides an opportunity for him to clarify how virtues are necessary components of an individual’s character in the successful engagement in a practice (honesty for scientific inquiry, patience for child-rearing, diligence for musical proficiency, courage for soldiering, and so forth). But there is a further and different point which has come to light in his more recent work. Let’s briefly turn to that point.

For individuals engaged in a variety of heterogeneous pursuits—ordinary persons whose lives are constituted by a number of different demands and interests which aim at some good—at least two higher-order questions arise concerning those goods:

...[W]hat place should each have in my life, if my life as a whole is to be excellent? Yet any individual who attempts to answer this question pertinaciously must soon discover that it is not a question that she or he can ask and answer by her or himself and for her or himself, apart from those others together with whom she or he is engaged in the activities of practices. So the question has to be posed: what place should the goods of each of the practices in which we are engaged have in our common life?17

Plain persons, it turns out, are philosophers of a sort, and not just any sort. We are Aristotelians, and recognize ourselves in the pages of the *Nicomachean Ethics* if we read it with some care. But even if we do not read Aristotle or Aquinas, and indeed even if we cannot read at all (but still think and reflect), we cannot help but rank-order the goods within our lives (understood individualistically and, by turns, collectively). This seems familiar enough to us, I suppose, when we have to choose between two or more goods, and thus decide which should take priority (subject to the many considerations which are specific to a certain situation). But there is nothing platitudinous about what MacIntyre has in mind here, despite first appearances.

In fact, the point here is crucial for understanding MacIntyre, because his conception of human flourishing—and thus the benchmark for judging the present—will turn out to be this ideal of deliberating with others about how to order the goods in human life. This is the basis for both his ideal of a well-lived individual life and the perfectionist political doctrine he advocates. The idea is that if we reflect on the quotidian, we will in due course ascend to the loftiest heights of human thought. Ordinary human beings begin with growing food, raising children, making music, and so forth, and in so doing develop the concept of normativity—of better and worse, or

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virtue and vice, of a hierarchical ordering of goods. So the mind is led to the idea of being able
to ask and reasonably to seek after something higher. This ‘something higher’ would in turn be
that toward which one directs oneself in life—the telos of a properly ordered human life. And
this is where the narrative structure of an individual human life comes into play, according to
MacIntyre. How so?

Human beings are reflective creatures—one asks and cannot help but ask whether the
story of one’s life is that which one actually intended or intends to be the author. In the first
instance, this normative appraisal is backward-looking. MacIntyre writes:

When from time to time, the plain person retrospectively examines what her or his
life amounts to as a whole,…characteristically what she or he is in effect asking
is, ‘To what conception of my overall good have I so far committed myself? And
do I now have reason to put it into question?’ The unity of her or his life about
which each human being thus enquires is the unity of a dramatic narrative, of a
story whose outcome can be success or failure for each protagonist. Were it
otherwise, the notion of an overall good for that life…would lack
application….The conception of a telos of human life is generally first
comprehended in terms of the outcomes of particular narratives about particular
lives.\(^\text{18}\)

So when one reflects on the course of one’s life to this po
int, or on the course of one’s whole life
by its end, the appraisal is made in terms of the ends one has pursued and the success or failure
with which one has done so. Apparently, what is crucial for MacIntyre is not so much the details
of one’s life as such but rather those details insofar as they have played a role in the achievement
of one’s telos. Once again, we are back to the (as yet) elusive concept of a telos that amounts to
a ‘something higher’, an elusiveness that the reader may find frustrating. It is nearly in view, but
not until we clarify the narrative structure of MacIntrye’s account of human lives. He writes:

…when we as readers or spectators put such questions to a narrative, we look for
the universal in the particular. Both plot and character have significance for us
insofar as we can understand them in terms of universal conceptions of the good

\(^{18}\) MacIntyre, “Plain Persons and Moral Philosophy,” 141.
and of the virtues and vices which transcend, but inform, the particularities of this narrative.  

So we do not survey our life’s story as though it were a mere sequence of events, let alone a catalog of facts. Rather, we do so by reference to an overall narrative arc whose worthiness is assessed from a more universal perspective. “This is the story of my life,” says an individual to herself, following which she cannot help but ask, “Is it a good one for me? Have I instantiated the excellences of character that any and all good persons do?” Or in MacIntyre’s terms, “we are compelled instead to ask of the universal how it may be particularized, how certain conceptions of the good and of the virtues may take on embodied form through the realization of this possibility rather than that…” Why then choose this rather than that possibility? We could of course do so in terms of something trivial—push-pin, video games, and the myriad temptations of consumer culture. But such choices would be unworthy of us, MacIntyre clearly believes, as they would not be suitable candidates for the arch or organizing principle—they could not require of us the range of virtues that a proper telos does. Rather, as he claims in After Virtue, 

unless there is a telos which transcends the limited goods of practices by constituting the good of a whole human life, the good of a human life conceived as a unity, it will both be the case that a certain subversive arbitrariness will invade the moral life and that we shall be unable to specify the context of certain virtues adequately. 

Even more forcefully, he believes (speaking in the first person): “My ultimate good…will have to be conceived from the outset as a good than which no greater can be pursued by me, in order to ensure the integrity of my practical reasoning.” The only end worthy of or appropriate to the task of ordering the subordinate goods and giving purpose to the virtues is the highest good of

19 Ibid.
20 Ibid.
21 MacIntyre, After Virtue, 219.
22 MacIntyre, “Plain Persons and Moral Philosophy,” 151.
them all. What could this be? The Anselmian locution (a ‘good than which no greater’) suggests a theistic answer is in waiting here, and this interpretative guess can indeed be confirmed in MacIntyre’s writings. But the theistic theme often appears as a rhetorical flourish rather than as the substance of his actual answers. A serious treatment of these theistic themes would need a separate, though related, study, which I do not offer here.

D. The Quest for the Good as the Human Telos

Let’s take stock: what we have so far from MacIntyre is a theory of action and the claim that a particular life is a coherent unity only in virtue of the telos of that life. But what, at long last, is that telos? The answer appears in After Virtue, and is cast in terms of what he calls ‘a narrative quest’. It is, according to MacIntyre,

in looking for a conception of the good which will enable us to order other goods, for a conception of the good which will enable us to extend our understanding of the purpose and content of the virtues….that we initially define the kind of life which is a quest for the good….It is not at all that of a search for something already adequately characterized, as miners search for gold or geologists for oil. It is in the course of the quest and only through encountering and coping with the various particular harms, dangers, temptations, and distractions which provide any quest with its episodes and incidents that the goal of the quest is finally to be understood. A quest is always an education both as to the character of that which is sought and in self-knowledge.23

Two salient points are made in this passage. First, the assiduous striving for a comprehension of the human good which confers order on an individual life is deeply Socratic—less a specific outcome than it is a process by which the individual conducts his life. In that sense, it is somewhat formalistic, though far from contentless. MacIntyre’s claim, as I understand it, is that the goal of human life is to live well, to be excellent in those respects that are characteristic of our species. As reflective beings who (if principled in their self-examination) constantly order,

23 MacIntyre, After Virtue, 219.
reflect upon, and subsequently re-order their ends and priorities, we flourish when we do those things well and fail to flourish when we neglect to cultivate our capacities for practical judgment and theoretical wisdom—however the narrative concludes in the sense of the termination of cognitive function. Presumably, then, the answerless soul who has at least undertaken throughout his life to make a serious effort to comprehend what his good is has thereby lived a virtuous, and thus a good, life. In brief, then, the good life is the life of active striving to know the good, rather than the achievement of a fully realized end-state.

Second, and this is implicit in the first point but worth articulating explicitly, the diligence, courage, honesty, and perseverance of such an individual would, in the ideal, amount to a case study in the virtues of the examined life. To undertake a serious inquiry into the nature of one’s good is to think more universalistically about the good for human beings as such, which requires a great deal of serious research into different ways of life and episodes of human history (readers of MacIntyre who are familiar with the sheer range of references he makes in these respects will have a sense for how seriously he himself takes this to be). We will hear more later about the demand that one familiarize oneself with other traditions and learn of them as though they were a ‘second first-language’, but in this context I merely note that it is among the requirements for an earnest quest for the good, in MacIntrye’s fullest view on the matter. As well, sincere self-examination and self-scrutiny—what one believes and why, whether those are good reasons, whether the reasons one proposes are one’s actual reasons and not mere ideology or self-serving rationalization—require considerable honesty and courage. The virtues, that is, “sustain us in the relevant kind of quest for the good, by enabling us to overcome the harms, dangers, temptations, and distractions which we encounter…”24 And the reason that these character traits (courage, honesty, etc.) are virtues and not vices is that the good the pursuit of

24 Ibid.
which they make possible is the highest good for humans: the effort to know what our good is. In short, he writes, “the good life for man is the life spent in seeking for the good life for man, and the virtues necessary for the seeking are those which will enable us to understand what more and what else the good life for man is.”

E. Self, Community, and the Virtues

At this point, MacIntyre introduces an element of his account that is often regarded—much to his consternation—as the canonical statement of the so-called ‘communitarian’ position. Our present inquiry does not concern the seemingly threadbare ‘communitarianism-liberalism’ debate, so we will ignore that here, though not the important point MacIntyre makes regarding the social character of individual lives. This topic has interested him since near the beginning of his career, though we will pick it up with After Virtue and see its restatement in later works. He writes:

…[W]e all approach our own circumstances as bearers of a particular social identity. I am someone’s son or daughter, someone else’s cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation.

Unsympathetic readers of MacIntyre mistakenly detect a sinister authoritarian ring to this passage, but his point when taken in context is that a broader moral community provides the altogether requisite background for the development of an individual’s moral character. The individual’s quest for the moral good is undertaken in a community—not merely in the obvious...

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25 Ibid. The curious reader might wonder how MacIntyre proposes to distinguish between good and bad narratives. It is in this context that the perfectionistic feature of his account helps to clarify: good narratives are those characterized by the cultivation of the virtues required for deliberating about the human good.
26 As we will see in Chapter 3, he believes that the modern state is too degenerate a form of political association to be a possible locus of virtue. The sort of community that makes the virtues possible is small-scale and local.
27 MacIntyre, After Virtue, 220.
sense that they are the set of moral patients whom one is expected not to neglect, but more to the point in the sense that others provide one with an ongoing moral education. How so? There are two inter-related ways in which this is so, a practical, everyday context and a more intellectualistic, tradition-constituted context. I will discuss these in turn.

The sincere and principled pursuit of the good which provides the telos of moral inquiry begins with the practical and productive arts. In farming, making music, defending the polity, raising children, and so forth, the individual must learn to do many things that develop character: subordinate one’s passions (temperance); face one’s limitations without abandoning one’s responsibilities (courage); persevere despite weariness (diligence); and so forth. And none of these is possible, or at any rate facilitated, without others who provide the relevant contexts: the music teacher’s patience, the experienced farmer’s savoir faire; the senior officer’s gravitas, and so forth. We are in this way dependent on others to become virtuous and thereby to inquire into the nature of the good to which our many pursuits are finally indexed. This is what MacIntyre means when he says that a person is “never able to seek for the good or exercise the virtues only qua individual.”

But the point goes deeper than this, which may after all seem to be a truism from the social sciences. To see this, we turn to his more recent writings, in which the doctrine of natural law has come to play a more prominent role.

Why should we have the virtues of honesty, patience, prudence, temperance, etc? MacIntyre’s answer would be unexpected, except in the light of the earlier discussion of the quest for the good. He writes: “…without relationships governed by these norms, [we] will not be able to learn [from others] what [we] most need to learn.” And elsewhere, he speaks of “fundamental rules” and “precepts of the natural law” whose violation “is bound to deprive one

28 Ibid.
29 MacIntyre, “Politics, Philosophy and the Common Good,” 247.
of [others’] cooperation in the achievement of a good about which one still has much to learn from them.”

This is a remarkable claim: the wrongness of lying is not that it violates a divine edict, or that it will not lead to the maximal aggregation of utility, or that it will corrupt one’s character (though that is certainly consonant with his view) or even (though this seems a close antecedent to what he is claiming) that to lie is to will a kind of ‘contradiction in conception’, as in Kant’s ingenious suggestion. Rather, the idea is that if one tells a lie, it will undermine the social relations in the absence of which one’s quest for the good (which, as we have seen, requires others’ truthfulness, patience, etc.) is not possible, or at least maximally likely.

Why then should we obey the natural law? MacIntyre’s answer is that without relationships governed by these norms (truth-telling, etc.), one cannot learn from others in pursuing goods cooperatively. This brings the moral perfectionism of his view into focus. It really is the search for the good that animates the whole, according to MacIntyre. In other words, there is such a thing as a good life, and it is the life of making an earnest search for the good in one’s life. We are above all else moral beings, the rightness or wrongness of whose actions is a function of one’s conscientious adherence to natural law. But what gives the natural law its normative force is not merely that it is discovered by reason, but that it is discoverable in the sense that without obedience to it we will be foiled in the narrative quest for the good that is the telos of human life. Natural law is thus instrumentally valuable—it is because our telos prescribes it, just as the virtues are those qualities of character that conduce to this aim.

An interesting development of a related theme has occurred in MacIntyre’s more recent work, Dependent Rational Animals. (This remarkable book has many merits, not the least of

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30 MacIntyre, “Plain Persons and Moral Philosophy,” 142.
31 We could quibble here: Robinson Crusoe needs courage, resourcefulness, etc. But the demonstrably anomalous character of this counter-example only serves to validate MacIntyre’s point. And anyway, this stalwart hero did not sprout his character autochthonously.
which is its deeply humane tone. Gone is the agonism of his earlier books, with the frequent references to conflicts among rival traditions and the like.) Briefly, among his claims there is that solicitous interaction with a variety of other individuals and groups in society helps one to develop character. In our midst are many whose capacities—cognitive, affective, physical—are deficient, retarded, or barely existent. One learns from them, too, MacIntyre believes, and with good reason. For example, the radically disabled teach us (in their own way) by needing our patience, our generosity, and our understanding. The number, range, and severity of human disabilities is staggering to consider, and the virtues called upon for the solicitous interaction with the many in our midst whose genetic afflictions, environmental exposures, or developmental traumata make them less capable than we are blessed to be are part of our moral education. The republic of virtue knows no final distinction between teacher and student, MacIntyre sagely proposes.

In sum, then, the first way in which a community of others provides one with opportunities for an ongoing moral education involves the everyday, practical contexts within which virtues are developed in individuals.

F. Self, Community, and Tradition

The second and more intellectualistic way in which MacIntyre sees moral education as requiring community concerns what he calls “tradition-constituting and tradition-constituted enquiry,” a theme which is prominent in Whose Justice? Which Rationality? and Three Rival Versions of Moral Inquiry. The self, as we have heard, is always already a creature of particular bonds and attachments. But those bonds and attachments (community, guild, parish, trade union,

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nation, and so forth) themselves have specific histories, from which it follows that “the individual’s search for his or her good is generally and characteristically conducted within a context defined by those traditions of which the individual’s life is a part.”33 Thus, the narrative of an individual’s quest for the good is embedded within the historical narrative of the course of the very traditions within which the goods and practices of individual narratives have their place. How so?

MacIntyre claims, “an adequate sense of tradition manifests itself in a grasp of those future possibilities which the past has made available to the present.”34 The course of one’s intellectually principled quest for the good is shaped, in other words, by the resources of those traditions of inquiry which are one’s inheritance—they structure and limit, but also sustain and make possible, one’s effort at a comprehensive account of the good in human life. Traditions constrain, in one sense, but they also make any sort of serious investigation a concrete and real possibility (as opposed to what he sees as the chimerical idea of a Cartesian starting point). Traditions are in turn and in just this way open-ended and unfinished, since they are not static inheritances which we venerate as some sort of relic. In fact, MacIntyre writes, “when a tradition is in good order, it is always partially constituted by an argument about the goods the pursuit of which gives to that tradition its particular point and purpose.”35 What he is claiming is that to be a member of a tradition in good working order is to be actively engaged in the argument over what aspects of those traditions are worth preserving and what parts need to be abandoned.

MacIntyre is thus resolutely not a kind of laudator temporis acti or classical conservative—traditions which attempt to conserve without transforming are in his view dead

33 MacIntyre, After Virtue, 222.
34 Ibid., 223.
35 Ibid., 222.
and thus not worth preserving (he reserves harsh terms for Burke in this respect). Rather, the idea is supposed to be that one crucial aspect of the exercise of practical reason is the business of confronting the tensions and insufficiencies that all efforts by human beings to make sense of themselves and the world involve. He writes: “A tradition of enquiry is more than a coherent movement of thought. It is such a movement in the course of which those engaging in that movement become aware of it and of its direction and in self-aware fashion attempt to engage in its debates and to carry its enquiries forward.”

Traditions are essentially vital because they involve continuities of conflict between or among the competing conceptions of the purposes and animating values of one’s institutions and practices (political, legal, educational, professional, vocational, etc.). This essential vitality is what MacIntyre means in the passage cited above that a tradition is partially constituted by argumentation over what its norms are, or how those norms are to be interpreted, re-interpreted, and emended.

Thus, for example, a political tradition becomes mature when its heirs continue debates over what the goods of citizenship, political participation, free speech, education, and so forth are. A religious tradition likewise remains vital because its adherents dispute among themselves what the meanings of its central concepts, values, ideals, figures, and so forth are. Presumably, and depending on how broadly the term ‘tradition’ is intended by MacIntyre, a tradition of this more intellectualistic, less immediately practical sort would extend to the domain of inquiry into the natural world, such that (in response to newly ascertained facts and data, and along with higher-level theories which have survived earlier investigations) natural sciences (plural) and natural science (the unifying consilience of those subdisciplines) are traditions, too. In any case, and however expansive the idea is of a tradition of inquiry, the point here is that traditions are vital, ongoing enterprises whose practitioners challenge themselves and one another to

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understand, interpret, and re-interpret the central ideas, concepts, explanatory frameworks, etc. which constitute the substance of those intellectual traditions. Finally, and this is the most important point for our purposes, principled inheritors of living traditions will have to exhibit numerous virtues. Together with others (without whom there would be neither an inheritance nor a community of others with whom to engage in sustaining the enquiry), one cultivates the many virtues of diligence, courage, perseverance, and so forth.

G. Between Tradition and Cosmopolitanism

But it is not only in taking up and working over one’s specific inheritance (which is always limited and contingent, depending on place, time, language, etc.) that one engages in a quest for the good which—whether successful or not in the achievement of its aim—helps to develop the virtues of character which make for moral excellence. Instead, traditions become mature not only in the potentially insular way just described but even more when their adherents “confront and find a rational way through or around those encounters with radically different and incompatible positions which pose the problems of incommensurability and untranslatability.”

If your tradition is challenged by another tradition (whether because it is simply unavoidable, in your place and time, or because, like MacIntyre himself, you restlessly seek new intellectual horizons and thus the challenges that other perspectives bring to your own narrative quest), and you subsequently recognize inadequacies in your own conceptual resources as well as relative strengths in the competing tradition, you are in a position to move your tradition forward in a rational synthesis of the two traditions. This occurs

when the protagonists of each tradition, having considered in what ways their own tradition has by its own standards of achievement in enquiry found it difficult to

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Ibid., 327. Ideally, one should learn a rival tradition’s discourse as a “second first language”, in order to be maximally familiar with it and thus its resources and deepest potential insights.
develop its enquiries beyond a certain point, or has produced in some area insoluble antinomies, ask whether the alternative and rival tradition may both be able to provide resources to characterize and to explain the failings and defects of their own tradition more adequately than they, using the resources of that tradition, have been able to do.\(^{38}\)

The paradigm of such tradition-constituted rationality in occidental civilization is Aquinas’ synthesis of the leading intellectual traditions of his day, Augustinian Christianity and Aristotelianism. A thirteenth century European could ignore neither the predominant religious tradition, Christianity, nor the most theoretically powerful system of thought to reemerge in Europe, Aristotelianism. Aquinas’ achievement was to render the two as consistent as possible without violating the spirit of either.\(^{39}\)

Thus, on MacIntyre’s view, practical rationality is in two important ways tradition-constituted and tradition-constituting. Not only do we inherit *our own tradition*, but as well there are also *other traditions* to become aware of and to make sense of (as best we can) on their own terms. Both require of us numerous virtues—diligence, honesty, etc.—if we are to take them seriously (as we must, or we would be ethically resourceless, or very nearly so, without language, without a set of questions and answers to try to make sense of, and so forth). As well, just as was the case with respect to everyday practices, in which a community of others helps us learn the virtues required for everyday practical pursuits, so too in this second, more intellectualistic, “tradition-constituted” way, one’s moral education requires community. All of us require a community of others with whom to engage in the quest for the rational synthesis of available traditions. The distinction between teacher and student is certainly sharper in this case than in the everyday one (in which, as was alluded to, the radically handicapped have much to

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\(^{38}\) Ibid., 166–67.

\(^{39}\) The details of this synthesis I will omit here, though the interested reader can investigate this further in Chapter X of *Whose Justice? Which Rationality?* Likewise, I will omit to discuss the other candidate MacIntyre offers for the status of grand synthesizer of competing traditions, Frances Hutcheson. See XIV of the same for the relevant discussion.
teach those who are blessed with normal, or even better than average, function), but we all need
others with whom to converse, exchange ideas, pursue possibilities, and so forth, if the
intellectually principled quest for the good is to be more than an empty charade and is to have
any realistic chance of success. The virtues we learn on this quest are ones we learn partly from
and often in the company of others. Thus, just as a medieval knight needed others with whom to
pursue the aim of acquiring a relic, so too the quest for the good requires a community of like-
mined individuals.

One final point is worth mentioning with respect to the second, more intellectualistic way
in which the virtues are developed. In Whose Justice? Which Rationality?, MacIntyre’s own
view is that there is an “emerging Thomistic conclusion” insofar as we “have every reason at
least so far to hold that the rationality of [that] tradition has been confirmed in its encounters
with other traditions….“40 Now he does not really argue for the claim that Thomism is the most
powerful tradition available (so far as I can tell), except by way of proposing that reason cannot
be practical in the absence of a telos to which other goods are subordinate. But it is worth noting
that in subsequent works, he has averred that the narrative to which he himself subscribes is true

only if and because certain metaphysical as well as moral claims can be sustained
within philosophy,…concepts having to do with substances, essential and
accidental properties, potentiality and act, and form and matter,…[and]
explanations of what it is for someone to succeed in progressing towards their
ultimate end….But such explanations will be true if and only if the universe itself
is teleologically ordered, and the only type of teleologically ordered universe in
which we have good reason to believe is a theistic universe.41

I bring to light this forthrightly theistic component of MacIntyre’s considered position not in
order to give it the attention it presumably merits. That would first involve his providing a good
deal of argumentation that (so far as my efforts have yielded) he has not yet offered—concerning

40 Ibid., 403.
41 MacIntyre, “Plain Persons and Moral Philosophy,” 152.
the existence of God (which is ontologically controversial) and the credibility of an Aristotelian
metaphysic of nature (which, with the possible exception of biological function, has effectively
no role in the description and explanation of natural phenomena). Rather, I bring this theistic
theme into the discussion in order that we better understand the tone of his critique of the so-
called ‘Enlightenment project’, to which we will turn our attention in Chapter 2.

It is time to conclude this characterization of MacIntyre’s account of the neo-Aristotelian
conception of a telos for ethical life. The starting-point of tradition-constituted rationality is the
descriptive claim that we are social beings and therefore (given that social practices and the
norms that govern them and goals that animate them have histories) historical beings. The
question then arises how to redeem some normative element from the fact that human beings are
always situated within the context of historical traditions. MacIntyre’s position is that the quest
for the good in one’s life in reference to which that life has a narrative unity and the virtues have
their place just is the search for the most rational synthesis of the traditions one has inherited (or
which one encounters because of the disciplined, restless, and relentless self-imposed demand to
challenge oneself by trying to understand other traditions as deeply as possible). In short, the
good for one is the quest for the good within the context of the most rational synthesis possible
of the traditions one has inherited. One’s narrative quest for the good is thus embedded in the
larger historical narrative of the traditions within which those goods have their place. Thus, the
telos of enquiry is their rational synthesis, such that in doing so, one develops the virtues which
the quest for the good demands of one.
Section III: Toward a Virtuous Polity: MacIntyre’s Perfectionism

To round out this exposition of MacIntyre’s positive account of moral life and the deliberation it involves, it is worthwhile to clarify his account of the relationship among virtues, practices, goods, and traditions. In this way we can understand what sort of political association makes for virtue-cultivating relations among individuals, in his view. This will in turn set up for his critical assessment of contemporary political life (the politics of the modern nation-state, and to some extent the political theorizing which is characteristically at home in it), to which we turn in Chapter Two. So what is MacIntyre’s ‘positive’ account of the political relations that conduce to human flourishing in a properly functioning community?

The virtues are those excellences of character that both conduce to and constitute human flourishing. To live well, on this Aristotelian account, is to exhibit those traits that are characteristic of us as human beings. What is crucial, MacIntyre believes, is an element which is central to Aristotle’s account, that of a practice. In his canonical statement:

By a practice I am going to mean any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended.42

Farming, fishing, conducting scientific investigations, playing chess, teaching an academic subject, medicine, musicianship—all of these are practices in the sense that as an inheritor of a tradition of human endeavor, one develops particular skills and excellences of character on the way to proficiency in that endeavor. One learns as an inheritor (student, inchoate practitioner, more proficient practitioner, potentially even an innovative improver, and eventually teacher) of

42 Ibid., 187. In case the reader is concerned that MacIntyre here countenances wicked activities as practices, it is worth noting in this context that they are constrained by natural law. No activity can count as a practice if it involves such things as deception, intimidation, or anything else which would imperil, rather than promote, another’s quest for the good.
a tradition of practical and theoretical engagement. One thereby inherits, develops, instantiates, and passes along the virtues in the absence of which these endeavors cannot take place at all and certainly would not endure.

Let’s now connect this with the material earlier in the chapter. Ideally, the narrative of an individual’s life is the narrative of a virtue-occasioning and virtue-sustaining quest for goods (productive, practical, and theoretical), which goods themselves are teleologically oriented toward the final good the quest for which arises from and orders the subordinate goods. In turn, this quest takes place in a community that sustains the individual in the sense that it is the locus of constituent practices (productive arts, such as fishing and farming, games such as chess and football, art forms such as music and theater, and theoretical pursuits such as natural science and philosophy—each with its characteristic or associated set of virtue-promoting opportunities and virtue-inculcating demands).

A. MacIntyre’s Ideal Polity: Practices, Virtues, and Natural Law

We turn then to what MacIntyre regards as the sort of political community—we could just as well, though I do not here, use the term polis—which is hospitable to virtue-nurturing practices. Such a community, he claims, has several features.43 First, it is characterized by conformity to the natural law (he mentions truthfulness, promise-keeping, as well as respect for and patience with others and their needs). Interestingly, and consistent with the characterization of MacIntyre’s positive account of practical reasoning in Section II of this chapter, he asserts that the natural law is binding on people “because without relationships governed by these norms

43 MacIntyre, “Politics, Philosophy and the Common Good,” 247ff.
they will not be able to learn what they most need to learn.”\textsuperscript{44} What is it that individuals most need to learn? Not a sort of catechism or fetishism of rules, he reports, as though natural law were the divine command theory of morality by another name. Consistent with our earlier exposition, there are two dimensions to this: practical and theoretical. Regarding the former, persons need “a shared practical understanding of the relationships between goods, rules, and virtues…that will be embodied in and presupposed by the way in which immediate practical questions receive answers in actions.”\textsuperscript{45} Many everyday practical contexts illustrate this relationship: individual members of the common enterprise of a fishing fleet have to observe rules (regarding safety, protocols, responding to contingencies), which rules both require and occasion specific virtues (diligence, vigilance, resourcefulness), all in the service of specific goods (providing income to families and food to those back in port). Scientific investigations, in pursuit of specific goods (knowledge, theoretical consistency, explanatory comprehensiveness, etc.), follow rules which are themselves dutifully observed by individuals who instantiate virtues (diligence, honesty, etc.). And so on. The apprentice fisherman thus learns rules (don’t recklessly endanger your shipmates’ lives), which are rationally discoverable in the course of the endeavor, as does the student of natural science who appreciates that rules concerning honesty and transparency are required for scientific investigation to proceed.

At the more theoretical level, meanwhile, the reflective individual asks, “’How does my good relate to the good of others engaged in this enterprise?’ and ‘How does the good to be achieved through this enterprise relate to the other goods of my and their lives?’”\textsuperscript{46} To ask these

\textsuperscript{44} MacIntyre, “Politics, Philosophy, and the Common Good”, 247. Given his theistic commitments, this may seem an odd claim. Presumably, his view would be that the quest for the good that requires the sort of learning that adherence to the natural law makes possible has a sort of divine imprimatur. But that is only an interpretative suggestion on my part.
\textsuperscript{45} Ibid., 247.
\textsuperscript{46} Ibid., 248.
questions is to undertake—inchoately, perhaps, but eventually and ultimately—the quest for the good. To relate one’s own good to that of others involves more than the instrumentally efficient matching of means to ends, as though practical reasoning were the matter of coordinating pre-existing ends which are beyond scrutiny. Rather, being practically engaged with others in the pursuit of common goals involves one in trying to justify oneself to them as well as oneself—in this way communities place demands on one, in ways that larger, fragmented, and relatively anonymous collectivities do not.

But what does this have to do with natural law? Justifying oneself to other members of a community optimally occurs when the natural law is observed. Honesty in communication, under conditions in which individuals do not feel threatened or intimidated, is the sort of thing MacIntyre must have in mind. Imagine the converse: where lying and homicidal threats are not prohibited, the conditions would be lacking in which individuals exchange ideas, dispute points of contention and further one another’s quest for the good. Once again, we see that MacIntyre is deeply committed to the ideal of human flourishing as the practical-and-theoretical task of learning in the service of a quest for the good—even his understanding of natural law is deeply informed by it. As I said earlier, it is actually a rather remarkable claim: keeping one’s promises and not deceiving others, to mention two, are incumbent on us morally because of the ways in which they promote the conditions which are optimally suited to the quest for the good which constitutes the perfection of character. So abiding by natural law is one important feature of an ideal polity.
B. The Small-Scale Polity and Deliberation

A second feature of the polity with what MacIntyre calls a “rational politics” is that it be small-scale. This involves at least two components, both of which we find in his claim that “those who hold political office can be put to the question by the citizens and the citizens put to the question by those who hold political office in the course of extended deliberative debate in which there is widespread participation and from which no one is excluded.”\(^{47}\) Citizens are not subjects, but reflective members of the collectivity who often have legitimate questions which those in office may with some frequency have neglected to ask themselves. They also know much that politicians do not know. Only a politics which is sensitive to those facts is rational, MacIntyre thinks. But again, this is not understood merely instrumentally—as though soliciting citizen “input” were merely the most efficient means by which to learn salient facts for the purposes of the efficient satisfaction of preferences. To ‘put someone to the question’ means to force them to articulate reasons and patterns of inference which are then open to rational scrutiny. Likewise in turn: citizens can be self-indulgently withdrawn or just plain ignorant, and so if a politician puts them to the question, it is in the service of the same goals: rational scrutiny of ends (and means, no doubt).

The common denominator is clear: small-scale politics makes possible, nay requires, open and transparent reflection by way of the justification of one’s point of view, and specifically of one’s ends and the ends of one’s community.\(^{48}\) Similarly, to be careful that no one—not the less socially graceful, not those with disabilities—is excluded from the process serves the purpose of including perspectives and insights they have to offer in a community’s

\(^{47}\) MacIntyre, “Politics, Philosophy and the Common Good”, 248.

\(^{48}\) An important point of clarification here is this: MacIntyre unequivocally states that such a community is not volkisch. The pre-rational, and even non-rational bonds (whether endorsed by an outright fascist like Heidegger, or more benignly and non-culpably, as in Herder) do not provide a sufficient role for rational inquiry and scrutiny. See MacIntyre, “Politics, Philosophy and the Common Good”, 241.
collective deliberation about ends. His claim is not that they have natural rights (nonsense upon stilts, he avers with Bentham) or that soliciting their “input” will be instrumentally helpful in a polity’s effort to aggregate the satisfaction of preferences (informed or not). His point is that they, like other citizens, have much to contribute to the collective enterprise of deliberation about what is good for the community to aspire to. Ideally, then, and by way of summation,

politics will be that practical activity which affords the best opportunities for the exercise of our rational powers, an opportunity afforded only by political societies to whose decision-making widely shared rational deliberation is central, societies which extend practical rationality from the farm and the fishing fleet, the household and the craft workplace, to its political assemblies.\(^4^9\)

So far, we have seen that an ideal political community is characterized by reflective relations: rational acceptance of natural law because of its role in furthering practical and productive goods (with the added element of generating the opportunities for seeking the good at the level of theoretical deliberation) and small-scale politics in which meaningful communication about the good is both possible and expected.

C. Capitalism as Dysteleological

A third feature is that such polities be insulated, as much as possible, from the “effects of large-scale so-called free market economies.” His objection to them (that is, the force of the qualifier ‘so-called’) is that the conditions under which they characteristically operate “forcibly deprive many workers of productive work,” and “enlarge inequalities and divisions of wealth and income, so organizing societies into competing and antagonistic interests.” What he positively endorses, by contrast, is “genuinely free markets, which are always localized and small-scale markets in whose exchanges producers can choose to participate or not,…societies of small producers…in which no one is denied the possibility of the kind of productive work

\(^4^9\) Ibid., 243.
without which they cannot take their place in those relationships through which the common
good is realized." In different language, wage-laborers would not be subject to the vicissitudes
of capital investment in the sense of being expendable appendages of the machine whose labor is
alienated and who become alienated from one another. He specifies the family farm (or really, a
community of family farms with associated suppliers, producers, and consumers) as a good
example of his ideal. Virtues are developed in individuals by their being engaged in practices
which aim at goods (external ones, like food for market, and the income it generates, and internal
goods, like self-sufficiency, diligence, resourcefulness—the excellences of character, in other
words). So individuals are not, in MacIntyre’s scheme, bearers of labor-power in a system of
exchange in which capital flight threatens to decimate communities and deprive individuals of
the sort of productive labor which sustains the virtues of those involved in an enterprise with
collective goods whose production requires excellences of character.

Such a form of economic activity (which form has many different instantiations, that of
the family farm and fishing fleet being two among many, presumably) is not geared toward the
maximal output of goods and services or the provision of opportunities for rationally self-
interested producers and consumers to accumulate wealth by risking capital, utilizing labor-
power, and so forth. No, the purposes of economic production are basically two, according to
MacIntyre: the provision of needs (obviously) and (what is not so obvious) the occasioning of
virtues. The cultivation of virtues, we have seen already, is meanwhile a sort of propadeutic to
the ordering of the goods and associated virtues which promotes and encourages the quest for the
ultimate good. On this view, presumably, land would not be understood as a fungible, income-
yielding investment of capital, nor would it be the locus of political obligation, as under
feudalism. Instead, it would be the place of productive activity where rules whose purposes are

50 Ibid., 249–50.
reflectively understood are abided by in the pursuit of goods (external ones, like food, and
internal ones, the requisite virtues) which implicitly require a rank-ordering that inspires the
community’s individual members to engage in the appropriate reflection, both individually and
collectively. Once again, we see that the quest for the good is the principle which animates
MacIntyre’s account of the just political community. The common theme among his
interpretation of natural law, his endorsement of small-scale politics of community, and his
rejection of industrial and ‘post-industrial’ capitalism is then, this: a perfectionist account of the
politics of the cultivation of character.

D. Tyranny and Dissent: Rounding Out the Perfectionist Account

Two final pieces of textual evidence might be helpful in concluding this perfectionist
interpretation of MacIntyre’s political philosophy, one concerning dissent and the other
concerning tyranny. First, concerning disagreement among members of a community, note the
following. In the context of responding to the charge that his appeal to tradition involves a
defense of or implicit acceptance of the status quo, he writes that “a political society of
individuals and groups who hold and are recognized to hold radically dissenting views on
fundamental issues” are not to be scorned or silenced, but listened to and engaged with. “What
will be important,” he says, “…will be to ask what can be learned from such dissenters.” This is
consistent with, and really only comprehensible within, the ideal of society as the collective
enterprise of a virtue-nurturing quest for the good. Now this view seems to assume a kind of
epistemic modesty, which is consistent with the point established earlier that one ought to seek
out and force oneself to encounter rival traditions to see if, from within their own resources, they
provide solutions to the difficulties within one’s own. The issue is not whether to tolerate
dissent, but whether individuals and groups discharge their responsibility to avail themselves of the opportunity for furthering their moral education. But it is not only in the opportunities it provides for learning something in one’s quest for the good that the encounter with dissent is valuable, but also in that it cultivates “as a political virtue not merely a passive tolerance, but an active and enquiring attitude towards radically dissenting views, a virtue notably absent from the dominant politics of the present.” We will look at the ‘politics of the present’ shortly, but it is clear from his emotivist interpretation of contemporary culture that it falls far short of the perfectionist standard he endorses. But the real point for the present purpose (of providing a more comprehensive account of his endorsement of a politics of the common good in which that good is understood as the quest to make comprehensive reflective sense of the good life for man, with the associated practical, productive, and theoretical virtues) is just this: the ideal political collectivity is one that welcomes dissent, inasmuch as it promotes the virtues required in the quest for the good.

Regarding tyranny, MacIntyre expresses sympathy for the following view, which is that of Aquinas. “What is bad about tyranny is that it subverts the virtues of its subjects; the best regime is that whose order best conduces to education into the virtues in the interest of the good of all.” This passage pretty well speaks for itself: the wrongness of a repressive regime is not its failure to aggregate the satisfaction of preferences efficiently, or its failure to respect individual rights (except as those are entailed by natural law as he understands it). Rather, it

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51 MacIntyre, Whose Justice? Which Rationality?, 201. I offer this textual support for my interpretation of MacIntyre with the following proviso. The passage cited here is from the chapter “Aquinas on Practical Rationality and Justice”, where the line dividing exegesis from endorsement is rather blurry. Elsewhere in this chapter, MacIntyre cites (with about equal conviction, it would seem, as the Angelic Doctor’s remarks about tyranny adduced here) the authority of spiritual over secular power and thus the Pope’s authority over secular rulers. In that case, I would either retract this piece of interpretative evidence or else have to consider the wisdom of attempting to provide a sympathetic account of MacIntyre’s full position.
corrupts its members by dimming the lights by which individuals might effect their personal, and collective, emendation. Yet again, we see that the central animating theme or organizing principle in MacIntyre’s account of ethical life is that the good is the quest for the good, meaning (in the present context) that the justice of institutions is a function of their conduciveness to human flourishing: the cultivation of the virtues.

Section IV: Conclusion

This chapter has been an exposition of some central features of MacIntyre’s moral and political philosophy: of what it is for a human life to be virtuous, of how reason can be practical, and of how a polity can be so ordered as to conduce to those ends. For a conclusion, I offer a summary by way of indicating how his views fit into some standard categories of academic philosophy.

As a normative theorist, he is best described as an Aristotelian, in that he regards the cultivation of virtues as the good for human beings. These virtues include those involved in humble productive activities as well as practical engagement with others, and not least of all the virtues of theoretical inquiry. The final good, the pursuit of which incorporates and engages all the other, subordinate goods, is the quest for the good, meaning a life of inquiry into how best to order the subordinate goods. In this way, his account of human well-being is perfectionistic: ethical life is the development of excellences of character. In terms of moral epistemology, he is a cognitivist in the sense that he believes we can reliably identify the goods of human life if we are engaged in the practices that aim toward them—but only over time and with the experience that comes with maturation, as Aristotle remarked. In terms of moral ontology, he is a realist in that he regards moral values as genuine features of the world, namely, of the creatures for whom
there is a descriptively true account of what it is for them to flourish as human beings. This account remains true, according to MacIntyre—whether or not it is acknowledged and instantiated, or ignored and subverted. And politically, he is a perfectionist, in that he believes that the just regime is the one constituted by open, non-coerced deliberation about the good, with the good of fostering the virtues that constitute human flourishing. Just regimes, like good human lives, are judged in terms of the good of teleological function.
Chapter 2: MacIntyre’s Critical Account of Modern Moral and Political Philosophy

Section I: The Decline and Fall of the Enlightenment—MacIntyre’s Critical Account of Modern Practical Reason

MacIntyre thinks that modern moral life—practices as informed by norms, and theories as embodied in practices—is in serious disarray. The ‘disquieting suggestion’ with which he begins After Virtue is to the effect that we are most of us not only confused in our moral thinking, but also (given our fractured inheritance) necessarily so, and worse yet we are aware of neither. It is a catastrophe “of such a kind that it was not and has not been—except perhaps by a very few—recognized as a catastrophe.”¹ To understand this provocative claim, we need to reconstruct MacIntyre’s narrative of the emergence of the so-called ‘Enlightenment’ from pre-modernity and the failure of its protagonists in their efforts at providing a secular telos to replace the theistic one. Even if we ultimately reject it, as I do, it is a suggestive narrative that cannot fail to impress with its erudition and boldness.

The term ‘The Enlightenment’ is among those that can obscure as well as clarify, so let us be careful to stipulate what it means and use it consistently. Inconveniently perhaps for our purposes, it refers to a whole range of views about the role and value of scientific inquiry, the epistemic status of miracle-reports, our relation to nature, our relation to the divine, and much else. In the context of our discussion, it refers to those thinkers who, most prominently in the eighteenth century, undertake to supply a justification of morality which is predominantly secular in spirit. MacIntyre characterizes that effort as follows:

On the one hand, the individual moral agent, freed from hierarchy and teleology, conceives of himself and is conceived of by moral philosophers as sovereign in his moral authority. On the other hand the inherited, if partially transformed rules

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¹ MacIntyre, After Virtue, 3.
of morality have to be found some new status, deprived as they have been of their older teleological character...as expressions of the ultimately divine law.²

What he means is that by the seventeenth and eighteenth centuries, educated Europeans began to lose faith in the two elements most central to the defensibility and intelligibility of ethical practices and political institutions: the notion of a natural social hierarchy, as evidenced in the institution of feudalism and the doctrine of the Great Chain of Being; and the teleological understanding of human life as indexed to a transcendent realm of value with a deity as guarantor. In this culture, as MacIntyre sees it, the individual is largely bereft of two elements (hierarchy and teleology) that were crucial in the pre-modern tradition of theory-and-practice. Concerning hierarchy, the idea is that a conception of a natural social order with its attendant moral claims no longer has the credibility it enjoyed in earlier epochs (feudalism, prominently, before the emergence of relations of wage labor and capital). Second, appeals to tradition, ecclesiastical authority, and revelation cease to be regarded as reliably credible. As a result, this individual, the peculiarly modern self, is left to generate ethical obligation or commitment out of his own resources, that is, from within the realm of human nature.

Importantly, the substance or content of moral life remains to a considerable extent the same. Whatever their theoretical differences, all the luminaries in MacIntyre’s telling of the Enlightenment narrative “agree to a surprising degree on the content and character of the precepts which constitute genuine morality.”³ Prohibitions on lying, promise-breaking, and homicide are enshrined in, though given very different theoretical justifications by, all the moral theories generated in the modern period (including contemporary descendants within academic philosophy). These and other first-order moral beliefs are shared across a range of philosophical theories, MacIntyre asserts, attributing it to the “shared Christian past compared within which the

² Ibid., 62.
³ Ibid., 51.
divergences between Kant’s and Kierkegaard’s Lutheran, Hume’s Presbyterian, and Diderot’s Jansenist-influenced Catholic background are relatively unimportant.”4 This point is important to remember, because MacIntyre wants us to see the Enlightenment as the project not of creating a moral order de novo, but rather as the attempt—a quixotic, even desperate one, in his view—to provide normative justification for abiding by the body of inherited prohibitions, injunctions, and practices.

As well, it is important to point out what MacIntyre sees as a second area of broad consensus among the thinkers of the Enlightenment:

they agree also upon what a rational justification of morality would have to be. Its key premises would characterize some feature or features of human nature; and the rules of morality would then be explained and justified as being those rules which a being possessing just such a human nature could be expected to accept.5

In other words, the thinkers we will be surveying here are in accord in thinking that what is needed to justify the content of ethical life is some secular account of what human nature is according to which the inherited obligations and responsibilities somehow “fit” that nature. Put differently, what is called for is some account of what human beings are—rational egoists, benevolent utility maximizers, right-bearers, something—in virtue of which the received body of practices and institutions (or at any rate the bulk of them) are reflectively acceptable and rationally justifiable. In effect, what the Enlightenment needs is some “new naturalistic teleology”6 to provide a rationally defensible grounding for ethical life, some feature of human beings to which to appeal lest the received content of ethical life be without adequate foundation.

What could such an account be? And why does MacIntyre think that they are all bound to fail?

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4 Ibid., The one clear outlier in this story, as MacIntyre acknowledges, is Bentham, for whom the remaking of society along utilitarian lines would call for some real, even radical, innovation. We note this and move on.

5 Ibid., 51–52.

6 Ibid., 63.
We turn now to what he thinks are the most representative and important of such attempts, those of Diderot, Hume, Kant, Bentham, and Kierkegaard.

Section II: MacIntyre’s Enlightenment Narrative

Throughout this narrative of Enlightenment ethical theory, MacIntyre’s purposes can be served manageably by tracing only some highlights of this Enlightenment tradition; he does not, and so we need not, go into scrupulous detail about the moral theories of the various figures whose views we are seeking to place within the context of this narrative.

A. Diderot

In Diderot’s *Rameau’s Nephew*, writes MacIntyre:

the *moi*, the *philosophe*, with whom the older Diderot so clearly identifies himself, is a conventional bourgeois moralist….In the person of the *philosophe*, the view which he propounds is that if in modern France we all pursue our desires with an enlightened eye to the long-run, we shall see that the conservative moral rules are by and large the rules which the appeal to their basis in desire and passion will vindicate.\(^7\)

In other words, and without attempting to reconstruct the actual course of the dialogue, what Diderot wants to propose (through the character of *moi*) is that if individual human beings can see themselves as rational egoists with a keen sense for the long-term (‘constrained maximizers’, in contemporary terms), they will see that the received norms and customs, being conducive to their interests, have a rational justification. Enlightened self-interest, that is, can serve as the moral psychology and naturalistic *telos* of the modern European. Put a final way, if the question is, ‘Why be moral?’, then the answer is that it is in one’s self-interest.

\(^7\) Ibid., 4.
But this answer is unsuccessful, MacIntyre believes, arguing that Diderot himself suspects as much and registers his doubts in the callow, insolent character of the nephew, *lui*.

The nephew makes two serious criticisms of the effort to ground received norms in self-interest. First, we have no good reason to take the long view if the prospect of short-term gain is particularly attractive. Second (and more decisively), if one believes that long-term self-interest will be served by present disobedience of moral rules (‘defection’, in the language of rational choice theory), then one has no compelling moral reason to behave oneself.\(^8\) In conclusion, then, the naturalistic teleology (‘one ought to pursue one’s self-interest in an enlightened manner’) does not provide a defensible foundation for the inherited content of moral life.

B. Hume

Nor does Hume, whom MacIntyre groups with Diderot for the purposes of this post-mortem of Enlightenment moral theory, provide such a foundation. Hume, like Diderot, understands particular moral judgments as expressions of feeling, of the passions, for it is passions and not reason which move us to action. But he also, like Diderot, recognizes that in judging morally we invoke general rules, and he aspires to explain these by showing their utility in helping us to attain those ends which the passions set before us.\(^9\)

In other words, Hume also tries to justify moral rules by appeal to some natural feature of human psychology, some characteristic of our ‘physiological’ make-up. How could such a leap be

\(^8\) A similar objection has been offered by contemporary critics of the social contract theory of morality, objections which egoists have been unable to answer. Constrained maximizers will only constrain themselves if they judge—as rational egoists—that the risk of (for example) being caught in a lie or stealing from an elderly widow is sufficiently great. The point is not really that the social contract theory of morality (the only serious version of ethical egoism) can only generate hypothetical imperatives—I am not prepared to propose that as a criticism. Rather, the problem is deeper: at just the point where moral obligation is most practically important, the rational egoist cannot account for it. Similar objections arise for the egoist’s position with respect to children, the disabled, animals, and future generations. An account of permissible conduct in which the vulnerable have no status as moral patients is no moral theory at all.

\(^9\) Ibid., 48.
made? Where Diderot appeals to self-interest, Hume appeals to sentiments, particularly sympathy (fellow-feeling being the bridge from the passions that motivate us to acceptance of received norms). But the results are unsuccessful, MacIntyre believes, because the invocation of sympathy is “an invention”, a “philosophical fiction,” an attempt \textit{ad hoc} to anchor strict adherence to unconditional rules in the fleeting and fluctuating emotions and passions. In the \textit{Treatise}, we learn, Hume had explicitly abjured such an appeal, but by the time of the \textit{Enquiry}, he is compelled to embrace it on behalf of the inherited moral tradition. Hume’s answer to the question, ‘Why be moral?’ thus fails to compel rational assent. But if the appeal to nature (inclination, desire, passion, self-interest) is unsuccessful, what about the appeal to reason?

C. Kant

Kant begins with the assumption just the opposite of his predecessors, Diderot and Hume. The goal is still to find a way of generating from our own resources some kind of moral psychology or secular telos which will suffice to justify the precepts of morality. Whereas Hume concluded that because morality cannot be based on reason, and must therefore be based on passions and desires, Kant argues for the opposing claim:

\begin{quote}
Is it not of the utmost necessity to construct a pure moral philosophy which is completely freed from everything which may be only empirical and thus belong to anthropology?...Everyone must admit that a law, if it is to hold morally, i.e., as a ground of obligation, must imply absolute necessity....He must concede that the ground of obligation here must not be sought in the nature of man or in the circumstances in which he is placed, but sought \textit{a priori} solely in the concepts of pure reason.\footnote{Immanuel Kant, \textit{Foundations of the Metaphysics of Morals. Translated, with an Introduction, by Lewis White Beck} (Indianapolis, IN: Bobbs-Merrill, 1959), 5.}
\end{quote}

In other words, Kant holds that if a moral precept is to be binding on all human beings—not a mere practical rule but a moral law—then that which obligates us cannot be a contingent feature
of human beings. If the moral law has an unconditional, categorical character, then that law cannot be an expression of mere desire or sensuous inclination. After all, MacIntyre notes in his exposition of Kant, “our conception of happiness is too vague and shifting to provide a reliable guide.”\textsuperscript{11} If we were morally obligated to act only when it suits our interests, then that obligation would be merely conditional, and thus couldn’t serve as a moral law. Instead, we must be obligated on account of some characteristic which all of humanity shares, and this characteristic is reason. Morality cannot be the work of the passions, so it must be the work of reason. The principle to which we are morally bound is the categorical imperative: that one ought always to act so that the maxim of one’s action could serve as a universal law for all humanity.

But according to MacIntyre, Kant’s attempt to generate a test for permissibility fails. The crux of his objection is that the notion of a maxim is too vague to serve as the cornerstone of reason’s attempt to generate universal laws:

It is very easy to see that many immoral and trivial non-moral maxims are vindicated by Kant’s test quite as convincingly as the moral maxims which Kant aspires to uphold. So ‘Keep all your promises throughout your entire life except one’, ‘Persecute all those who hold false religious beliefs’, and ‘Always eat mussels on Mondays in March’ will all pass Kant’s test, for all can be consistently universalized.\textsuperscript{12}

In other words, arbitrarily many actions which are discordant with received norms are, or can be, based on maxims which can in fact be universalized, and so Kant’s solution to the problem of how to generate moral obligation fails. His effort at combining the inherited norms with a secular moral psychology (or quasi-secular, once the ‘postulates of practical reason’ are called to

\textsuperscript{11} MacIntyre, \textit{After Virtue}, 44.
\textsuperscript{12} Ibid., 45–46.
service) does not succeed, because his test for universalizability cannot distinguish those maxims which are consistent with what is regarded as moral from those which are not.\textsuperscript{13}

D. Bentham

We turn then to the penultimate figure in MacIntyre’s history of Enlightenment thought, Bentham. In one sense, Bentham is an odd fit with the other figures discussed, inasmuch as classical utilitarianism potentially calls for some fairly radical changes to legal and social institutions—in that sense he is not at all attempting a rearguard defense of received norms. But in another and for MacIntyre very important sense, Bentham is paradigmatic of the Enlightenment, in his self-conscious and avowed effort to provide a new status to moral norms and a new rendering of central ethical concepts. How so? MacIntyre directs our attention to the way in which Bentham

makes the transition from his psychological thesis that mankind has two and only two motives to his moral thesis that out of the alternative actions or policies between which we have to choose at any given moment we ought always to perform that action or implement that policy which will produce as its consequence the greatest happiness…of the greatest number.\textsuperscript{14}

How so? Of concern to MacIntyre is not the so-called naturalistic fallacy, nor Mill’s important revisions in utilitarianism (specifically, the distinction between higher and lower pleasures which the hedonic version cannot make satisfactory sense of). Instead, the decisive issue for

\textsuperscript{13} The real point here belongs to Anscombe: without clearer guidelines for how to describe the maxim of one’s action (with a view to assessing its universalizability), the first version of the categorical imperative is a failure. One can, if sufficiently resourceful and imaginative, effectively describe the maxim of one’s proposed action in such a way as to allow it to serve as a universal law—just describe the maxim with sufficient specificity that it applies only to oneself or some selected course of action. See G.E.M. Anscombe, “Modern Moral Philosophy,” \textit{Philosophy} 33, no. 124 (1958), 1–19. Of course, this leaves the second version of the categorical imperative untouched, except that the whole basis for our not being mere means to others’ ends is our status as moral agents as characterized by the capacity for self-legislation. If the first version is shown to be decisively flawed, the second version has, as I understand Kant, no rational basis.

\textsuperscript{14} MacIntyre, \textit{After Virtue}, 63.
MacIntyre’s purposes is that “the notion of human happiness is not a unitary, simple notion and cannot provide us with a criterion for making our key choices,” such that “the polymorphous character of pleasure and happiness…renders those concepts useless for utilitarian purposes.”

This is doubtless too quick on MacIntyre’s part (the distinctions between well-being and misery—in different forms, to be sure—is in some cases perfectly clear to all but the willfully obtuse) but the problem here is not minor. The difficulty is in comparing different outcomes that express a quantifiable metric within one individual as well as across individuals (the problem of interpersonal utility comparison). Thus, “the notion of the greatest happiness of the greatest number is a notion without any clear content at all,…a pseudo-concept…."

E. Kierkegaard

Neither sensuous inclination (in the forms of impartial desire-satisfaction, of rational self-interest, or sympathy) nor reason has been up to the task of serving as the foundation of adherence to the inherited moral norms of European civilization. Onto this unpromising scene comes Kierkegaard, who in MacIntyre’s account represents the last stage in the narrative of Enlightenment moral theory. So meager are the resources of our telos-bereft hero at this point that Kierkegaard presents us in Either/Or with the idea that commitment to the rules of morality is to be located in nothing more than the act of free choice itself. Given the curiously pseudonymous nature of the book, it is admittedly a bit tricky for us to refer to Kierkegaard and

15 Ibid., 63–64.
16 Ibid., 64. Incidentally, MacIntyre agrees that 19th century utilitarian-inspired reforms in public health, education, a wider suffrage, and so forth were and have been for the better—though evidently not for utilitarian reasons.
17 “The pleasure-of-drinking-Guinness is not the pleasure-of-swimming-at-Crane’s-Beach,” MacIntyre reports, “and the swimming and the drinking are not two different means to providing for the same end.” Ibid., 64.
18 Ibid. Incidentally, it is not at all clear that MacIntyre’s own conception of human well-being escapes the charge of being vague or contentless. In my assessment in Chapter Three, I will argue that it does not.
‘his’ argument, but there is no call here for more than a peek into that exegetical house of mirrors. According to MacIntyre, Kierkegaard himself is neither ‘A’, who recommends the aesthetic life (a life of indulgence in whim, velleity, the unstructured and restlessly creative, the “immediacy of present experience”), nor ‘B’, who recommends the ethical life characterized specifically and stringently by the demands of marriage and family life, a “state of commitment and obligation through time.” Nor is he even Victor Eremita, who edits the respective works. Kierkegaard is himself lost (intentionally) somewhere in the pseudonymous shuffle, and doesn’t endorse either position.

What all this means for our purposes is that on MacIntyre’s account, Either/Or represents not a mere crisis in the Enlightenment’s attempt to generate moral obligation out of its own resources, but nothing less than its “epitaph”. Ethical commitment has on this view degenerated into a groundless, criterionless choice, an arbitrary decision based on nothing greater than that very act of choosing to be a certain kind of person. But of course MacIntyre’s criticism of this view is that “a principle for the choice of which no reasons could be given would be a principle devoid of authority.”19 Presumably, we are supposed to abide by moral principles in virtue of something with genuine normative force, some good-making or right-making feature, something that obligates a person of conscience. The mere fact that one has chosen to observe that principle cannot by itself suffice to make that principle binding or authoritative. Now of course Kant’s moral theory was also volitional, but in the strict sense that those of good will act in accordance with a self-imposed law which is subject to a test for universalizability. That the enlightened, autonomous moral agent has transmogrified from Kant’s rational agent to Kierkegaard’s groundless chooser of the ethical way of life is a mark of how depleted the Enlightenment’s resources have become from the time of Kant’s ethical writings to Either/Or.

19 Ibid., 42.
F. Summary of MacIntyre’s Enlightenment Narrative

Where does this history of Enlightenment moral philosophy leave us? We have what seem to be no alternatives in this effort to give some kind of grounding for the partly transformed but largely intact set of norms and practices inherited from pre-Enlightenment Europe. Revelation, ecclesiastical authority, tradition as such—these and other pre-modern contenders could not stand the withering criticisms of the Enlightenment. But when the Enlightenment tried to generate its own account of what obligates us morally, its own principle of normativity (so to speak), its only convincing arguments were negative in character: Diderot’s argument against basing morality on self-interest, Hume’s against doing so based on reason, Kant’s against doing so by appeal to sensuous inclination, as well as the intractable difficulties discovered in trying to specify the utilitarian metric for the purposes of practical reason (whether self-regarding or at the level of public policy). We were then left to consider whether the only apparent remaining alternative—radically free, ungrounded choice—might suffice to provide the kind of justification required. But alas, it too was not up to the task.

The historical scholarship involved in assessing the preceding narrative is beyond our scope here. We could, if it served our purposes, undertake a critical evaluation that would require refinements and changes by MacIntyre. I do not endorse MacIntyre’s narrative, but if some version of it is salvageable, then we are indeed the inheritors of a troubled venture. Rejecting the preceding narrative will not mean that for us now, morality is in good working order and reason is practical. Perhaps it seems to the reader that MacIntyre is being let off too easily here with respect to this narrative, a concern I share. My assessment in Chapter Three will concern what I regard as more serious problems for his overall position, but nothing precludes
expanding that set of criticisms to include a rejection of features of the narrative that has been recounted here.

In any case, as we proceed to the closing remarks in this section, it is worth concentrating on the philosophical crisis which, according to MacIntyre, Kierkegaard represents. For while the positive doctrines of Diderot, Hume, Kant, and Bentham are all flawed, their positions are at least coherent: if their account of human nature is correct, then they will have succeeded in showing why we ought to be moral (in some conventionally recognizable sense). But Kierkegaard has abandoned the project of showing any such fit between us and our imperatives: he, too, just as much as Kant or Hume or Diderot has “an unquestioning conception of the ethical.” But genuine commitment to the principles of that ethical life is clearly not satisfactorily motivated by their being the arbitrary choice of a criterionless subject; in a deep sense, Kierkegaard has in effect given up the attempt to justify morality altogether. And for MacIntyre, the important point to make from these considerations is that “this deeply incoherent combination of the novel and the inherited is the logical outcome of the Enlightenment’s project to provide a rational foundation for and justification of morality.”20 To speak of deep incoherence and, even more, of a ‘logical outcome,’ is to suggest a kind of unavoidability to the Enlightenment’s failure, which is the subject of the next section.

Section III: The Inevitability of the Failure of the Enlightenment

Before turning our attention to what MacIntyre thinks are the consequences of this Enlightenment failure, it is important to explain his claim that this collective failure was inevitable. The problem is not at all that the luminaries we have briefly profiled were insufficiently clever, but rather that the enterprise was altogether quixotic in the first place, that

20 Ibid., 43.
is, without prospects for success. Why did the Enlightenment have to fail? To answer this question, we need to revisit the three-part scheme from chapter one:

1. Human nature as it is.
2. The precepts of rational ethics (the virtues, effectively).
3. Human beings as they would be if their telos were realized.

The difficulties arise because in the absence of the crucial third element, there is nothing to which ethical precepts are the means. If there is no longer agreement on what it is or would be to fulfill one’s ends as a human being, or as the bearer of a specific role or set of roles, then moral precepts cannot have the place they have in the well-ordered Aristotelian scheme. Each of the three elements, as we saw, requires the other two for its own status to be intelligible. “But”, MacIntyre writes, “the joint effect of the secular rejection of…theology and the scientific rejection of Aristotelianism was to eliminate the notion of man-as-he-could-be-if-he-realized-his-telos.” As a result, we are left with “a certain content for morality”, as we have seen, and “a certain view of untutored-human-nature-as-it-is.”

21 But since moral injunctions were originally intended to correct and improve and educate that nature toward the end of realizing our final purpose, they are now without clear status. Their purpose—to regulate conduct—may still be somewhat clear, but their normative force, or bindingness, is not.

In the most sharply delineated terms, in which teleological injunctions have a basis in divinely ordained law, the erosion of belief in a transcendent guarantor leaves us with laws sans lawmaker—a clearly untenable situation. In that case, an eschatological telos of reward and punishment is lacking, making the purpose of morality (an afterlife of just deserts) utterly unclear. In a less metaphysical, more social context, a similar difficulty arises: if social roles are

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21 Ibid., 54–55.
22 See footnote 13, this chapter.
less clearly specified, then ‘man’ or ‘human being’ as a functional concept is not straightforward, and moral precepts which attend a more or less accepted social hierarchy likewise become problematic. So why did the Enlightenment have to fail? In short, MacIntyre believes, it is because of the erosion and loss of credibility in the modern epoch of a function-based, teleological understanding of human beings. We turn now to his account of the consequences of that failure.

Section IV: The Consequences of the Failure of the Enlightenment

MacIntyre believes that the consequences of this Enlightenment failure are many, but we can sort out three particular claims that are the most important. First will be what I call the “fragmentation thesis,” that moral discourse consists of the use of language that has been detached from the context that once provided it with both meaning and truth-value. Second will be the twin claims that I call the “interminability thesis” and the “incommensurability thesis.” Third will be MacIntyre’s claim that we live in an ‘emotivist’ culture. We will discuss them in succession here, and then return to them in Chapter 3, where I argue that none of them is defensible.

A. The Fragmentation Thesis

The fragmentation thesis contains two parts. The first is this: in the absence of an identifiable telos (the third component just mentioned), we are left with two components to morality that are displaced from the scheme in which they once made sense. He writes:

What we possess…are fragments of a conceptual scheme, parts of which now lack those contexts from which their significance derived. We possess indeed simulacra of morality, we continue to use many of the key expressions. But we
have—very largely, if not entirely, lost our comprehension, both theoretical and practical, of morality.\textsuperscript{23}

This means that moral life once involved an ordered whole which has been broken, and disconnected pieces remain without the organized relation to one another that gave each its integrity. We moderns have characteristically and mistakenly decided that the teleological understanding of human beings has been rendered defunct and rationally indefensible. A descriptively true account of the human animal, according to MacIntyre, includes prescriptive norms in which virtues are dispositions to follow rules which in turn promote goods whose pursuit is our \textit{telos}. But without a \textit{telos}, what remains is only human nature as it is and precepts which now lack the context (productive, social-practical, and theoretical) in which they once played a genuine role. This is the first dimension to the fragmentation thesis.

In response, Enlightenment-era thinkers produced heterogeneous attempts to salvage the remaining elements of the formerly intact (three-part) scheme. As inheritors of this improvident enterprise, we appeal to discordant accounts of value, that is, incompatible theories of the right-making feature of actions—this is the second aspect of the fragmentation thesis. The ‘fragments’ here are not parts of what was once whole, but rather our failed attempts at a substitute for what we unwisely abandoned. Discordant accounts of value are appealed to, and are incompatible with respect to, one another. Both utility and natural rights are outright fictions or modern inventions, MacIntyre believes, but even among those candidates with a more venerable pedigree (desert, justice, virtues, rationality), we end up appealing to incommensurable norms among which there is interminable debate. Perhaps ‘discordant voices’ is a helpful metaphor for this aspect of fragmentation. There are different languages among which crucial relevant terms do not translate, and so the result is a cacophonous character to moral disputation. A characteristic

\footnote{Ibid., 2.}
instance of such fragmentation would occur when talk of the inalienable natural rights of an individual is invoked against an appeal to the aggregation of desired consequences (utility) across a large number of individuals. The normative concepts here are not merely different from each other, and they don’t just have conflicting practical implications. They are also irreconcilable accounts of what has value, with no impartial means by which to determine which should take precedence in the case of a conflict between them. A negative right involves a prohibition on what may be done to an individual (and thus a corresponding negative duty on all others); an appeal to utility characteristically involves a positive duty to bring about certain consequences. But a prohibition on what may be effected and an obligation to try to effect certain outcomes, while both intelligible and sensible on their own terms, cannot be reduced to a common language or root or denominator—they are different sorts of appeals, and we do not know how to make a conciliatory appeal on terms that are mutually acceptable to the antagonists. This, then, is the second aspect to the fragmentation thesis.

These two components of the fragmentation thesis, the reader is reminded, originate in the same epoch: the modern liberal Enlightenment. It is after all the supposed failure of the Enlightenment’s self-imposed task, to provide a secular basis for morality, based on human nature, that MacIntyre thinks has led to the catastrophe we are in the midst of. Absent a credible teleological framework, the only source of normativity left was human nature itself (broadly interpreted as human faculties and capacities—for utility, or self-interested consent, or rationality). These appeals have not only been unsuccessful on their own terms but have also bequeathed us a sort of ongoing two-fold disaster: the detachment of precepts and their corresponding language (ought, should, right, good) from their original context has been
accompanied by unsatisfactory attempts to give them coherence. We not only lack what we need, but mistakenly believe that we have it.

B. The Interminability and Incommensurability Theses

The second important consequence of the failure of the Enlightenment is the “the conceptual incommensurability of rival arguments” in moral philosophy, owing to the fact that we possess no rational way of weighing their respective claims. Arguments invoking rights tilt against those invoking considerations of utility, someone who champions equality over liberty clashes with someone for whom these values have the reverse priority, and so on. But because we lack any way of deciding among such rival, incommensurable claims, disputes between their partisans are according to MacIntyre necessarily interminable. The implicit claim here seems to be that incommensurable moral claims are grounded in foundational moral commitments or values, which do not themselves have a further basis. (This is effectively philosophical intuitionism, I take it.)

We know how to speak and judge and argue and assert as if morality were in good working order, that is, as if moral judgments were propositionally contentful truth-claims for and against which compelling arguments can be marshaled. We proceed most of the time as if there were some rational secular justification for acting thus and judging so. Such judgments and the language in which they are couched are what MacIntyre means when he speaks of the “fragments of a conceptual scheme” and the mere “simulacra of morality.” But we have in MacIntyre’s view no defensible, agreed-upon, systematic account of what makes those judgments and claims meaningful or truthful, that is, no way of securing moral agreement based on publicly available reasons. At the same time, however, we have the familiar custom of
striking moral poses, and we do so by using the language (right, wrong, good, bad, etc.) which is now detached from the context in which those terms had their meaning and propositions employing them had a truth-value.

The “distinctively modern standpoint,” he writes, is that one “which envisages moral debate in terms of a confrontation between incompatible and incommensurable moral premises and moral commitment as the expression of a criterionless choice between such premises, a type of choice for which no rational justification can be given.” This large element of arbitrariness in both moral debate and moral commitment—which MacIntyre thinks is a theme common to Kierkegaard, Nietzsche, Moore, Weber, Sartre, Anglo-American emotivists, as well as man-in-the-street non-theoretical subjectivists—now warrants further elucidation.

To explore this notion of arbitrariness in moral thinking and moral commitment, we need to recall the teleological character of pre-modern moral judgment and argument. In that three-part scheme, we recall, the notion of a telos was central to the status and intelligibility of moral precepts (whether understood as virtues, or as rules the conscientious adherence to which promote the virtues). To judge that I ought to do something is to say that under the present circumstances, that action is likely to conduce to my achieving my natural end. But in our age, he writes, “the self is now thought of as criterionless, because the kind of telos in terms of which it once judged and acted is no longer thought to be credible.” Since we have no natural end by which to understand what human flourishing amounts to, we lack any criteria by which to judge and argue rationally in moral matters. We lack not only a social identity or role, but even the notion that a whole human life can be a subject of evaluation. A self without criteria is a self for which ethical commitments are arbitrary, that is, are warranted only because they happen to suit

24 Ibid., 39.
25 Ibid., 33.
him for the moment. In turn, this arbitrariness in the affirmation of values and commitments is just one step removed from the incommensurability of rival moral premises MacIntyre believes characterizes our post-lapsarian condition. Owing to the demise of the requisite teleological self-understanding of human beings, modern culture consists of selves for whom the choice of ethical principles and commitments is arbitrary—selves without criteria cannot help but make arbitrary commitments. But then when those selves who celebrate their anomie or normlessness as much-prized autonomy act on their arbitrarily chosen values and preferences, they are unsurprisingly going to come into conflict. And finally, when they attempt to adjudicate their differences, they lack the resources necessary for resolving their disputes rationally. Hence the interminability of moral debate. On this account, MacIntyre believes, it is no wonder that so much of modern moral disputation consists of shrill accusations, artful posturing, feigned infallibility, and gasps of incredulity.

In sum, he writes: “I am not merely contending that morality is not what it once was, but also and more importantly that what once was morality has to some large degree disappeared—and that this marks a degeneration, a grave loss.”26 For while the language of morality endures, of course—‘duty’, ‘ought’, ‘right’, etc. all have considerable currency—the notion of human ends by reference to which that language makes sense has been abandoned. To clarify, I need to explain some of the prominent features of the culture which has suffered this loss or degeneration. That is, in order to fill out this portrait of contemporary moral culture, we need to give a fuller exposition of the theory and practice of contemporary ethical life. The best way to continue is with an exposition of the third consequence of the failure of the Enlightenment, that we live in “a specifically emotivist culture.”

26 Ibid., 22.
C. Emotivist Culture

In this section, my intention is to describe and explain a feature of MacIntyre’s jeremiad, and so I employ his terminology, including the term ‘emotivism’. Nevertheless, in what follows the reader is asked to bear in mind that MacIntyre’s claim has to do not with moral semantics; that is, it is not a meta-ethical theory about the meaning of moral utterances. Instead, he somewhat idiosyncratically uses ‘emotivism’ to be a claim about moral practice, that is, about how the language of moral justification is actually used. He could have used the term ‘subjectivism’, insofar as he contends that in the contemporary telos-bereft context, the practice of moral justification tends to bottom out at the level of subjective preference. Or he might have employed the neologism ‘manipulativism’, insofar as he contends that the appearance of reason-guided moral justification hides the deeper reality of moral language being used to bluster, bully, and inveigle one another. Whatever term one chooses, his claim is this: the surface form of moral discourse is the offering of action-guiding reasons, whereas the practical content is more akin to posturing, posing, and la ridicule. In terms of moral self-development, individuals who top out at the asserting of unjustified preferences fall short of the kind of virtue-promoting Bildungsroman which is the quest for the good.

Emotivism is usually understood as a theory of the meaning of moral pronouncements, and it is the view that “all evaluative judgments and more specifically all moral judgments are nothing but expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character.” To praise or condemn is just to express an emotion, not to issue a statement with propositional content and a truth-value. To say “This is good” is simply to say “Hurrah for this” or “I approve; do likewise”, and nothing more. It is important to clarify that in this context, MacIntyre is not thinking of emotivism as a theory of meaning (except

27 Ibid., 12.
insofar as its currency among academic philosophers in the twentieth century can be interpreted as an indication of the general decline in belief in the rational defensibility of moral pronouncements), but rather as a theory of the *use* of moral pronouncements. He writes: “to a large degree people now...act as if emotivism were true, no matter what their avowed theoretical standpoint may be.”

His claim is thus that whatever we might say to others or even consciously believe, the fact is that—outside of the context of genuine practices with their internal goods recognized by participant-practitioners—we employ moral language to express our own feelings and attitudes and to manipulate the feelings and attitudes of others. Because we lack any shared account of the objectivity and intelligibility of moral pronouncements and nevertheless often proceed as though some impersonal and objective criteria for moral judgment were widely available and largely assented to, we instead disguise “the expression of preference and whim by an interpretation of [our] own utterance and behavior which confers upon it an objectivity that it does not in fact possess.”

Formally, we speak as cognitivists, for whom there is such a thing as moral knowledge and for whom intersubjectively available reasons count as warrant for claims to moral knowledge. That is, we issue proclamations which appear linguistically to be the sorts of things—propositions—which have a truth-value. But according to MacIntyre, the formal appearance hides from us the actual use of moral utterances in our culture. Moral discourse, in his view, “is the attempt of one will to align the attitudes, feelings, preferences, and choices of another with its own. Others are always means, never ends.”

MacIntyre’s claim, then, is that in addition to the fact that the failure of the Enlightenment has

28 Ibid., 22.
29 This seems like an outrageous claim at first, but it is an accurate characterization of early forms of emotivism—in fact, Stevenson says just this in his book, *Ethics and Language*. For the record, I reject all forms of ethical non-cognitivism.
30 MacIntyre, *After Virtue*, 17.
31 Ibid., 24.
meant that we lack the resources to resolve moral disputes rationally, that failure also means that
moral disputes (between incommensurable positions) are largely attempts at manipulating others
for one’s own ends. According to MacIntyre, then, a kind of moral instrumentalism (or
‘emotivism of use’ masquerading as reason-giving) is a further consequence of the failure of the
Enlightenment to secure a rational secular foundation for morality.

For MacIntyre, the single most important philosopher for understanding this rise of moral
instrumentalism is Nietzsche, who understood

more clearly than any other philosopher—certainly more than his counterparts in
Anglo-Saxon emotivism and continental existentialism—…that what purported to
be appeals to objectivity were in fact expressions of subjective will…. [T]he
power of Nietzsche’s position depends upon the truth of one central thesis: that all
rational vindications of morality manifestly fail and that therefore beliefs in the
tenets of morality needs to be explained in terms of a set of rationalizations which
conceal the fundamentally non-rational phenomena of will.”

MacIntyre’s own view, as we have seen, is that no such case can be made against the Aristotelian
tradition of the virtues. Nietzsche’s deflation of the pretensions of the Enlightenment is
altogether appropriate and well-directed33, MacIntyre thinks, but he “illegitimately generalized
from the condition of moral judgment in his own day to the nature of morality as such.”

MacIntyre applauds what he sees as Nietzsche’s honesty vis-à-vis the self-understanding of the
Enlightenment thinkers (and its unwitting inheritors), but thinks at the same time that Nietzsche
neglected the Aristotelian alternative—disastrously, but not inappropriately under the
circumstances.

To this point, MacIntyre has said that the Enlightenment is a failure, that the
consequences of the Enlightenment failure are that moral commitment has become an arbitrary

32 Ibid., 117.
33 He thinks that #335 of Nietzsche’s The Gay Science is particularly mordant, in that it “disposes of both
what I have called the Enlightenment project to discover rational foundations for an objective morality
and of the confidence of the everyday moral agent in post-Enlightenment culture that his moral practice
and utterance are in good order”. MacIntyre, After Virtue, 113.
choice between principles (with the result that moral disagreements are rationally interminable), and that the willfulness at the root of these arbitrary choices lends itself to a kind of moral instrumentalism, an environment in which moral argument turns out to be the attempt to manipulate the feelings and emotions of others. In Chapter Three, I will reject all of these claims.

But in the meantime, there is more to MacIntyre’s characterization of the contemporary state of moral affairs. We now turn our attention from the domain of high-level luminaries in the history of occidental civilization and towards some of the features of the social world in which the emotivist self is said to flourish. Our focus here will be not on a grand narrative of intellectual history but on a sociology of the emotivist disaster which accompanies it.

The emotivist self, MacIntyre asserts, is at home in a social world characterized by the “bifurcation…into a realm of the organizational in which ends are taken to be given and are not available for rational scrutiny, and a realm of the personal in which judgment and debate about values are central factors, but in which no rational resolution of issues is available.”34 In other words, the anomic modern self, proclaiming itself freed from the benighted superstitions and social hierarchy of pre-modernity, finds itself no longer subject to rational scrutiny in its choice of ends. And at the same time, such a person is able to flourish in a social setting characterized (most notably) by the dominance of anonymous bureaucratic structures. How so? The idea is supposed to be that the sovereignty of the emotivist self is characterized not just by the loss of the self’s traditional boundaries (hierarchy, teleology, a fixed social identity and role), but also by its place in a social world which functions by means of routinized procedures for which no final moral accounting is expected. The bifurcation referred to above, then, is between, on the one hand, a world in which ends are given and are not subject to rational scrutiny (the

34 Ibid., 34.
organizational) and on the other hand, a world in which debate and judgment may be central factors, but in which no rational resolution of issues is expected (the personal). What results is the anomie of mutually reinforcing spheres in which the role of practical reason is profoundly diminished. The emotivist self—the self whose narrative quest has been aborted because he thinks that there is nothing to know, thus stunting the development of the virtues which make for genuine human flourishing—is equally at home in both realms. In neither our personal lives nor in our roles as unaccountable members of large, impersonal, frequently anonymous bureaucracies (whether public institutions or private corporations) is careful moral reasoning demanded of us. The emotivist self flourishes both in bureaucracies and in private, because in neither realm is it compelled to provide or make reference to a credible telos or rationally defensible account of the good life. Society is organized bureaucratically in order to serve given ends (that is, goals for which no reference to a rationally defensible, comprehensive human telos is demanded) as efficiently as possible. In your capacity as someone whose desires are met and in your capacity as someone who plays a role in the organizations which provide us with the means to satisfy those desires—in neither capacity are you expected to make sense of the whole of your life as a narrative unity. An individual’s choices may be arbitrary in private life and efficient in her life as a cog in some organizational machine or other. And in both instances, moral reflection plays only a marginal role, and in the case of some individuals can play practically no role at all. In short, the emotivist self, who is expected to give no rational accounting of himself, finds it particularly congenial to live in anomic and anonymous bureaucratic society. The point for our purposes, then, is that MacIntyre thinks that the moral heir of the failure of the Enlightenment, the emotivist self, flourishes particularly well in bureaucratic society.
If it is true that the contemporary moral climate is such that the individual is not expected to give a rational accounting of himself in either his personal or his organizational guises, then we might expect there to be certain archetypes. So there are, MacIntyre tells us, and he proposes for our consideration three sorts of characters: the manager, the therapist, and the aesthete. A brief sketch of each is as follows. The corporate manager directs labor, harnesses skills, minimizes costs, and so forth, but he does so by taking certain ends as given, as not subject to moral reckoning. His aims are those of efficiency, and outside of those concerns of efficiency in matching means to given ends, he remains a criterionless self. The therapist, likewise, does not have to ask questions about final ends or the good in human life—the task at hand is just to make the patient or client well-adjusted. But the redirection of neurotic symptoms, for example, involves no clear, much less necessary, connection to a view of the good, and requires no sustained moral debate. And so for the therapist, being morally good is secondary to being adjusted to one’s circumstances. Finally, in the case of the third archetypal contemporary character, the aesthete, the good is the pleasurable, the experiencing of the greatest possible variety of pleasures with maximal intensity. But such an individual is not expected to make reference to a publicly accessible good or to any rational account of final ends in human life.

Indeed, it is not clear that such an individual would know how to entertain the subject, MacIntyre seems to be saying. What all these characters exhibit—the efficient manager who allocates resources and reasons instrumentally, the therapist who directs others to become adjusted to the stresses and difficulties of their circumstances, and the consuming aesthete who indulges his whims and fancies—what all these characters have in common is that they are not expected to engage in sustained moral debate. Ends are either given (and thus not subject to normative scrutiny), or, if they are yet to be determined (as in the case of the aesthete), then the
choice of ends isn’t subject to critical deliberation. Ends, whether already given or yet to be
discovered, are not subjected to rational scrutiny. And so the point for our purposes is just that
the failure of the Enlightenment to provide a rationally acceptable account of morality—a
modern telos, so to speak—has as yet another of its consequences the prominence of certain
stock characters in whose lives moral debate has no real place. The manager, the therapist, and
the aesthete are then three representatives of an anomic culture which lacks both rational
consensus on the good as well as the conviction that it is even possible. And in turn, the belief
that there is no such genuine (final, supreme) good has stunted people’s capacities to undertake a
quest for the good that is, on MacIntyre’s account, the best human life. We thus lack the
requisite virtues without even realizing it.

And so when it comes to constituting ourselves politically, we are fallen creatures who do
not comprehend the calamity we have inherited. With this in mind, we are in a position to
understand MacIntyre’s dissatisfaction with liberalism, the subject-matter for the next section of
this chapter.

Section V: MacIntyre’s Critique of Liberal Politics

According to MacIntyre, as we have seen, the good at which political arrangements
should aim is that of the virtuous quest for the good. His perfectionist teleology stipulates that
institutions (economic, political, legal—roughly what Rawls will call the ‘basic terms of social
cooperation’) should be organized so as to promote the good of human flourishing, meaning the
cultivation and development of the virtues (productive, practical, and theoretical). But modern
societies, under the general category of liberal capitalist democracies, fall well short of this ideal
and therefore fail to be truly just. This is the most basic criticism, and all the points in the following fall under that one. Let us spell this out more carefully.

Ideally, as we have seen, the story of an individual’s life is the narrative of the virtue-sustaining achievement of goods, which goods are themselves teleologically ordered toward the quest for the ultimate good. A community that sustains the individual in the sense that there are practices with constituent goods and associated virtues is the ideal sort of political collectivity within which these narratives occur, he believes. But in the modern state, individuals have become to a distressing extent neglectful of the ideals to which they ought to aspire. How and why?

First of all, he believes, we live in a society characterized by a high degree of compartmentalization:

As individuals move between home, school, workplace, the activities of leisure, the arenas of politics, bureaucratized encounters with government, and church or synagogue or mosque, they find themselves cast in different roles and required to express different and even sometimes incompatible attitudes….Someone who, for example, insists upon observing the same ethics of truthful discourse in every sphere of life, holding her or himself and others accountable for their deceptions in the same way, whether it is a conversation within the family, the pledges of politicians, the presentation of products by advertisers in the marketplace, or the information given to patients by physicians, will acquire a reputation not for integrity but for social ineptitude. A compartmentalized society imposes a fragmented ethics.\footnote{MacIntyre, “Politics, Philosophy and the Common Good,” 235–36. In \textit{After Virtue}, fragmentation is seen as the result of the failure of the Enlightenment to provide a satisfactory secular \textit{telos} by which to justify the more-or-less received body of prohibitions and prescriptions. This seems to be in tension with the passage cited here. So which is it? Is fragmentation a largely intellectual shortcoming by modern moral philosophy, or is it the result of the compartmentalization of roles? Perhaps his considered position is that the two tendencies reinforce each other, or at least work together additively, so to speak. And it is not as though this passage is without anticipatory remarks in \textit{After Virtue}. On the contrary, Goffman’s “sociology of everyday life”, in which individuals don masks and play roles for presenting themselves in a variety of contexts, effectively anticipates the point made in the passage cited here.}

In other words, the compartmentalization of roles is accompanied not by the integration of different values but by a sort of fragmentation of the values which individuals promote in those
roles. Of course, individuals have different spheres or dimensions to their lives, and different virtues are called for in those spheres. The trauma surgeon should be patient with her children in a way that would be frankly absurd in the operating room, for example. The worry here on MacIntyre’s part (if we are to take him seriously) cannot be that there are different virtues called for in different practices and contexts. The complaint must be that one can in different capacities (explicitly or at least implicitly) be acting on the basis of values which are potentially or even obviously in conflict (proponent of selfless agape on Sunday morning, quasi-tribalist football fan on Sunday afternoon, and ruthless egoist Monday morning at the office). His lament, I take it, is that there is no moral requirement, or at any rate a vanishingly small expectation, that these values be made consistent with one another. Demonstrably lacking, then, would be an ordering of goods whose pursuit involves the following of rules which promote goods the attempted ordering of which just is the quest for the good to which we have been alluding.

Not only do individuals actually fail to engage in the sort of reflection that the principled pursuit of the integration of constituent goods requires, MacIntyre seems to be saying, but at a deeper level they reject the need to be reflective about ends and what sort of final end would integrate them. MacIntyre’s contention, then, is that increasingly we do not believe it to be an appropriate expectation to place on ourselves. Worse still, we have come to reject even the possibility of providing a rationally superior set of first principles or final ends (this is clearly consistent with what we heard earlier about the ascendancy of emotivism, according to which reasons cannot be marshaled for or against moral judgments because there are no moral assertions with propositional content and truth-values). The point here is not to repeat his assertion about a lack of moral reflection in our culture, but to connect that claim with the
phenomenon of compartmentalization, because the latter, as MacIntyre sees it, reinforces the former. He writes:

The problem...with this kind of compartmentalization is that the point of such Aristotelian questions as ‘What would it be for my life as a whole to be a flourishing life?’ and ‘What is my good qua human being and not just qua role-player in this or that type of situation?’ disappears from view, so that such questions no longer get asked or become very difficult to ask.\footnote{MacIntyre, “How Aristotelianism Can Become Revolutionary,” 12.}

Now this may not seem like a claim about politics as such, until we remember that for MacIntyre, like Aristotle, politics is the master science of collectively deliberating about how to order the goods.

And the trouble is compounded, according to MacIntyre, in that we lack in modern political societies “any type of institutional arena in which plain persons...are able to engage together in systematic reasoned debate.” Instead, decisions are made and values promoted by “a strange mélange of arguments, debating points, and the influence of money and other forms of established power.”\footnote{MacIntyre, “Politics, Philosophy and the Common Good,” 239. Concerning the influence of moneyed interests on the political process, we find a point of considerable agreement between MacIntyre and Rawls.} On this view, representative government characteristically falls short of the ideals of deliberative democracy, instead bottoming out at the level of interest-group pluralism. Doubtless MacIntyre knows that modern liberal democracies have shown a remarkable commitment to free speech rights and that the ideal of an open society is much more than an idle promise or a merely formal (non-contentful) feature of contemporary political life. And consistent with everything we have heard about his views so far, he regards this as a tremendous achievement. But political discourse is typically bereft of serious encounters with one another about values and their justification, given the domination of political communication and campaigning by superficial “talking points” and “sound-bites”, the substanceless shibboleths
which determine the content of political discourse even as they conveniently mask the ends they serve. To be sure, in a representative democracy, there is the legislative process, which in principle is the institutional locus for deliberation. But given that elected officials barter and ‘horse-trade’ on behalf of the interests they represent, they thereby neglect and devalue the deliberative enterprise that should constitute the political process.

An example of a contemporary issue in which important values are at stake but concerns about which “have gone politically unheard” is that of “the threat of the imminent disappearance of the family or household farm and with it of a way of life the history of which has been integral to the history of the virtues from ancient times onward.”38 Certainly there have been a few largely-ignored voices calling our attention to what is arguably a kind of cultural disaster—a society of farmers with the requisite virtues is doubtless a less abased world than that of shopping-mall suburbanites. But apart from any value-judgments one might have on this matter, MacIntyre’s point would stand: the question of what values are at stake is scarcely broached in the public sphere. Related issues—taxes, tariffs, farm subsidies, bankruptcy laws, etc.—are in the news, but not the question of what is being valorized with the ascendancy of multinational agribusiness, and what is being demoted. There has been nowhere in the political process, he laments, that “the members of modern political societies have been invited to confront systematically the question: ‘What do we take the significance of this transformation to be and should we or should we not acquiesce in this loss of a whole way of life?’”39 And so the main point here for our purposes is that according to MacIntyre, we neglect to engage in the kind of reflection that disagreements about values should promote.40 Thus, the virtue-promoting

38 Ibid., 237.
39 Ibid., 238.
40 MacIntyre thinks that answers to the philosophical inquiry that ought to take place come about ‘by default.’ But since politically speaking, “the societies of advanced Western modernity are oligarchies
emendation of character that ought to take place does not, and the quest for the good fails to command the attention of individuals (that is, they fail to follow the cues that reflective individuals inevitably encounter as they try to order the goods within their own lives).

Instead, he laments, we have a society characterized by a preference-satisfaction pre-occupied abandonment of the quest for the good. In “the liberal public realm, individuals understand each other and themselves as possessing his or her own ordered schedule of preferences”41 rather than as fellow inquirers. Practical reason in the public sphere thus amounts to bargaining over preferences, with the prevalence of manipulation, posturing, horse-trading, and the like, but not the virtuous pursuit of a principled answer to the question of what we ought to prefer. So it is, he writes, that “politics has been successfully insulated from philosophy.”

Frequently neglected are “appeals to first principles” (e.g., natural law, the will of God, the categorical imperative, aggregate utility), and when those principles are invoked, they are often regarded as only “adding rhetorical embellishments to their presentations, not as engaging in serious argument.” And when first principles do make themselves unavoidable (as in the civil rights movement, and with respect to the question of abortion), they are soon enough contained, “so that any political appeal to first principles does not become a philosophical debate about first principles.”42

disguised as liberal democracies,” it follows that the decisions arrived at are not neutral among competing conceptions of the good. The question of neutrality is a large one, which I will leave to the side at this point in the inquiry.

42 MacIntyre, “Politics, Philosophy and the Common Good,” 237. Of course, philosophers do engage in the kind of reflection that disagreement should promote, but the flipside or corollary to his lament is that just as society ignores philosophy, so too do political philosophers not infrequently ignore or at least detach themselves from political (social, economic) realities. Both this writer and his reader doubtless have sufficient anecdotal evidence to warrant the belief that MacIntyre is not altogether wrong in this assertion, but then again there is much variability in the matter—even within an individual person, over the course of time and amidst many contingent variables.
A separate but related point is that we are prey to false desires. The disciplined reinvestment of capital for the purposes of further capital accumulation requires a market for the goods created, and thus the proliferation of new desires. He writes that “we inhabit a social order in which a will to satisfy those desires that will enable the economy to work as effectively as possible has become central to our way of life, a way of life for which it is crucial that human beings desire what the economy needs them to desire.”

Meanwhile, one’s moral education requires precisely the differentiation between real needs and false desires that the demands of the economy militate against. It is from his perspective a one-sided battle, and the virtues of disciplined moral reflection lose out to the vice of pleonexia.

Dramatic inequalities in wealth and income further dampen the prospects for a politics of deliberation, according to MacIntyre. His concern is not that in economically developed countries the less well-off do not have enough possessions or fall short in the satisfaction of preferences (though he believes this is a grave problem in some parts of the world, to be sure). Nor is his concern that they are not happy, where that is understood in strictly subjective terms. Instead, in keeping with his account of human flourishing, his concern is that

a rational polity is one that cannot tolerate too great inequalities, because where there are such, citizens cannot deliberate together rationally. They are too divided by their sectional interests, so that they lose sight of their common good. The poor are driven to defend themselves, in order to meet even their basic needs, and cannot learn how to rule. The rich are concerned with accumulation and self-advancement and cannot learn how to be ruled. Therefore a precondition for a rational polity is a radical reduction of inequality.

Class divisions lead to class interests, class interests promote not deliberation about the common good or even goods that are held in common, but rather those of a narrower sort. Self-serving rationalization, evasiveness, and even self-deception often win out over the more honest and

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44 Ibid., 14–15.
open-minded deliberation that is required for us to flourish as virtuous dependent rational animals.

One final point is important to make before turning to MacIntyre’s discussion of liberalism per se. According to him, the state (i.e., the institutions of the modern state) is beyond redemption. His own ideal, as we saw in Chapter 1, is of local, small-scale politics in which the deliberation required to actualize our potential can take place. Citizens hold one another and their elected officials responsible and in turn are challenged by those holding office to bring their views before the bar of reason. But in our time, the realistic prospects for this in the context of the politics of the modern nation-state are effectively nil. Part of the difficulty has to do with the sheer size of modern nation-states—meaningful dialogue on so large a scale is scarcely feasible, a point made prominently by Rousseau (and long ago anticipated by Aristotle). But that aside, two other factors are salient.

First, he says with respect to the state that the “complexity of its legislation, its tax codes, and its administrative regulations are such that to grasp their detail is now generally beyond the reach of ordinary citizens, a fact whose significance is difficult to over-state.”\(^{45}\) The inscrutability of the institutions and activities—‘bureaucracy’ in a word—not only contributes to the failure in liberal society to promote deliberation, but perhaps even militates against it. The problem is not mere alienation from and resentment toward prevailing institutions but more importantly that that alienation is accompanied by lost opportunities for the kind of reflection that constitutes our highest good and should constitute the practice of politics. Second, he writes, the contemporary state is to a remarkable degree united in an indissoluble partnership with the national and international market. It relies upon the operations of those

markets for the material resources which taxation affords. And those markets rely on it for the provision of that social and legal framework without which they could not enjoy the stability they need.\textsuperscript{46}

The state requires revenue (and thus the \textit{pleonexia}-engendering perpetual growth economy) and capitalism needs the state to deal with the negative externalities and instabilities and disequilibria that markets cause. Worse still, state policy and the agendas of corporate interests collude in the active transfer of wealth via subsidies to such obvious beneficiaries as agribusiness and defense contractors.\textsuperscript{47}

For MacIntyre, these conditions make the modern state unsalvageable, such that resistance to it must take more local forms. The term for this is ‘Revolutionary Aristotelianism’\textsuperscript{48}, his positive alternative to futile engagement with Leviathan. What it means for Aristotelianism to become revolutionary is to find the means for local communities to survive the disintegrating forces of the state and the market. One example would be when small farmers fight agribusiness subsidies and monopolization, and their local customers act not as egoistical \textit{hominæ economici} but in part toward the end of aiding the prospects for family farms as loci of the virtues. Another would be when fishermen resist the onslaught of mechanized, well-capitalized fishing fleets and their greater economies of scale (and are in turn supported by customers for whom the virtues are more important than the aggregation of preference-satisfaction). But it can also be seen when monks or laboratory scientists or families or communities or trade unions actively resist the tendencies of the state and market to undermine

\begin{footnotes}
\item[46] Ibid., 210–11.
\item[47] And more recently, the financial sector, he would no doubt add as well.
\item[48] First proposed by Kelvin Knight in an article by the same name. See in \textit{Virtue and Politics: Alasdair MacIntyre’s Revolutionary Aristotelianism}, eds. Paul Blackledge and Kelvin Knight (Notre Dame, IN: University of Notre Dame Press, 2011), 20–34. I have minimized the discussion of Marx in my exposition of MacIntyre’s views because of what I see as the impossibility of squaring this kind of ‘localism’ with Marx’s wild enthusiasm for the tradition-destroying effects of capitalism. See Bernard Yack’s perceptive review of \textit{Virtue and Politics}, available on the internet at http://ndpr.nd.edu/news/28288, a website sponsored by the University of Notre Dame.
\end{footnotes}
the practices, with the goods they pursue and the virtues they instill. Thus, when MacIntyre insists that he is not a ‘communitarian’, this is in effect “an idiosyncratic way of saying that he believes that the modern state is… too compromised a form of human association to be capable of being the bearer of legitimate shared purposes.”

A. Liberalism as a Failed Tradition

The preceding discussion was concerned with the character of political life in the modern nation-state, rather than its avowed theoretical underpinnings. In order to consider one final topic of importance in MacIntyre’s political thought, let’s switch back to a discussion of modern political philosophy *per se*, namely liberalism. In MacIntyre’s view, it is certainly not as though the modern era is lacking in sophisticated attempts to establish a rationally defensible account of liberal justice. This is no less true of political philosophy than it is of moral philosophy. How so?

According to MacIntyre, the modern political movement known as liberalism is above all the search for some tradition-independent and universal foundation for political life. Various liberal theories have been characterized by the attempt to identify “some ground for or content of justice which is to be independent of the competing traditions,” such that what they find is “some feature or features of a human moral stance which hold of human beings independently of and apart from those characteristics which belong to them as members of any particular social or cultural tradition.” The idea, thus, is that in making an appeal to say, natural rights or to utility or to rational egoism, liberal political theorists have been trying to find a position which is independent of any particular cultural patrimony or inherited historical situation and is thus a

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suitable candidate for a universal, cosmopolitan political creed. But, alas, the search for such a position has proved futile: “the most cogent reasons that we have for believing that the hope of a tradition-independent rational universality is an illusion derive from the history of that project,” since there has emerged “no uncontested and incontestable account of what tradition-independent morality consists in and consequently no neutral set of criteria by means of which the claims of rival and contending traditions could be adjudicated.” In other words, liberalism, as the dominant political creed of the Enlightenment, is (along with Enlightenment moral theory in general) just one more casualty of the failure of the Enlightenment chronicled earlier. That is, the failure of liberalism is a species of the more general problems of incommensurability, rational interminability, and loss of telos discussed earlier in the chapter. Just as there is not agreement regarding moral norms, so too is this lacking in political life (concerning the basic terms of social cooperation). Indeed, MacIntyre writes that nowhere is the inability to agree on rules in individualist culture “more marked and nowhere are the consequences more threatening than in the case of justice.”

Specifically, he thinks that when it comes to weighing a claim concerning justice which is grounded in a conception of entitlement with one based on need or fairness, (roughly, the dispute among libertarianism, welfarism, and justice as fairness), we lack any means to resolve this dispute. (I intend to challenge MacIntyre on just this point in chapters four and five, where I advocate what I am calling a ‘contractarian coherentism’, a variant of Rawlsian justice as fairness). Indeed, he claims, “the metaphor of ‘weighing’ moral claims is not just inappropriate

51 Ibid., 334–35. Incidentally, even as an ideal, state neutrality on the good is deeply flawed, according to MacIntyre. If a state were neutral on the good, then citizens’ allegiance to it would be based on a kind of systematic confusion. If the state doesn’t embody or honor or promote what one thinks is valuable, then one can have no real loyalty to it or affection for it. This is particularly poignant in the case of military service, he notes reasonably enough. Being willing to die for a state which is neutral on the good, he remarks cheekily, is “like being willing to die for the utility company.”
52 MacIntyre, After Virtue, 244.
What he means here is that the appeals in conflict here, or better, the competing conceptions of personhood (with their respective and conflicting ideas about the relation between the self and its powers, the relation of self to others in society, and so forth) are so radically at odds that it is not possible to put them on a scales to weigh them against one another. One man’s putative entitlement to what he has earned and another’s putative need for some publicly funded social service involve deeply opposed conceptions of what a person is, and of what societies are, and so it is positively misleading to speak of our ‘weighing’ the appeals against each other or one another. The conclusions at this point are two: first, MacIntyre thinks that liberalism has failed to produce a defensible tradition-independent, universal political creed; and second, that failure has resulted in the same kind of interminability of debate and incommensurability of rival positions in political theory and practice which we discussed earlier in respect of morality in general.

One result of this interminability and incommensurability, according to MacIntyre, is that “modern liberalism, born of antagonism to all tradition, has transformed itself gradually into what is now clearly recognizable even by some of its adherents as one more tradition.” Theorists within liberalism speak self-assuredly of a ‘liberal tradition’, but for MacIntyre, the very fact that liberals acknowledge (or even celebrate) such a tradition is just a result of the interminability and incommensurability of debates about justice within liberalism. If the liberal project were going to succeed, MacIntyre implies, then it would have done so soon after its inauguration, but the “inability to bring its debates on the nature and context of…universal principles to a conclusion has had the unintended effect of transforming liberalism into a

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53 Ibid., 246.
tradition.”

Talk of the liberal tradition, MacIntyre holds, is in fact a quite telling sign of the inability of liberalism to deliver on its original promise.

To summarize this section, MacIntyre is making several claims with respect to modern political life. First, we live in large anonymous states in which the virtue-sustaining practices (with a good held in common by all participants) have yielded to mass society with no common good (and thus no hierarchy of ends, and no consensus on the ordering of the virtues). Second, we lack an agreed-upon account of the basic terms of social cooperation and find ourselves interminably recapitulating disagreement based on incommensurable first principles. Third, the character of political discourse is such that those first principles are not themselves characteristically the subject of vigorous debate, which means that what should be thought of as opportunities for the promotion of moral and intellectual virtue are sadly neglected. Fourth, by valorizing preference-satisfaction over inquiry, we have increasingly excused ourselves from the demand to bring about the kind of emendation of character that constitutes human flourishing. Fifth, and by way of both summation and conclusion, we fall short of the perfectionist ideal according to which the best human life is that spent in search of the good, with the many excellences of character—productive, practical, and intellectual—which the quest for the good demands of us. Sixth and finally, he counsels us to preserve the communities of virtue-promoting and virtue-sustained practices, resisting capitalism’s destruction of the local and the state’s complicity in undermining the virtue-promoting practices.

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55 Ibid., 349.
Section VI. Summary of Chapter and Further Explication

In this chapter, I have provided a selective exposition of the salient features of MacIntyre’s claim that contemporary moral political life is in “grave disorder.” The following is a 9-point summary, with further commentary added.\textsuperscript{56}

1. We disagree about issues in applied ethics, that is, about first-order moral judgments.
   Early in \textit{After Virtue}, MacIntyre singles out abortion, health care, educational policy, and just war theory as representative, and then later the quarrel between Rawls and Nozick. I’ll discuss the first set in the next section of this chapter, and the latter dispute will receive more detailed treatment in Chapters Four and Five. For the sake of clarity, we can think of these issues as Level 1 disputes.

2. We disagree regarding normative ethics, that is, substantive accounts of value or of what norms ought to prevail. When attempting to settle first-order questions about specific issues, we employ incommensurable concepts or norms (rights vs. utility; rules vs. consequences; etc.) in the second-order theories we invoke. We can call these Level 2 disputes.

3. We disagree about how to resolve conflicts about values. Moral philosophers disagree about how one could rationally resolve a dispute regarding incommensurable concepts. Foundationalists say that it is first principles that are required in order to draw inferences; non-foundationalists say otherwise. But how do we solve the meta-theoretical dispute about how to choose among theories of moral justification? MacIntyre has his own answer (that of ‘tradition-constituted rationality’, to which we gave brief attention in the

\textsuperscript{56} William Frankena notes several of these points (the first four), and his review of \textit{After Virtue} inspired the list here. See “MacIntyre and Modern Morality,” \textit{Ethics} 93, no. 3 (April 1983), 579–87.
first chapter), but thinks that absent his solution, we are without the resources for settling the issue of how we decide rationally among normative theories. Let us call this the Level 3 dispute about how to choose among normative theories.

4. We represent our moral judgments as well as the normative justifications for those judgments as being true or false, as being justified or unjustified, even though we do not really know how to settle conflicts at Levels 1 or 2 or 3. Despite the facts that claims 1, 2, and 3 above are the case, we nevertheless proceed as if the meaning of moral assertions were, unproblematically, that they are bearers of truth-value. Despite the fact that claims 1, 2, and 3 are the case, we fail to respond appropriately to the crisis they constitute. We continue to speak as though moral judgments (one’s own, and those of others) are meaningful assertions and that they are bearers of truth-values, even though the conditions required for meaning and truth-value are largely absent (this, we recall, is the consequence of the modern rejection of teleology). In other words, we frequently represent our moral judgments as true and as justified objectively even though we don’t actually have rationally agreed-upon ways of doing so.

5. We use moral language to manipulate others even though its ostensive purpose is to state propositions with truth-values (or at least with credentials suggesting that what one says is true, or at any rate defensible all things considered). This is the most salient feature of what MacIntyre calls an ‘emotivist culture’ (as distinct from the formal meta-theoretical position known as emotivism). There is thus a tension between the meaning and use of moral language, one of which we are only dimly aware. It isn’t altogether clear, as I said in Chapter 1, whether he thinks that what is involved here is an instance of self-deception, of cognitive dissonance, or a sort of reaction-formation. In any case, however,
the point is that for MacIntyre, our souls are in a disordered state, reflecting the schism between the purported, ostensive meaning of moral judgments and their use as instrumental means to manipulate others.

6. As individuals, we invoke incommensurable values, typically or frequently without attempting to integrate them. In occupying different roles (as family member, as bourgeois, as citizen, as congregant, etc.), a given person can invoke different norms (egoist on the market, benefactor as neighbor, utilitarian with respect to public policy, and so forth) without being troubled by or even aware of a tension. Alternatively, the point could be made by noting that a given individual might invoke conflicting norms with respect to different issues (abstract rights in one case, utility in another) without being troubled by or aware of a tension. Once again, MacIntyre believes, our souls are in a disordered state. This is presumably the result of our rejection of a *telos* that would unify and subordinate specific judgments.

7. Modern society, being presided over by managers, bureaucrats, and capitalists, promotes our continued and further manipulation of one another, instead of our aiding one another in the quest for the good. We not only fall short of the perfectionist ideal he advocates, but we also willfully engage in its subversion by means of the ‘emotivist’ use of moral language (though ‘manipulativist’ might be preferable in order to avoid confusion). This means that the virtues—dispositions to engage correctly in practices and bring about the good of these practices, including most of all the attempt at practical wisdom and theoretical knowledge—are undermined. Thus, character-traits such as honesty, diligence, integrity, willingness to reflect, open-mindedness (while still abiding the belief
that there are right answers to moral questions) are stunted by the interactions we have with predominant organizational forces, public and private, civic and corporate.

8. Similarly, the kind of politics made available or possible within nation-states is inimical to the politics of the common good, principally with respect to sincere deliberation about the common good. At the parliamentary level, politics amounts to deal-making among group interests rather than deliberation about the good. The result in institutional terms is a mix of democracy, oligarchy, and statism to which no non-self-deceived individual could have allegiance. The result in moral terms is our neglecting to develop the excellences of character that constitute human well-being.

9. Finally, by way of response to this grave disorder, MacIntyre provides a counsel of partial withdrawal from but guarded engagement with the society’s larger institutions. Consistent with the ideals discussed in Chapter 1, he thinks that a life of virtue is still possible, provided that one attends to the practices which have common goods in which one both helps others and is in turn helped by them to develop excellences of character. An opportunistic egoist could agree with points 1-8 and respond cynically with a self-help primer about how to see through the pretensions of a society dominated by managers, bureaucrats, capitalists, aesthetes and therapists, and suggest ways to hustle them all. But for MacIntyre, as we have seen, to subordinate one’s life-project of ethical self-improvement to external goods like wealth, power, and prestige would be a wasted life, a life of dishonor and frustrated species-essence. The honorable response, the one that sustains an individual’s integrity, is not cynical opportunism or existential heroism. Instead, it is the cultivation of virtues, within the practices oriented to goods sustained by communities.
Chapter 3: Preliminary Assessment of MacIntyre

Section I: Introduction

The purpose of this chapter is to provide a preliminary assessment of MacIntyre’s position. ‘Preliminary’ does not mean tentative or half-hearted—what I offer here is intended to be a set of serious, even debilitating, objections to some of the claims that have so far received largely expository treatment. By chapter’s end, I hope to have shown that there are compelling reasons to reject MacIntyre’s dire pronouncements about the present state of things and to be skeptical of his own alternative. By ‘preliminary’, I mean to convey that what is offered in this chapter is only part of my answer to his challenge. The fuller response includes my offering what he says is not only lacking but impossible: a compelling account of how reason can be practical for the purposes of generating a liberal theory of justice. That effort, beginning in Chapter 4, is an extended reply by means of a Rawls-inspired defense of liberalism against MacIntyre’s charges. But MacIntyre’s broadside calls for more than the narrower though still substantial defense of liberalism, and Section II of this chapter addresses part of that challenge. In Section III of this chapter, I provide several criticisms of his political philosophy, the longer response to which will comprise the rest of the essay.

Section II: Five Criticisms of MacIntyre’s Moral Philosophy

A. The Interminability Thesis: How MacIntyre’s Own Examples Don’t Succeed

The first important objection to raise is that MacIntyre has misdescribed the character of contemporary moral life in such a way as to be “too pessimistic about the chances of reaching agreement on moral matters in contemporary culture.”¹ One way to make the case for this claim

is to assess his own examples of moral discord. Early in *After Virtue*, he singles out for consideration three controversial topics: just war theory; the provision of medical care and the provision of education (considered together); and abortion. He claims that in each of these matters, disputes are rationally interminable, and moreover that this rational interminability turns on conceptually incommensurable first principles for which there is no “rational way of weighing claims of one against another.”

Thus, it would seem that there are two ways to assess what he is saying. First, I could try to show that his own examples fail to establish his interminability thesis, and thereby cast considerable doubt on the description he provides of contemporary moral disputation. However, this would leave open the non-negligible prospect of there being other examples that succeed where his fail, in which case I would only be entitled to conclude that MacIntyre’s assertion that moral disputes “can find no terminus” is so far unsupported. Or second, I could try to show that in each of the examples he offers of interminable moral discord, he is making the contestable claim that the quarrel bottoms out at the level of first principles (for which no further justification can be given and against which no non-question begging objections can be raised). I will take the second approach. In each case, I suggest that MacIntyre is making foundationalist assumptions (i.e., that the moral dispute in question depends on first principles) and that those assumptions are highly questionable. The corollary view which I am proposing in this essay is that coherentism provides a more satisfactory approach to these and other domains of moral concern. That view, which I only state here and argue for more carefully in Chapters 4 and 5, is that a coherentist approach is more descriptively accurate than is an intuitionistic one, and should permit us to address issues more fruitfully. In that way, coherentism (reflective equilibrium) offers a more promising approach to resolving them as well.

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Just War Theory

First, just war theory. He says that there is no rational resolution between the following two positions:

[a] pacifism, which trades on the paramountcy of “justice and innocence”, combining the belief that it is wrong to kill non-combatants (a long-accepted feature of *jus in bello*) with the claim that in modern warfare the distinction between combatants and non-combatants can be nearly impossible to observe in practice.

[b] deterrence through massive armamentation, a cultivated attitude of scorn for *jus in bello* restraints, and willingness to use nuclear weapons (for short, I’ll call this ‘peace through strength’). Peace through strength trades on the moral primacy of “success and survival” in the world of *Realpolitik*.

According to MacIntyre, since justice and innocence (the pacifist values) vs. success and survival (the values promoted by peace through strength) is not a dispute we can mediate at a higher level, the dispute can “find no terminus.” Proper conduct with respect to foreign relations in general (just and unjust war in particular) as well as decisions regarding the proper allocation of public resources for military purposes are unending because they are based on foundationalist commitments to opposing values. So MacIntyre seems to think.

But this implicitly foundationalist (intuitionistic) characterization of things does not seem accurate. That is, just war theory does not reduce to or turn on a criterionless choice between two moral principles; rather, sound judgment has to do with many factors, including but not limited to deeply held norms. Practical reason has to do with beliefs about what is likely and unlikely, beliefs involving the critical assessment of institutional realities that are underwritten by the opposing positions of pacifism and peace through strength. There are questions of

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3 Ibid.
opportunity costs, of moral hazards, of what becomes incentivized, and of how various actors or
stake-holders (state, corporate, otherwise) behave in one context or another. These matters
themselves involve complex assertions about human psychology, about macroeconomics, about
international relations, and about having effective historical consciousness with respect to events
in one’s own horizon of time. It is not merely that the two positions (pacifism and peace through
strength) are not exhaustively and exclusively disjoint (i.e., there are recognizable positions not
falling under either category). More to the point, they are not accurately characterized as mere
moral standpoints in isolation from other considerations across a range of interconnected topics
(which are themselves based on defeasible assertions and assumptions).

Of course the pacifist is right in invoking the combatant/non-combatant distinction and in
reminding us of the not-infrequent impossibility of making this crucial distinction under
conditions of imperfect information and high stress. It is nearly impossible to overstate this
point—not just its descriptive truth, but also its moral significance. But few would agree that
this warrants pacifism with its attendant claim (conveniently omitted by MacIntyre) that even
self-defense by military means is unjustified. Pacifism as he characterizes is simply what
genuine realists (as opposed to Clausewitzian thugs) acknowledge and armchair warriors are
blind to. To be a pacifist in MacIntyre’s sense is simply to be aware of the stark fact that modern
warfare carries with it the near certain prospect of massive civilian casualties. This by no means
entails that nation-states ought not to possess the means by which to deter potential enemies. No
such thing is even suggested by my remarks here, nor would such a position generate much
consensus, for good reason.

To sum up, in order to generate his first example of interminable disagreement,
MacIntyre has made use of a false dilemma which reasonable citizens can rightly reject: either
no self-defense or hypertrophic militarism. One alternative immediately suggests itself: classical just war theory, with very high standards for *jus ad bellum* and *jus in bello*, along with domestic priorities other than the subsidization of defense contractors. Obviously the practical details of a sensible military policy are complicated and beyond our scope here. They are not identical for all societies, not even for all liberal-democratic societies. The point in the present context is the modest one just established: MacIntyre is wrong to proclaim that regarding this topic, we can “apparently find no terminus” because of incommensurable foundational moral commitments. On the contrary, there is some common ground between the two positions that he claims are irreconcilable. And more to the point, we conclude that his foundationalist or intuitionistic description of the moral dispute is inaccurate, and that a coherentalist one is more descriptively accurate and thus a more promising approach.

Medical Care and Education

Second, medical care and education. MacIntyre discusses them together, and distinguishes between two opposed normative positions as follows:

[a] Since justice demands (among other things) that individuals have equal opportunity, and equal opportunity requires redistribution through taxation, then justice involves a scheme by which to bring about this requirement. In turn, the provision of health care and education for all citizens is required for opportunities to be more equal among individuals. Moreover, adds MacIntyre independently, justice on such a view would require the abolition of private schools and private medical practice in order that no one gains an unfair advantage.

[b] Individuals have obligations only where and to whom they have incurred them voluntarily. So relations between physicians and patients ought to be ordered only by unregulated, laissez-
faire contractualism, with no state provision or supervision of health care. The state has no provisionary or supervisory role to play in education, either.

Between the preceding two positions, he contends, what is at stake is a quarrel between two incommensurable values, equality and liberty. And since there is in our society no established way of deciding between these claims, “the debate between egalitarianism and libertarianism is interminable.”

Again, it seems that there are contestable foundationalist assumptions at work in MacIntyre’s characterization of disputes regarding the distribution of and funding for education and medical care. The suggestion that we are faced with a choice between a (centralized) leveling egalitarianism and an ‘ultra-minimal’ state is not plausible, since it would neglect many important factors, including beliefs about the social conditions required for the value to be instantiated. To be sure, there are identifiable norms in conflict, but those are more like two poles on one axis, rather than two foundations of more comprehensive points of view that are in conflict. But much else is involved as well. Disputes about educational policy, for example, also have to do with broader questions in the social sciences. In this regard, the topic of equality of opportunity is instructive to consider. Apart from the moral questions are several other considerations, including what Rawls calls the ‘strains of commitment’, that is, the demands of stability. The case for equality of opportunity does not depend on a single-minded commitment to one norm (equality), to the exclusion of other beliefs about what it takes for a regime to be stable ‘for the right reasons’, as Rawls says. That a society ought to be able to withstand the strains of commitment is a condition required for the realization of this (or any) value, and a society with no commitment to equalizing life chances for its participants is predictably one in which the prospects for stability appear dim. At the same time, nothing obligates a practical

\[4\] Ibid.
reasoner to aver equality of opportunity as a variable to be maximized to the nth degree. There would be enormous opportunity costs involved in allocating resources in this way, and a single-minded commitment to it would not survive reflective equilibrium with a number of other considered moral judgments, theoretical commitments, and credible assertions about empirical reality (factual, theoretical, explanatory, predictive). But the deeper point here with respect to MacIntyre is that a coherentist approach to questions about equal educational opportunity offers greater promise than the foundationalist approach which he seems to insist on. Educational policy is complicated of course, as is the topic of equality of opportunity, and neither turns on a criterionless choice between first principles.\(^5\)

There is certainly room for debate about what a sensible policy looks like in both domains, and a number of points of contention presumably come to the fore even in the mind of a single representative individual, let alone across any reasonably representative cross-section of plural society. Given the evolving nature of medical technology, it is clear that any reflective person would avoid doctrinal rigidity in these matters. Neither educational policy nor health care policy receives treatment in this essay, and I don’t pretend to be able to settle nuanced questions about what specific requirements are appropriate (e.g., whether dialysis should be offered to individuals with this or that comorbid diagnosis, etc.) Nor can I delineate here and now what

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\(^5\) Regarding medical care, practical reason consists not of a commitment to one of two competing norms (freedom and equality), but rather of holding a number of beliefs which, ideally at least, cohere with one another. The topics here are many and complicated, involving moral norms as well as empirical and theoretical beliefs about the order of things. Space does not permit serious inquiry here, but perhaps the point can be made well by considering what it would look like to couple laissez-faire approaches to both educational opportunity and health care policy, regardless of other empirical affairs. It seems that what would be thereby countenanced is a theory of the basic terms of social cooperation according to which justice involves the combination of no public education, no public provision of medical coverage, and no regulatory oversight of the medical profession. This would be a recipe for a multi-axial epidemiological disaster— not a serious position, but a caricature of one. Perhaps MacIntyre would agree, but either way the point is the same: coherentism would seem to provide a much more promising methodological approach than the foundationalist approach which I believe underlies MacIntyre’s characterization of modern moral discourse.
equal educational opportunity looks like in various relevant domains and for every individual—these depend on circumstances of individual aptitude, regional heritage, physical geography, the vicissitudes of capital flight, and much else. My only, and very modest, point here is that once again, MacIntyre proposes for our consideration an example of interminable conflict which falls short of its mark. Coherentism would seem more descriptively accurate, and offers more considerable resources for attempting to resolve disputes in the domains of educational policy and medical care.

Abortion

Finally, abortion. Of course, he is correct to say that there is much controversy here, and perhaps it does turn out to be an irreconcilable conflict of first principles—I am not certain. But if we look at his actual discussion, we see that the case he makes for interminability is not altogether compelling. To simplify, he distinguishes between the following:

[a] pro-choice, according to which a woman has the right to do as she will with her body, and the “embryo is essentially part of the mother’s body”; and

[b] pro-life, according to which abortion is wrong, because it is murder, because “the embryo is an identifiable individual [human being], differing from a newborn infant only in being at an earlier stage on the long road to adult capacities….“ Notice then that one of the main issues here between the antagonists concerns the difficult metaphysical question of what a human being is, in particular the problem *sui generis* of when it begins. I do not know how to settle this issue. But importantly for my purposes, it is already clear that the dispute is not only an ethical

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6 Nothing I have said here should be construed as denying that there is a deep and abiding tension between liberty and equality in contemporary political philosophy. This topic will be treated with some seriousness in the succeeding chapters, so I defer for now.

question but also an ontological one, making the moral question depend partly on very difficult descriptive and theoretical considerations in such matters as developmental biology and the problem of identity across time. Perhaps if we knew that it is true that a zygote is a human being, then we could know that abortion is wrong. But we don’t know that, and so we don’t know how to resolve the moral conundrum. A zygote is not a gamete, but it is not obviously a human being, either. So what is it? One might prefer a Wittgensteinian dissolution of the question: we can, after all, describe a zygote, or post-zygotic clump of pluripotent cells, and we can provide a clear image of them as well. But we don’t really know its moral status—not because of incommensurable first principles but because we do not know what criteria to employ in a non-question-begging way. Again, I conclude that MacIntyre is incorrect to characterize the abortion debate as turning solely on a free-standing moral commitment to one of two moral positions. There may well be incommensurable disagreement on the topic, but if so this also has to do with other considerations. I conclude that MacIntyre has failed to establish his claim that moral controversies—even in the admittedly nettlesome case of abortion—are interminable because they devolve to incommensurable foundational moral principles.

Thus, none of the three examples he provides succeeds in establishing the interminability thesis (according to which moral disagreements ultimately rest on incommensurable foundational beliefs). At this point, MacIntyre could respond either by revising his presentation of these three examples or else by offering different examples. Perhaps his presentation of the alternatives could be recast in such a way as to establish his interminability thesis. But for now, we are

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8 Technically, so as not to commit the formal fallacy of denying the antecedent, we should say it this way: no substantive conclusion can be drawn from the premises of his argument, as it is reconstructed here.

9 The situation is perhaps even more tangled. Not only are there non-normative questions of natural science as well as metaphysics, but there are more than just two rule-based positions (right to life vs. right to choose). Consequentialists would reject both of these deontic approaches (though they can differ sharply among themselves, depending on the consequences they seek to maximize). For the record, I do not contend that coherentism offers greater resources for resolving this particular dispute.
warranted in rejecting it as hyperbole. In any case, there is a deeper issue here, one we need to explore now. In the following, I intend to develop my argument that the interminability thesis depends on the credibility of the alleged incommensurability of first premises or basic principles. Further, I intend to show that the notion of incommensurability seems to entail the claim that first principles are effectively foundational (a view known as philosophical intuitionism). I will be arguing that: interminability presupposes incommensurability; incommensurability presupposes foundationalism (intuitionism); and foundationalism is doubtful. This will mean that neither the interminability thesis nor the incommensurability thesis is acceptable, making MacIntyre’s description of the condition of modern morality inaccurate, and his prognosis too grim. The prospects for engaged practical reason remain undimmed.

B. The Incommensurability Thesis

From Interminability to Incommensurability

So why does the interminability thesis require the truth of the incommensurability thesis? The interminability thesis, as I understand it, says that there are disputes that fulfill three conditions:

i. They are ‘without terminus’.  

ii. They are derived from or based on or inferentially justified by basic premises for which there is no further justification.

iii. They cannot be objected to from within their own perspective.

The first condition is surely not where the action is in trying to make sense of incommensurability. Arguments might go on and on because of a dispute about facts, or about the interpretation of facts, or perhaps concerning the relevance of some fact or facts for a given dispute. That an argument is ‘without end’ is not a criterion for us to employ in determining
whether a dispute is based on incommensurable first principles, but rather a symptom of the likelihood or possibility of such.\textsuperscript{10} It might indicate that two positions are based on first premises that are incompatible but would not be what constitutes the deep disagreement. So the interminability thesis really amounts to the incommensurability thesis, I am claiming here. Thus, the real issue for us in thinking through the incommensurability thesis is (to combine the second and third criteria above) whether there are incompatible, irrefutable archai (‘tradition-constituted’ or not) on which some disputes turn. Are there such basic premises or first principles or foundations which do not stand in need of justification? In the following section, I will argue that there are not, a contention that (if correct) refutes the incommensurability thesis (and the interminability thesis with it).

The following, laid out in a five-step argument, is an attempt to refute the idea that there is such a thing as a moral disagreement which turns on first premises that are incommensurable with each other:

1. If the incommensurability thesis is true (or at least warranted), then foundationalism must be true (or at least rationally defensible). Why? Both of the following conditions must be at work:
   [a] both sides have no further reason for believing their own position to be true, and
   [b] no objections count against it from within their perspective.
Or in short, the incommensurability requires that each of the positions relies on a different ‘basic premise’ or ‘first principle’.

\textsuperscript{10} Andrew Mason, “MacIntyre on Liberalism and its Critics: Tradition, Incommensurability, and Disagreement,” in \textit{After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre}, ed. John Horton and Susan Mendus (Notre Dame, IN: University of Notre Dame Press, 1994), 230. This helpful article is the basis for the point I am making in this paragraph, as well as this section of the chapter. The term ‘basic premise’ is his, not MacIntyre’s.
2. If foundationalism is true, then there has to be such a thing as a basic premise or first principle (i.e., that for which no further reason or justification is offered and against which there are no objections from within that perspective).

3. So if the incommensurability thesis is true, then there must be such a thing as a basic premise or first principle. (This is a deductively valid inference—by hypothetical syllogism—from 1 and 2.)

4. But the notion of a basic principle or first premise is indefensible. Why? The short answer, which will be elaborated below, is that one can always ask the prior justificatory question: why believe that?

5. So the incommensurability thesis is false, or at least not rationally warranted. (This is a deductively valid inference—by *modus tollens*—from 3 and 4.)

Clearly, a good deal hangs on 4, so I will now attempt to defend it. I reject the assumption that there is such a thing as a fundamental premise or basic principle, since any claim (or at least almost any claim—those regarding laws of logic may be exceptions) stands in need of justification. If someone asserts that her position is based on a fundamental conviction, then it is always open to us to inquire why that fundamental conviction is reasonable to hold. If she responds that she knows by intuition (i.e., knows a proposition to be true without deducing it from other propositions of which she is more certain still), then we may ask what warrants this sort of supposed epistemic status. If she says that it is an unargued ‘given’ or ‘datum’ of some sort, then we may ask in what way it is so, and why we should think so. Foundationalism has a serious flaw, because any justifying belief needs some basis on which we are warranted in thinking it is true (or warranted)—and this ends up in an infinite regress of reasons. And since
no such infinite number of reasons can ever be provided, we should reject foundationalism altogether.

And the point here is that if we have rejected the doctrine of foundationalism (as a doctrine of epistemology or of ethical justification—the argument here could cover both), and foundationalism is assumed by the incommensurability thesis, then the incommensurability thesis falls with it. There is no clear meaning to the concept of a basic premise, because any alleged first principle is susceptible to the never-idle question of why we ought to think it is true.

To be sure, this by no means leaves me in the clear. An alternative form of moral justification is called for in its place, namely coherentism. That is what I intend to offer in the next chapter, in my discussion of and partial defense of Rawls’ doctrine of reflective equilibrium.11

C. The Meaning-Use Distinction: Morality Through the Looking-Glass

Of course, there are moral disagreements, but nothing MacIntyre has adduced compels us to believe that, owing to irrefutable and incompatible first principles, we are incapable of impartially resolving them with reasons. Indeed, the providing of impartial reasons is an extant, ongoing endeavor among reflective persons of conscience everywhere. Now in a sense, MacIntyre acknowledges this—of course we provide reasons, he would say (and he develops his own, practice-oriented account, as we saw in Chapter 1). But ‘provide reasons’ is ambiguous between ‘mean them to establish the truth-credentials of’ and ‘use them to rationalize to oneself and others’, as we saw in Chapter 2: we mean for our judgments to have truth-values and for reasons to count in determining that truth-value, but meanwhile use moral language in manipulative ways that are discordant with and undermine their meaning. That was his claim.

With this in mind, we turn to our third criticism: MacIntyre’s meaning-use distinction breaks down, and with it his grim diagnosis of contemporary morality and the language through which it is mediated.

As we saw in Chapter 1, MacIntyre thinks that in a well-ordered community of practitioners, the meaning of a moral judgment is indexed to the achievement of the goods internal to the practices, which goods are finally both the teloi of practices and are themselves teleologically ordered toward the good, which is the virtue-inducing quest for the good. The use of moral judgments closely parallels meaning, since practitioners are loathe to neglect their responsibility (i.e., positive duty) to help cultivate the ‘virtues of acknowledged dependence’ (including, crucially, the virtues involved in each individual making an earnest quest for the good). Dishonesty, dissemblance, brutishness, and any other vices that would divert fellow practical reasoners from the virtuous quest to order the goods conscientiously are thus impermissible—this is his understanding of natural law. But in our post-lapsarian contemporary society, as we saw in Chapter 2, meaning and use have become decoupled, a contention that carries with it a rather shocking and ultimately implausible distinction between appearance and reality.

To show this, let’s assume he is right and then see what implications his position has. If he were right, then the words and phrases that comprise moral utterances would have retained their original meanings to an appreciable extent despite a set of behaviors (in one’s own case as well as that of others) utterly discordant with them. That is at least incredible, if not impossible. It is difficult, in other words, to see how this degree of cognitive dissonance would occur, either intra- or inter-subjectively. The trouble, as one commentator points out, is this: “MacIntyre seems to imagine that a past practice of employing signs in a given way might hover in a ghost-
like manner around a later practice in which they are employed completely differently, so that their meaning might remain untouched by their new surroundings.”\textsuperscript{12} But it is not credible to suppose that a locution (“that’s wrong”, or “you were right to do so”) could retain its status as a result of some erstwhile truth-maker (such as being an instance of obedience to God’s will) and meanwhile have gone on to acquire a kind of behavioral role quite independent of the former—all the while without our having become aware of this schism. MacIntyre admits his picture of things is “paradoxical”,\textsuperscript{13} but the reality is that it is implausible if not incoherent.

His own example of meaning and use diverging from each other is suggestive but unconvincing for his purposes. He cites Ryle’s example of the angry schoolmaster who in frustration shouts at his student, “seven times seven is forty-nine!” In MacIntyre’s view, the “use of this sentence to express feelings or attitude has nothing whatsoever to do with its meaning.”\textsuperscript{14} Fair enough—ordinary linguistic practice contains instances of such divergence or decoupling, and his example is a good one. But a local divergence between meaning and use only shows that they are not identical, a conclusion philosophers of language have arrived at independently. Nothing close to MacIntrye’s conclusion—that in morality, meaning and use have become sharply and irretrievably disconnected—is warranted. And since it is also deeply implausible to begin with (assuming, as it does, a kind of widespread cognitive dissonance), we ought to reject his characterization of contemporary morality. Something has to go—either his account of meaning, or his account of use. It is the latter that we should reject, which accords with our common sense belief that reasons can and do play a role in moral judgment. After all, “our moral culture retains a distinction between subjective and objective reasons, between

\textsuperscript{13} Ibid., 9.
\textsuperscript{14} MacIntyre, \emph{After Virtue}, 13.
expressions of preference and rationally justifiable judgments.” And so, in rejecting MacIntyre’s claim about the divergence of meaning and use, we also reject his emotivist (i.e., manipulativist) characterization of contemporary society. We do provide reasons, and we do so because we think that they justify moral judgments. We can certainly fall short of doing so satisfactorily, and we may be uncertain about what standards of justification are reasonable, and even about what norms should prevail. But these concerns only impel us to seek further resolution, rather than accept MacIntyre’s dour assessment.

Please note two further points here. First, I am not at all denying the reality of cognitive dissonance; on the contrary, it is a fact of human psychology, one that certainly complicates the phenomenon of morality. But this has to do primarily with individual human beings, not generally (or at any rate, over a substantial period) across a whole society and over generations. Cognitive dissonance on that scale, intersubjectively, is just not plausible. Second, note that my refutation of MacIntyre’s claim is perfectly consistent with the observation that cynical manipulation and self-serving rationalization occur, and with some frequency. Surely they do, not least of all, and not least disturbingly, in the domain of politics. But manipulation and rationalization are both parasitic on a norm which they violate, and would be practically impossible and conceptually unintelligible without that norm being in effect. Manipulation depends for its possibility on the established expectation of (and thus, mass delusion notwithstanding, the extant phenomenon of) one person or group giving reasons that are believed to provide warrant or justification for a claim. Self-serving rationalization (representing to oneself a descriptively or explanatorily false account of one’s actual motives), while surely a feature of human psychology, could not occur on the scale MacIntyre supposes without effectively inverting our categories of the normal and pathological in psychiatry.

But looming above the implausible characterization of contemporary moral life as irretrievably or at least predominantly emotivist-manipulativist is a deeper concern: that although we certainly do give reasons, in doing so we appeal to heterogeneous norms that are incommensurable. The case MacIntyre makes for this claim we have already found wanting in Section IIA this chapter. But it is a troubling prospect, and deserves a more thorough treatment, to which we now turn.

D. The Fragmentation Thesis and a Pluralist Alternative

1. The Fragmentation Thesis: Recapitulation

As we saw in Chapter Two, the fragmentation thesis consists of two claims. First, because we lack an identifiable telos, we are left with two pieces or fragments: human nature as it is, and moral precepts—but not the organizing piece, a determinate notion of the final good for human beings. Second, we are also the inheritors of divergent Enlightenment-era accounts of moral duty, that is, efforts to give those two remaining pieces or fragments a coherence they now lacked (appeals to rights, utility, self-interest, the sentiments, and free choice itself). The result is that in modern moral discourse, discordant sorts of value are appealed to, and moral disagreements resist rational resolution. For a fuller discussion of the fragmentation thesis, see Chapter Two, Sections III and IV.

2. Is the Modern Era So Different?

One sensible response, which can be developed further, is to note that the supposed contrast between previous epochs and our own is not so stark as MacIntyre supposes. This is complicated, beginning with hermeneutic questions about whether the required sort of
Horizontverschmelzung is even possible for us to be in a position to make any determination with confidence—a matter I mention and pass over. Numerous commentators have pointed out that neither antiquity (including the idealized polis) nor the medieval period was ethically univocal or homogeneous. And MacIntyre acknowledges as much in different places, such as his discussion of Sophoclean tragedy, and in noting the hostility with which some thirteenth century theologians met Thomism. Thus, to the extent to which MacIntyre’s position depends on the perceived contrast with earlier, allegedly less disordered societies, the force of his challenge is weakened. This by no means shows that we moderns have not lost our way, so to speak, and so it is hardly a decisive point on behalf of the claim that practical reason is in good working order. My own suggestion, in keeping with the coherentist position I will develop in a discussion of reflective equilibrium in Chapters 4 and 5, would be that a more naturalistic approach helps to explain the non-starkness of the modern/pre-modern contrast. On this view, adaptive capacities have never necessarily been altogether well-suited to our successfully answering the questions we pose to ourselves. The contingent evolution of cognitive function under conditions of natural selection does nothing to guarantee, or even suggest, that we can answer the questions we pose to ourselves—this point spans the range of domains from the theoretical to the practical. (This is not a critique of pure reason by reason’s examination of its own faculties, but rather an implication of what we rationally understand our naturalistic origins to be.) It is not clear why we should think that humans have ever in some truly satisfactory way

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17 See MacIntyre, After Virtue, 135, where he says that Sophocles is “dealing with a response to incoherence.”

known what they were doing in the sense MacIntyre seems to suppose and that their justifications made thorough sense of what they were confronted with—notwithstanding the ideology-drunken Torquemadas insisting there is epistemic warrant where there isn’t, and the countless decent individuals lacking the time, opportunity, or inclination to think very deeply. So I am calling into question the starkness of the contrast between now and earlier times, between a pre- and post-lapsarian human condition, and thereby mean to deny to MacIntyre’s position whatever support is thought to be provided by the alleged contrast. But even so, this will do little to offer a satisfactory reply to MacIntyre about whether contemporary moral theory and practice—practical reason, in other words—really is in good working order, so let us move on.

3. Two Alternatives

In response, I offer two modest, though not insubstantial suggestions, rather than a summary refutation. MacIntyre is correct to say that we are witness to and participants in some degree of moral discord. Within individuals, different norms seem to prevail at different times, under different pressures, and in different circumstances—this constitutes not inconstancy but rather individual moral agents with varying commitments that have not been satisfactorily integrated into something altogether coherent. Then too, among different individuals and groups, the fact of disagreement is evident. I admit that it is in some cases not clear to me how we are to decide in a principled way among divergent moral norms. I cannot offer a tidy solution to this problem, but there is an alternative description of what MacIntyre refers to, and that is what I offer now. It does not promise to resolve the phenomenon of moral disagreement, but it does propose a way of thinking about moral conflict that challenges (and allows us to avoid)
MacIntyre’s dire assessment and encourages constructive engagement with the resources that differing approaches to conduct and policy offer us. We can proceed in at least two ways here.

(a) First Suggestion: Denying the Incommensurability Thesis by Showing the Partial Compatibility of Norms

First, we could challenge the claim that differing moral norms are actually incompatible with one another. As we saw, MacIntyre says that the incommensurability of moral terms entails the interminability of debate, and we found his own argument for this claim unconvincing. So we should not accept it. As well, we rejected the concept of incommensurability as resting on an implausible foundationalist assumption. But perhaps we can go further on the offensive here by showing that norms are indeed not so incommensurable. Consequentialists don’t deny the reality of rights but rather their provenance. And what of it, we ought to ask. Meantime, proponents of rights readily acknowledge (indeed, less deontic rights advocates assert) that a society in which rights are legally enshrined is one whose institutions, generally speaking or on balance promote good consequences. In reality, how far apart are these views? Virtue ethicists propose the suitability of their approach because they believe that cultivation of character *is* (in one sense) the good that ought to be promoted. So virtue ethicists are consequentialists of a certain sort. And as we have seen already, the good of character development, though distinct from and not reducible to the consequences produced (the patient’s health, the crop’s yield, etc.), is scarcely incompatible with it.

Yet again, any rights-based approach must readily acknowledge that in the absence of the appropriate character-traits (in this case, the disposition to respect rights impartially), there can be no real set of institutions and social relations that provide the required scope for the liberty of individual choice. Thus, on this view, one sort of goodness is the possession and exercise of
virtues (character-traits or dispositions) which reliably produce the consequence of respect for the rights (inviolable or otherwise) of others. My suggestion, then, is that rights, goods (consequences), and virtues are tied together within single theories: consequentialism of any broad-shouldered type involves a robust account of rights; rights-based theories need an account of the goods that rights are supposed to promote and of the virtues that individuals need to have in order to respect others’ rights; and virtue ethics needs an account of what the virtues are good for.

Admittedly, this conciliatory effort on my part in this brief sub-section is not decisive. Moral philosophers of a more monistic, incompatibilist stripe would object. Strict deontologists might demur (some defenders of the doctrine of divine command theory of morality, for example). Abstract rights theorists such as Nozick (whom I will contrast unfavorably with Rawls in Chapter 5) think that rights are unconditional side-constraints that forbid certain things, full-stop, despite the effecting of felicific consequences or even the avoidance of a greater sum of rights-violations to others. (I’ll argue in Chapter 5 that this position is not only baseless, which Nozick ends up admitting, but also more importantly that it fails the test of reflective equilibrium.) By turns, strict consequentialists with an extremely dim view of individual prudence might dismiss most rights talk as unfounded nonsense. But unless the empirical claims here are warranted, then it’s not clear that we ought to be troubled by this ideal-type, uncompromising view in extremis. So one possibility here is to deny MacIntyre’s contention that the central concepts of competing moral theories are radically incompatible, and the preceding are suggestions about how this might be the case. This is a suggestion that may perhaps be developed further.
(b) Second Suggestion: A Plurality of Goods is Complementary Rather Than a Result of Fragmentation

A second possible response to MacIntyre also trades on the suggestion that there is a kind of complementarity among moral norms, not owing to an interrelatedness of values (as in the first suggestion) but rather because more than one sort of thing is valuable, and practical reason ought to embrace this. My suggestion here is that even if we were to grant MacIntyre’s claim that moral theories and terms are difficult to square with another (that is, we accept some version of the interminability or incommensurability thesis), the implications of this might not be a serious problem. I propose to explore this possibility through two discussions. The first will involve a brief bird’s-eye survey of several norms at work in diverse domains in contemporary society, and the conclusion will be that there are numerous sources of value which we cannot reduce to one another or fit easily into any sort of monistic framework. The second discussion, which arrives at the same pluralist conclusion, does so by a consideration of the moral commitments of a representative practical reasoner. The upshot of both discussions is that what is warranted is not MacIntyre’s diagnosis of telos-bereft inconstancy, rootless posturing, and emotivist manipulation, but an unapologetic pluralism that claims to make real descriptive sense of things (however imperfectly). We are not the forsaken inheritors of desperate attempts to salvage the wreckage of a once-intact teleological scheme so much as we are practical reasoners in a morally deep world. We are not debilitated by making use of norms that are incommensurable, but empowered in ways appropriate to the complexity of the practical tasks we face. If it happens that there are sometimes trade-offs we are not sure how to make, and questions we are uncertain how to answer, then that is not necessarily the result of a defective moral philosophy. And it does not mean that ethical commitment has degenerated into criterionless choice. We ought not, as The Philosopher says, seek greater certitude than is permitted by the subject-matter under
consideration. What I propose in the following is not inferred *sub specie aeternitatis* or entailed by something deeper or higher to which I have access. It is, if a pedigree is in order, Aristotelian in the sense that I believe moral philosophy must begin where we are and with what we have. I cannot abide that all of us (save a few) are misbegotten by historical forces or systemically blinkered by ideology.

One Argument for Pluralism

First, the bird’s-eye version. In the following pages, I will argue that there are at least four kinds of values at work in engaged practical reason. First, utility. Consider the allocation of scarce resources within a municipality, say the decision of where to place a traffic light. There are enough funds for one and only one—doubtless a very realistic, real-world scenario. In a case like this, there is little available to us but the impartial avoidance of the disutility involved in automobile-related accidents. If there is one intersection that is particularly dangerous (based on accumulated data), then the morally correct decision is easy. It has nothing to do with rights, or virtues, or the perfection of character—those would make sense only as subordinate considerations, if then. Utility is not a fiction here, but rather lives saved.¹⁹ And MacIntyre cannot (without conceding the point) reply by saying that a virtuous politician just is the sort of public official who would be inclined to reason as an impartial utilitarian would when making the appropriate decision.

¹⁹ Of course, it is open to the critic here to say that lives saved are…lives saved, and calling that by the name ‘utility’ does nothing to clarify what is at stake or how we ought to think about it. But that is wrong. The reason that funding for traffic lights is scarce is that other things are needful as well: skateboard parks to keep youths active and out of trouble, drug rehabilitation facilities for numerous reasons, and so forth. Public policy decisions involve attempting to maximize for several variables at once, and utility—while admittedly imperfect in that we cannot easily compare lives saved through traffic lights with youths staying out of trouble with addicts who get clean—is a kind of rough and ready metric *faute de mieux*.
A similarly inevitable utilitarian line of thinking occurs in the yearly decision made by the Centers for Disease Control concerning which flu vaccine to develop. Assuming for simplicity that the required efficiencies of scale are available for only one strain, rather than a menu of them, what shall they do? Considerations of prevalence, lethality, and contagiousness are the critical variables, but under these circumstances, it can only be a matter of disutility minimization. Some will die, no matter what, and the goal is to minimize the number. Again, all that is available is the calculation of aggregate utility and disutility, where those operative terms have unequivocal sense and reference. As an approach to public policy, utility and disutility are indispensable concepts to engaged practical reasoning. Other examples can be offered on this score.

In turn, let’s briefly consider a second kind of example, the practice of awarding individuals—perhaps something as vaunted as an esteemed prize, or something comparatively humble, such as the awarding of a promotion or raise. Here, the forward-looking or prospective approach of the utilitarian would be totally and irretrievably out of place. Awards are essentially backward-looking, and the criterion or norm is clearly desert. We grant awards based on merit, and merit makes sense as a way of acknowledging what has been done. Of course, we may esteem what has been accomplished because of its good consequences, but the norm at work in deciding whom to award (and indeed, in the act of awarding itself) is necessarily backward-looking and not aimed at good consequences. Naturally, the giving of an award is something one would do with the expectation that a worthy recipient will be gratified by being esteemed in this way. But the real satisfaction for the recipient comes from being thought to be deserving, and that is a good that makes sense only retrospectively. There are other ways in which backward-looking, desert-sensitive reasons are operative—the expression of gratitude, for example. The
modest point is simply that in some domains, the norm at work is desert, a second and decidedly non-utilitarian concept. We will return briefly to the concept of desert in Chapter 5, where I argue that MacIntyre unfairly claims that Rawls cannot accommodate our beliefs about desert in relation to distributive justice.

So both utility and desert are norms that have a respectable place (merely broached, and by no means satisfactorily examined here) in practical reasoning, even an ineliminable role in our deliberations. Now let’s turn to a third norm, the value of self-determination and the self-respect this involves. Consider the experiences expressed in this passage from King’s 1963 “Letter from the Birmingham City Jail”:

…you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can’t go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky…

What is the operative norm here, in the matter of whether Americans of African descent ought to have the same civil rights as others? We can rule out the first two values mentioned, desert and utility. It is not a question of rewarding people for achievements—the broken-hearted little girl in the preceding has not earned or merited anything, after all. No one has, just by being born, no matter the patrimony. So it is not desert that provides a deeper basis for the norm at stake here. Likewise, the fact that an individual derives utility from having the same rights as others (not excluding the benefits of using them) is clearly secondary to something else. If it wasn’t already valuable, it wouldn’t produce utility in individuals or groups to be accorded equal respect under the law. (Another way to see the point here is to realize how inappropriate it is to think of people having a ‘preference’ for being respected, as though it were on the same axis as water when one

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is thirsty, or a similar sort of utility-as-preference-satisfaction.) What then is that something else? If being accorded respect by the institutions of society brings about satisfaction of some kind, then it is being respected that is valued. Yet that doesn’t go deep enough, because we need to know what is being respected. It seems to have something to do with self-worth, but what is it that is worthy about people? The value here, I suggest, is that of autonomy or self-determination: we believe that among the action- and policy-guiding norms we should take seriously is that individuals are capable of determining for themselves what course they aim for their lives to take. It is good that individuals have and exercise the capacity for rational autonomy, and it is thus good that they be treated accordingly. That is a third kind of good or value, separate from both utility and desert.

If the civil rights example here does not convince the reader, perhaps we can turn our attention briefly to the otherwise completely different matter of informed consent and advanced directives in medical procedures. Why do we legally require medical facilities to obtain the informed consent (that is two things: agreement, plus information-conditions) before undertaking a procedure? Is it because individuals know best and can make the most informed and rational choice? This is a tempting answer, but probably not a correct one—paternalism, at least in many cases, is on balance the best way to aggregate utility here, especially as it is informed by an understanding of diagnostic, prognostic, and therapeutic variables such as the risk-benefit profile for the patient, the cost-benefit profile for the system, and so forth. (After all, one’s phronetic capacities as a patient are clearly limited, in some cases fairly sharply.) Is it because of the utility that is produced by a system of medical care in which we all have the reasonable expectation that certain rules will be followed (because legally enforced)? That, too, is tempting, and does have some truth to it. But my understanding is that we require informed consent and
advanced directives because we believe that individuals being respected in their capacity for rationally autonomous choice is its own sort of moral goodness. My point here, then, is that an altogether different norm—rational self-determination—is at work, and it is not reducible to something else.\(^2\)

Finally, we turn to a fourth sort of value, that of the cultivation of one’s talents. Assuming that it is good for individuals to develop their abilities (in morality-respecting ways), what is the good-making feature in question? One’s natural response is probably to say that it has to do with the good consequences that come from individuals playing music, building cabinets, making art, communicating effectively in a foreign language while abroad, and so forth. That sounds plausible, as far as it goes. But the value of learning a difficult musical piece is not readily identifiable as its impact on impartially calculated utility aggregation. Think of a solitary person struggling vainly in his efforts to play. He isn’t aggregating utility very well, and he actually deserves better. But we admire him—why? Or in the case of the virtuoso to whom we owe gratitude for the enjoyment (a form of utility, we might concede) of her playing, we also admire her—why the admiration? In some way, she deserves admiration, but what is it that we admire? Isn’t it the virtues associated with the development of specific excellences? The goodness here is prior to desert (that is, our admiration of her, and her being deserving of our admiration, is in response to something else). Apparently, there is another norm at work here: we think it is virtuous on its own terms or in its own way, for individuals to make something of

\(2\) Other candidates for consideration readily suggest themselves in this context, including the wrongness of sexual harassment. The disutility of being objectified is that it disrespects one’s ‘subjectivity’, that is, one’s dignity as something other than an object for another’s amusement or gratification. The one harassed is treated as something less than an ‘end in oneself’, as a mere thing. The utilitarian account of the wrongness of sexual harassment cannot be right, because the unhappiness is the result of the violation of a norm of a non-utilitarian sort. (This is separate from but related to the fact that the pleasure experienced by harassers should not count as a kind of moral goodness—i.e., utility—in the first place.) Another possibility in this context is to invoke Nozick’s ‘Experience Machine’ thought experiment, which I will omit here.
themselves and their skills and talents. It is separate from utility, precedes any consideration of desert, and is not reducible to (though it is connectable with) self-respect, and has more to do with the perfecting of talents as a kind of good in itself or end in itself. And so a fourth kind of value is the (self-regarding) cultivation of talents, in ways that are constrained by but not reducible to other moral considerations.

So, I have argued that there are at least four sorts of values or norms: utility, desert, autonomy, and the development of one’s talents. Perhaps there are others. If I have been successful here, then we see that there is more than one kind of thing that has moral value, and that there is no clear telos (not even the telos of being a good person) that puts them into a recognizable order or to which they are related in their subsidiary functions. Let us call this moral pluralism. Before considering the implications of this conclusion for MacIntyre’s position, let us turn to a second way of convincing ourselves of the truth of this doctrine.

A Second Argument for Pluralism

The second argument on behalf of pluralism begins with a representative individual moral agent, that is, one we can recognize from our own experiences or perhaps from those of others whom we know. My suggestion now is that a given individual (and, by extension, the rest of us) might very well invoke different accounts of moral goodness and be altogether unabashed about doing so. An individual’s moral commitments may be diverse and heterogeneous without

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22 There are similarities between my suggestion here and the so-called ‘anti-theory’ movement in philosophical ethics. Bernard Williams’ *Ethics and the Limits of Philosophy* is one important treatment of this.
being hierarchically ordered—but not in any way that seems objectionable. Consider a man of whom all of the following can be truthfully said:

i. In his job as a middle manager, he promotes a subordinate, for the demonstrable results of her hard work; he does so because he thinks it is good that people be rewarded. In this case, he thinks in terms of *desert*, which is responsibility-sensitive and backward-looking.

ii. Next, he helps his friend’s widow because she and the children are struggling emotionally and financially; in this case, the moral criterion he employs is *need* and the motivation is sympathy. He does this because he thinks he can help ease their burden, that is, because they need his help.

iii. While en route, he extends an ordinary courtesy to a stranger by opening the door to a building; here, the operative value is *politesse* or civility. Yes, it creates utility, but ordinary courtesies would not gratify their recipient if there were not something else in virtue of which it is gratifying.

iv. He is in the meantime negotiating with a private contractor for repairs to his home, and does so based on fairly narrow considerations of *self-interest*. He wants to satisfy his desires in a way that minimizes costs, all for his own benefit.

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23 Perhaps some of these examples are clearer to the reader than others, and perhaps there are better ones to illustrate the general point here, which is simply this: MacIntyre’s description of our efforts to live a coherent ethical life is tendentious. We have not so much lost ourselves as we have found ourselves in an ethically complex, morally deep world.
v. When the end of the month comes, he puts a modest sum into a college fund for his children, because he loves them and wants the best for them. He is partial to certain people whom he loves, that is, whose welfare matters more to him than that of others. He does so in the service of several goods he hopes to effect on their behalf: financial security (or anyway, the avoidance of the opposite), their having the opportunities for learning and growth that college makes possible, career training, and yes, their having increased prospects for the reflective search for the good.

vi. Seeing that his checking account permits it, he donates to Oxfam because he believes that doing so will promote utility. He thinks that starvation and disease are bad things, and that he has an obligation to contribute to their decrease.

vii. He writes to his congressional representative to oppose legislation that he considers an assault on individual rights and liberties. He believes that it is important that the state not prevent, but instead promote, the rationally autonomous choices of individuals.

viii. He attends an open house and stays late to help the artist pack up his things; in this case, it is because he has a streak of aesthetic perfectionism in him, according to which the creation of fine art is something of intrinsic value, without concern for any further consequences.
ix. He reads an article reporting things he can scarcely believe and thinks of them as taboo—wrong, but in some way or ways that are admittedly underdetermined by any available account of morality.

x. He volunteers to help with habitat restoration because he thinks that the natural world is non-anthropocentrically valuable (that is, apart from its instrumental value to human beings). He is not sure how or why, but he believes that even if, ex hypothesi, there were no humans to experience it or avail themselves of its resources, it is better that there be a world of biological diversity than not.

xi. He stops to pay his respects to the deceased—perhaps an acquaintance, perhaps the war dead whom he deems worthy of veneration; in this matter, he so acts because he thinks they should be respected, that they are, though insentient, not morally inconsiderable.

xii. He takes his kid to the ball game because he promised he would, and he thinks that promises are binding; he once read Kant in college and was impressed by the idea that one not act according to any maxim unless that maxim could be a universal law.

xiii. For good measure, he avoids strong drink because he believes that moderation is a virtue, or excellence of character with intrinsic value. This is connected to the consequences he wishes to bring about, but also to what qualities of character or virtues he thinks a good person should exhibit.
What are we to say of such a person? Is his soul in a disordered state? Does he need, as a matter of internal consistency or intellectual responsibility, a final good that somehow orders all the preceding commitments? Must he have, not just for practical purposes (which would no doubt be helpful) but for his own ethical integrity, a priority-rule to order them all? No, he does not. I do not deny that he must try to order the goods in his life—ethical decision-making requires that we prioritize some ends over others. And I do not deny that he faces uncertainty in doing so. And I do not deny that he may even have tragic conflicts of duties in which, by fulfilling one obligation or honoring one duty, he thereby simultaneously fails in some other responsibility. (Things can at times be as seamless as the above characterization of a representative individual suggests, but not always, and not necessarily.) The moral life of an individual human is exceedingly complex, and there are many moral patients to be accounted for: self, family, friends, neighbors, colleagues, strangers, past generations, future generations, non-human sentient creatures, and more. There is no particular reason to believe that there is a single source of normativity which governs all of these, nor ought we to suppose such a monistic account is forthcoming if only we can see our way through to the right narrative or the recovery of a non-fragmented tradition or the deliverance of a new St. Benedict with Trotskyite flourishes. In other words, there are numerous things of value, and they are not altogether reducible to one another much less to an Ur-good. Nor are they clearly ordinally ranked within a hierarchy of goods or indexed to a final good, so far as we know or as MacIntyre has established. Nor do we have any reason to believe that there cannot be conflicts of duties, since they are in fact a common occurrence.

If it helps make my point here, we could stipulate that it happens that the individual in question is a reflective individual. He actually thinks about these things.
But this is a double-edged sword. Against MacIntyre, it helps to cast further doubt on the monistic account that is implicit in his account. On the other hand, it threatens to establish his claim about interminable disagreements and incommensurable first principles. (Rawls raises this challenge for himself, calling ‘intuitionism’ the view according to which we attempt to ‘strike a balance’ among competing, heterogeneous norms. It may be that this is the best we can do as conscientious deliberators and actors in everyday situations—though in the subsequent chapters, I will aim for a ‘mixed conception’ of justice that is not intuitionistic in Rawls’ sense of the term. But that concerns political philosophy, not ethics.) Perhaps it is a question of emphasis: is a plurality of irreducible values a debilitating source of discord? Or is it in a way a sort of strength, not because it makes moral life—deliberation and practical action—simple and elegant and straightforward, but in light of its appropriate complexity, richness, and depth? We moderns have not “very largely, if not entirely, lost our comprehension, both theoretical and practical, of morality”, as MacIntyre asserts; rather, we have, like others before us, instead found ourselves—in a world of heterogeneous norms that resist our theoretical efforts at seamless integration.

What should we say of a society that is characterized by irreducibly plural kinds of value? Do these worthy things broached earlier—utility, deservingness, self-respect/self-determination, and self-regarding perfectionism—need a kind of meta-telas or super-value on account of which they are valuable and in terms of which they can be ordered vis-à-vis one another? Does the failure to generate a secular telos—assuming that is a correct description of the efforts of Kant, Bentham, et al—support MacIntyre’s contention that modern moral life is a disjointed affair, its language manipulativist in use and its essential components a kind of fragmented structure? Not really. Neither our representative individual discussed a few pages back nor the society as a whole appears to be in such a troubled condition. Different conceptions
of goodness, rightness, and propriety are appropriate in diverse domains or contexts, and their suitable application depends on the endeavor or question one faces. Contracts are *sine qua non* in much of business in ways that would border on the frankly deranged in relations of a more intimate sort (family, friendships). Rights-talk is useless (or at best derivative) when it comes to certain kinds of public policy decisions (CDC, traffic lights) whose point is after all to mitigate the vicissitudes that befall individuals whose identities cannot be known when the policy is decided on. But rights-talk is salient, nay decisive, with respect to civil and political liberties—a point I do not develop here. The moral status of future generations cannot be the same as that of past generations. Does this make either or both morally inconsiderable? (Or more to the point for present purposes: is morality in a disordered state because most of us think that both past and future generations are moral patients of *some* sort, even though it cannot possibly be for the same reason?) Would it not be more sensible to say that norms are heterogeneous rather than that an erstwhile unity (‘morality’) is fractured, that ‘modern morality’ is functionally diverse rather than dysfunctionally disjointed? Appropriately multi-faceted rather than disabingly torn among incommensurable accounts of right action?

Put differently: MacIntyre says that once upon a time, there was a coherent, integrated, three-part scheme. Because we moderns dismantled it and needed a replacement for the crucial discarded component (the human *telos*), various incompatible accounts were offered up by Enlightenment-era thinkers (rights, utility, reason, rational egoism, the act of radical free choice). These accounts have (to switch metaphors) joined one another in a cacophony of moral voices among which there is an indeterminacy of translation and an incompatibility of central claims. As a historical narrative, it is perforce selective (all narratives are, to some extent), but it has some merits: the luminaries of the Enlightenment were attempting to provide a secular account
of morality, and the reason is that the credibility of the pre-modern world-view was in decline. Fair enough—as students of Occidental history, we are in his debt for telling the kind of story that concept analysis alone cannot help us with but which we owe ourselves. But as a description of contemporary life, it is deeply tendentious in that it mistakes the phenomenon of a multiplicity of real values for a kind of forlornness that could have been avoided. The reality is that different things are valuable, not that we are the misbegotten sons and daughters of the improvident choice to abandon what was in good order.

We can look at the situation differently from the way MacIntyre proposes: as one in which there are different values that we cannot in good conscience reject, values which can and do count as good reasons for and against moral judgments. Of course, there are disputes, even deep ones, and perhaps even some insoluble ones—I cannot demonstrate otherwise. That there are no rationally interminable moral disputes among us is not a proposition I can claim to know by intuition or by a kind of noetic apprehension, nor can I deduce it by means of a truth-preserving inference rule from other propositions of which I am more certain still. And I do not propose to resolve the disputes on a list of purportedly insoluble moral problems so that none remains, thus falsifying the interminability thesis.

And so the reader may justifiably be dissatisfied with the preceding as a response to MacIntyre’s challenge. While I have decisively refuted his implausible contention that moral language is used predominantly (as opposed to occasionally and parasitically) to manipulate others, and though I have provided a more descriptively plausible alternative to his fragmentation metaphor, it may seem to the reader that the value-pluralism that has been urged here inadvertently provides support for MacIntyre’s claim that moral disputes are for us without rational resolution. How then should we respond to this charge of interminability? By
articulating a case for value-pluralism, have I not helped to corroborate rather than to undermine MacIntyre’s claim that modern practical reason is aporetic?

E. Between Perfectionism and Pluralism: Moral Virtue Without Moral Resolution

MacIntyre seems to want it both ways with respect to the plurality of goods. On the one hand, he thinks that different practices have different goods, with their associated virtues and rules. The good of medicine is health, the good of parenting is to raise children, the good of farming is to grow food, etc., and presumably the buck does not stop there (health, though a good in itself, is also good for other things; the good of nourishment is good for the things we can do with the energy food gives us, and so forth). But on the other hand, he also believes that goods are subordinated to ‘something higher’, an ‘ultimate good’ which, as we saw, is the quest for the good. So there is at work here a plurality of goods as well as the idea that there is a final good that orders them all. Why is this a problem? The short answer is that this conception of a coherence-granting final good can only inspire and animate our efforts to deliberate, but it cannot actually tell us what to do. It cannot, even in principle, provide us with an action-guiding reason which is the actual point of ethical reflection. In other words, the quest for the good (as our final good, the one that orders the rest because they are subordinate to it) turns out to be so formal as to lack much determinate content with respect to the plurality of goods—how we should choose among them, and why.

To clarify: even if we acknowledge, as I do, that his practice-oriented approach to the virtues is illuminating, what actually follows? That is, suppose we say that the excellences of character are a function of their being dispositions to bring about worthy ends by following rules
and also by exercising judgment (phronesis not being altogether rule-governed). That is not at all the same as showing us:

i. *that* these goods are finally ordered.

ii. *how* these goods *ought* to be ordered.

iii. *that* these goods even *can* be ordered.

To the extent that the MacIntyrean quest is *of this world*, it is motivated by the aspiration to be a well-developed, virtuous dependent rational animal. The actual good, or Good (whatever that is supposed to mean, exactly), as distinct from the earnest, lifelong quest for it, remains a kind of regulative idea rather than a constitutive one (to borrow Kantian terms), that is, something that functions as a goal and thereby animates our inquiries, but is not ever truly reached. And so the *actual ordering* of goods—as distinct from the effort to order them—never really occurs in the requisitely peremptory sense. That is the significant point here, because it means that practical reason is ultimately aporetic for MacIntyre in just the way it cannot be if his strictures concerning modern moral philosophy are to be credible. One does not reach a state of actual theoretical comprehension of a sort that allows a satisfactory (as opposed to provisional) ordering of the goods, much less why things should be that way and not otherwise (which, by the way, theoretical reason demands of us, if I am not mistaken). Even if the quest for the good regulates our inquiries, as practical agents we have to make decisions about what to do—here, now, with limited information, etc. He still confronts the question of when and why to subordinate one good to another. This practical question is going to face MacIntyre, or his defenders, as well as the rest of us, and he gives us no way forward. We cannot just peer anxiously into the future possibility of a hypothetical order-conferring resolution and expect answers to present moral dilemmas.
In other words, that we rightly demand reasons of ourselves goes no way toward establishing that the demand for sufficient reason is ever fulfilled in the sort of comprehensive sense MacIntyre has in mind if his own position amounts to something more or other than what I am advocating here. In this sense, the final good is asymptotic—one cannot reach the limit since the quest is in principle open-ended. Thus, even though in the course of one’s life one may exhibit the virtues involved in approaching that goal (in the ordering of goods, in the theoretical wisdom involved in doing so, and in one’s diligent and open-minded encounters with rival traditions), the Owl of Minerva never really takes flight. And since we do not actually know how to order the goods, except in keeping with our best, virtue-nurturing provisional efforts, we are once again led to the pluralist conclusion—not so much as an alternative to MacIntyre, but even within his own scheme. He is, I conclude, a kind of pluralist *malgre lui*\(^{25}\), for whom a heterogeneity of norms is not sidestepped. Or, if we prefer the eristic language MacIntyre favors, ‘rival goods’ are not transcended or sublated.

So, the ultimate good is a regulative ideal, not a constitutive feature of the world. In fact, it is *not even a possible object of experience*. Like Kant’s *summum bonum*, MacIntyre’s ‘ultimate good’ remains so far as we know or have reason to believe, not a thing of this world. In Kant’s magnificent revery, we do not know that virtue is crowned with happiness, but hope that it turns out to be so. Kant believed that God and immortality are postulates of practical reason—not known, not even knowable, but required by the expectation that the universe is purposive for our faculties. It is simply intolerable that the morally good person suffers otherwise unredeemed ills, so practical reason demands that we suppose those things necessary for an eschatological *summum bonum* not to be the wishful thinking that they would otherwise

seem to amount to. But nothing in MacIntyre’s theory even suggests something similar. Kant at
least thought that the experience of beauty suggests that perhaps nature is not so inhospitable to
our highest aspirations, since aesthetic phenomena involve a seeming kind of purposiveness of
our faculties with respect to certain phenomena in nature. But what serves that role here in
MacIntyre? (Indeed, what could possibly serve that role for us if we appreciate the implications
of the Darwinian revolution, that biological purposiveness is really contingent adaptation, and
that all else is epiphenomenal?)

And so here we likewise do not know whether the goods are or even can be ordered—
though as reflective individuals we try, and we do so with the help of others. And so despite his
extraordinary learning and the range of his contributions, and not discounting the countless
insights and provocative remarks in his works, and notwithstanding his illuminating treatment of
the virtues, we are actually provided with next to nothing from MacIntyre in terms of what we
ought to do in concrete situations. As a source of intellectual emendation about many things, he
deserves high praise. His scholarship is the sort that raises deep questions most of us don’t think
to ask, the sort that shows a preference for the exegetical, hermeneutical, and philological—and
an erudition about them the rest of us can only marvel at. He is, by some lights, among the
greatest contemporary historians of ethics. But as a source of wise counsel about what to do,
there is an odd silence in his works. It is after all a curious fact that in a 400-plus page book
entitled Whose Justice? Which Rationality?, no answer to a hard question in distributive justice,
or criminal justice, or intergenerational justice, or just war theory is even offered. Whose justice
indeed?
F. Summary of Section II

To recapitulate and clarify, I have not shown that there are no clashes of incommensurable values. But we have seen that MacIntyre has not established that there are any—if the three candidates he presents in the opening salvo of *After Virtue* fail to make his case, then we should not be persuaded by the interminability thesis. Furthermore, we have seen that the interminability thesis depends on the incommensurability thesis, and that the latter requires that there be what there are not: basic premises. We have also seen that his fragmentation thesis is at least questionable, and that his dour picture of modern morality as emotivist-in-use—a kind of manipulativist morass—is neither very plausible in theory nor descriptively accurate in fact. We have also seen that his own commitments (to a practice-based account of the virtues and to the good as quest for the good) suggest a more pluralist position than he seems to appreciate, a suggestion we have seen is plausible.

Section III: MacIntyre’s Political Philosophy: Virtue and the Liberal State

In this final section of my preliminary assessment of MacIntyre, we turn to his characterization of modern politics. Much of the time, his primary concern is to attack liberalism—this is a recurring theme in his thought for sixty years, from the earlier more Marxist period to the Aristotelianism of the later works. And to the extent to which he has been understood by commentators as a participant and partisan in the ‘liberalism-communitarianism’ debates, there is an understandable sense in which he is reckoned to be ‘anti-liberal’. But as we noted earlier, it is crucial to realize that what he has in mind involves the rejection of or retreat from the *state*, the characteristic modern nation-state, with its bureaucracy, oligarchic tendencies, manipulative relations between politicians and interest groups as well as among interest groups,
and its volkisch corporatism. After all, he is not actually promoting illiberalism, as I am interpreting him, despite what numerous commentators have supposed. Instead, it is particularly liberalism as mediated through the institutions of state politics that is the target of his criticism. Finally, he has reconfirmed his commitment to a broadly Marxist criticism of capitalism. And so my assessment here addresses all three elements of his jeremiad: state, capitalism, and liberalism. I offer several criticisms, two with respect to his hostility to the state, four with respect to capitalism, and three concerning liberalism, and they will be presented accordingly. Since what I am defending here is not the state as such or liberalism as a tradition of thought apart from the practice of it, but a particular liberal theory of the state, the separation of these points into groups may seem artificial. But as a tool for organization and analysis, it is helpful, despite the overlap, interdependency, and partial redundancy.

As well, these critical responses have the purpose not just of assessing his position, but also of setting up for a Rawlsian reply beginning in the next chapter. This chapter will have been a preliminary assessment of MacIntyre in the sense that it is not enough merely to offer these criticisms. It will also be important to provide what he says cannot be done: an (unapologetically secular) account of how, within the limits of the object-domain of normative political philosophy, reason can be practical. Otherwise, I might win several battles but lose the war, so to speak.

A. MacIntyre and the Modern State: Manicheanism Without the Heresy

There are at least two compelling replies to MacIntyre’s critique of the state. First and more importantly, it is in some fashion inevitable, or at least highly desirable (even from

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26 The best known of these commentators is probably Stephen Holmes in *The Anatomy of Antiliberalism*, 88–121. But it can be found in most of the journal articles during the 1980’s and early 1990’s about the so-called ‘liberal-communitarian’ debate.
MacIntyre’s own perspective), that a state or state-like institution be created. Second, there are at least some public goods that the state can facilitate—goods that, even if not in all cases strictly required for procedural background justice, can plausibly be thought of as worthwhile ends. Let’s address these two in order.

Why, even from his own conception of the politics of local community, is the state highly desirable, perhaps even inevitable? For starters, it is because the state is the entity that has proved capable of defending individuals from other individuals and from groups hostile or antagonistic to individuals. As one commentator notes:

What protects the homosexual…from suffering unacceptable exclusions is a system of liberties not intrinsic to many local communities but secured through struggle on the level of communal, intercommunal, national, and international politics. Insofar as MacIntyre offers no alternative to this system of protection and actually relies on it, his theory of state is irreparably flawed.27

To be explicit, this is the liberal state that Breen is referring to, in keeping with the position I develop later in this essay. But the point is that it is not just liberal convictions at a theoretical level, or liberalism as a normative theory, that protect individuals from predation by other individuals and by groups; rather, it is the institutions of the state that guarantee these liberties. We can make the identical point with respect to MacIntyre’s favored locus of value, the community, since among those things any community needs is the good of security from outside threats. The emergence of the nation-state is a complicated story in its actual historical detail, beyond our specific concerns here. The basic point is that in order to develop the virtues internal to the goods of practices, communities of practitioners need the external good of security, and a state (or quasi-state, or state-like set of institutions) is required.28 This would seem like an


elementary fact of modern European history, one very familiar to MacIntyre. The point here can also be made with respect to religious toleration: it is the state which, by remaining non-sectarian, allows religious groups hostile to one another to be safe from the full effects of their mutual antagonism and free from the attempted subjugation of one another by rival sects. Of course, state institutions can threaten individuals and communities, so it is not statism but the limited state of the liberal tradition I have in mind, and which I will be defending here. This is not a clever insight on my part, and only bears mention in this context because an evaluation of MacIntyre’s position occasions it. Whether they are farmers or fishermen, physicians or philosophers, carpenters or chess players, they cannot pursue the goods of excellence internal to practices unless there is the security to do so. In this way, MacIntyre’s almost unqualified hostility to the state is not only unwarranted, but also inconsistent with his own commitments.

Thus, he understates the capacity of the state to provide goods not possible, or less readily achievable, in its absence. Let’s develop this first criticism a (for now) small step further by noting that if it turns out, as I’ll argue later, that background procedural justice requires state involvement, then clearly the need for a state cannot be dismissed. This is similar to the point made in the preceding paragraph (presumably, survival is valuable, or else a state’s capacity to protect it wouldn’t be a mark in its favor). But since we have not yet developed that account of liberal justice, much less shown that the state is required for its being effected, it would be premature to offer this argument here with the earnestness it deserves. The point is simply that once we can provide a theory of justice that requires some state functions, then we will see yet again that MacIntyre’s antagonism toward the state is unwarranted. To adumbrate: if basic liberties (such as worship, assembly, speech, press) are an aspect of justice (as I argue they are), and if the state is essential for guaranteeing them (as it is), then his antagonism is further shown
to be unwarranted. The same will be argued with respect to equality of opportunity and the provision of a social minimum. But in order for this point in defense of the state to have any concrete, non-question-begging force, that argument for justice as fairness needs to be made. So my remark here is only a promissory note until that account of justice is defended in Chapters 4 and 5.

The second point to make with respect to his treatment of the state is that he underappreciates the capacity it has for furthering public goods that, while not required for the very continuation of practices in the way security is, and not required for procedural justice, are nevertheless real goods or worthwhile ends. In his own native land of Britain, one candidate here is the National Trust. The goods involved in the preservation of sites of cultural and historical interest are several: knowledge, perhaps even some means to wisdom; veneration of one’s forebears, notwithstanding their flaws; and appreciation of one’s heritage (naturally these can be, and indeed in some cases are, preserved and resurrected and displayed with funding from the private sector, and I see no principled objection to this). Interestingly, support for this institution seems to cut across political divisions in Britain. Closer to home, institutions such as the National Science Foundation, the National Park Service, the Human Genome Project, the National Transportation Safety Board, the National Oceanic and Atmospheric Administration, among others, are worthy candidates for consideration here. Each promotes goods, or a good, in the absence of which the lives of many would be less rich, and which seem scarcely possible in the absence of a federal effort to bring them about. I will suggest this point without developing it in any detail, but it is a sound one: there are goods which the state makes possible, even actual, which are not so feasible, or even possible, in its absence. And so yet again, we have reason to
be doubtful of MacIntyre’s nearly unbridled attack on the institution of the state. Ultimately, everything depends on what a given state *does.*

The reader may recall that MacIntyre does grudgingly acknowledge that the state offers some benefits to its citizens, and in that sense tempers his condemnation. For instance, he cites the Americans With Disabilities Act as having achieved “humane goods.” This prompts several critically intended questions. If the state can do *that* properly, why can it not do other things as well? But he seems unwilling to develop this meliorist line of thinking, preferring what one commentator refers to a “Manichean division between local and national,” that is, between a community of fellow practitioners and a state in which manipulation is the coin of the realm. But his own example here (the A.D.A.) shows that this contrast is not so stark—quite separate from the additional point that communities are often the loci not only of virtue-inducing practices but also the domains of prejudice and parochialism which the state is uniquely situated to bring before the bar of reason. To take an example from American politics, it remains an indelible fact that the Civil Rights Act succeeded only because of federal policies and resolutely in opposition to the politics of local community. MacIntyre’s root-and-branch rejection of the politics of the modern state is after all quite at odds with the egalitarianism of some aspects of 20th century liberal politics. Acknowledging this fact that the state is indeed the sometime force for justice not achievable in its absence, MacIntyre shifts ground and paradoxically counsels a free rider strategy of accepting what benefits the state offers but with minimal collaboration and minimal

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trust.\textsuperscript{33} In this way, as one commentator notes, “community members must answer the shrewd manipulations of managers with an even cleverer instrumentalism.”\textsuperscript{34} This is objectionable for at least three reasons. First, on moral grounds, it is unscrupulous to be a free rider, because such behavior violates the demand that one not act according to rules that could not serve as rules for others as well. Second, such behavior undermines the stability of all regimes, including whatever regime is more just than others in the offing. Third, in MacIntyre’s case, it undermines his own demand that one not embrace values that are incommensurable with one another, which would perpetuate the very compartmentalization that he claims to abhor in modern moral and political life. Thus, he “subverts the worthy attempt to generate a non-manipulative politics that is neither naively moralistic nor instrumentally amoral, but avoids both.”\textsuperscript{35} We can do better, as I hope to show, or at least point the way to, in this essay.

B. The Critique of Capitalism

In turn, we consider four objections MacIntyre raises against capitalism, all of which were briefly mentioned in Chapter 2. I will neither fully endorse nor summarily reject them, but instead note some reservations about them (on their own terms or else with respect to their consistency with other claims he makes).

First, the charge of pleonexia. The disciplined reinvestment of capital for the purposes of further capital accumulation increases both the number of preferences and the range of things desired. This is because there must be demand for the excess production of economies of scale and efficiencies of competition, which in turn reinforces the belief that the good just is the

\begin{itemize}
  \item Breen, “Alasdair MacIntyre and the Hope for a Politics of Virtuous Acknowledged Dependence,” 196.
  \item Ibid., 198.
\end{itemize}
satisfaction of preferences. Meanwhile, attendant ills are the creation and proliferation of false desires, the unabashed institutionalization of envy (transparent in the medium of advertising), and the valorization of greed. While these laments are not identical, they are of a piece, and one succinct way to put them together is to say that capitalism promotes not virtue but the vice of wanting more and more. Capitalism, since it not only promotes but essentially requires the expansion of demand, thus involves the liberation of desire from all constraints of propriety, and this amounts to the vice of pleonexia. What shall we say in response to this charge against capitalism?

Put in the preceding way, the charge is pretty clearly accurate. Still, two points need to be made to qualify my endorsement. First, in order to know that people want more than is appropriate, we would first have to know what that standard of propriety is. But since we do not know what that standard is, we cannot really invoke the notion of pleonexia. Specifically, in MacIntyre’s accounting of things, we would first have to know what people deserve. And the trouble is that desert, as MacIntyre notes in various places, makes sense as a distributive norm only when there are agreed-upon standards internal to practices with their goods. Awards, raises, promotions, prizes, and the like make sense only from within the good-seeking, good-achieving practices of natural science inquiry, or healing through medicine, or musicianship, or athletic competition, to name several. But the norm of desert is almost entirely impractical when it comes to many goods and services, and in these cases it is not clear how to determine what constitutes “too much.” And so the charge of pleonexia, I submit, is not straightforward, despite its obvious plausibility.36

36 The classical model for this is that one be recognized and rewarded within one’s social class, which depends on ascriptive qualities such as patrimony and gender. But if we moderns have rejected this kind of social hierarchy, then it becomes unclear what precisely it means to ‘want too much’. See Miller, “Virtues, Practices and Justice”, 260.
A further point with respect to the charge of pleonexia that is important to note is that material production makes possible, that is, helps to sustain, some of the self-contained practices (e.g., art, architecture, music). In that way, MacIntyre’s own positive account of virtue requires some tempering of his condemnation of capitalism. Wealth does after all facilitate the pursuit of genuine goods as well, and not merely the baubles of consumer society. Of course, he would respond that the pursuit of money—a mere external good or good of effectiveness—as an end in itself is a kind of perversion or derangement, and he would be correct. But one can acknowledge that without being committed to endorsing either his rejection of capitalism or the entirety of his position.

Second, we consider the charge that capitalism not only involves but requires the instrumental use of others, and moreover in ways both overt and subtle promotes the manipulativist tendencies already at work in the emotivist use of moral language that he believes have resulted from the Enlightenment’s failure to generate a satisfactory secular telos. In confronting one another as buyers and sellers of labor-power, we fail to regard others as fellow practitioners within communities who help one another deliberate about the good and thus do not acquire, develop, and promote in others the virtues of acknowledged dependence. This is not a false charge, nor a trivial one, but it does need to be qualified. First, it is qualified by MacIntyre himself, who writes:

In a society of small productive units, in which everyone has an opportunity to own (and not indirectly through shareholdings) the means of production,…free markets will be a necessary counterpart to freedom of ownership and freedom of labor.

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37 Ibid., 250.
For MacIntyre, it depends on the conditions under which individuals enter into these relations—wage-labor contracted for under conditions of duress is not a free choice by those who have only their labor-power to offer, he believes. And it also depends on whether the livelihood of the laborers is subject to the vicissitudes of (increasingly international) markets. Thus, it is not individuals freely buying and selling things to which he objects, but the fact that the conditions under which it occurs in capitalism as we know it are in fact coercive. And so a good deal of what is at stake here concerns whether market relations can have the small-scale, non-coercive character—capitalism with a human face, so to speak—that he advocates and I would be keen to endorse. And this is not merely a theoretical possibility somewhere in conceptual space, but a genuine reality in many places across the world and between producers and suppliers aspiring to the not-unMacIntyrean ideal of ‘fair trade.’ Whether this does or can amount to more than a small slice of economic production remains to be seen, and I here offer only the suggestion of a defense of this possibility. As well, much depends on other factors at work—what we will be calling the ‘background conditions’ of the basic structure of society. Do individuals have the liberty to assemble, speak freely, and organize labor unions? Is there unemployment compensation when capital flight devastates local economies? Is job training part of the social contract? Capitalism cannot be easily isolated from either the state amidst whose institutions economic activity occurs or from the liberal principles that undergird the basic terms of social cooperation.

A further way in which the charge that capitalism involves the instrumental use of others should be tempered concerns the ways in which under the right conditions, business firms can actually promote virtues (and thus look recognizably like practices). Not all firms are run by Simon Legree-types who regard others as disposable units of productivity. Some nurture their

39 Ibid.
employees and treat them with dignity, not so much because this conduces to productivity (though it does), but also because, whether or not owners and managers have even heard of Immanuel Kant, they believe it is moral to treat others as ends in themselves and immoral to regard others merely as means to one’s ends. Of course, this may not be, and to be frank is not, the norm, but it is not so very unusual either—clearly, much depends on whether we are speaking of low-wage factory jobs or well-compensated white-collar work. And certainly, if our attention is drawn, as it should be, to a representative sample of firms involved globally in extraction, manufacturing, production, distribution, marketing, and advertising, then the force of MacIntyre’s point is difficult to deny, despite these qualifications.

The third criticism MacIntyre makes of capitalism concerns its tendency to produce class antagonisms which subsequently keep individuals from aiding one another in their quest for the good. The unequal distributions (or ‘holdings’, if we prefer Nozick’s term) which result create groups (classes) who self-identify in ways that keep them from deliberating collectively with others. And since deliberation is after all the means by which to achieve our end of moral self-perfection, capitalism is in that way dysteleological. What should we say in response? That capitalism creates and perpetuates class divisions seems clear enough, and so he is in large part correct. But much depends not just on capitalist relations of production, but on how the liberal state addresses the issue of class division and antagonism—which is, it should be noted, a serious threat to stability as well as justice. Is there equality of opportunity? Fair equality of opportunity? What is taxed, to what extent and for what purposes? Do inequalities in wealth and income translate into unfair value of political liberties? Are there public libraries? Have children been propagandized by their education, or have they developed into critical thinkers? Is there a social minimum that helps to avoid absolute immiseration? MacIntyre himself wants it
both ways (to laud the success of the welfare state, while excoriating the state as an alien
overlord), evincing “a basic contradiction, the wish for a minimalist state that will, through some
miracle, fulfill the goals of social democratic welfarism.”40 Since my own effort later in the
eyessay will be to defend a Rawlsian answer to these and related issues, I will delay further
discussion until then. For now, I offer an acknowledgement of the obvious reality of class
divisions and antagonisms, and the intention to defend a broadly Rawlsian attempt at an
egalitarian response to and partial remedy for them.

A fourth point is worth making briefly in connection with MacIntyre’s condemnation of
capitalism. We recall that he believes that justice is the distribution of goods in keeping with the
norm of desert. The Aristotelian-Thomistic ideal involves our collectively being willing (that is,
having the disposition) to share from our common resources in a way that fits with what
individuals have contributed. In other words, this Thomistic view which MacIntyre avers
presumes an ordered community within which individuals occupy well-defined positions whose
respective contributions to the common good can be meaningfully compared.41 The problems
with this view are at least two. First, it assumes the existence of a community which does not
exist, except at the local level (clubs, churches, university departments). As a society, or at the
state level, we cannot locate the kind of common good that would allow us to know what each
individual in the collective undertaking is due—for there is no collective undertaking in the
relevant sense. This does not yet constitute a defense of capitalism so much as a reminder that
desert as MacIntyre understands it cannot serve as the distributive norm in the wider sense he
intends. (In the Rawlsian position I defend, desert can make sense only once we have
determined what the conditions of background justice are.) But it does become an objection to

his condemnation of capitalism when combined with a second point, that market relations do in their own way provide a context in which desert is operative. On this view, if deservingness is thought of as measured by others’ willingness to pay for what one has to offer (value-added labor, effectively), then it could be said that capitalism actually does honor the norm of desert (so construed). But again, that individuals deserve what they receive on the market assumes an answer to the larger question we are asking in this context: what background conditions are themselves just, such that individuals within a society could deserve what they have and do not have? In other words, we first need a theory of justice, to which we will turn after the following, final theme in our evaluation of MacIntyre.

C. Liberalism

We turn finally to MacIntyre’s discussion of liberalism, against which I will be making three separate criticisms. These have to some extent been anticipated in my evaluation of his treatment of the state, and can be connected to the remarks about capitalism in the foregoing. The criticisms, to anticipate, are these. First, he implicitly mischaracterizes the emergence of liberalism, regarding it as a kind of irruptive event rather than as the altogether historically appropriate development that it is. Second, and closely related to the first, liberalism did not fail (in its attempt to generate tradition-independent norms), but in some respects has achieved impressive results in articulating and even in achieving its aim of determining how free and equal participants in a scheme of social cooperation might be credibly regarded as legitimately subject to the rule of law and as authors of the fair terms of social cooperation. Third, I intend to show that MacIntyre is, for all the stridency of his anti-liberalism, a liberal in spite of himself.

42 Ibid., 259.
According to the first criticism, MacIntyre mischaracterizes the emergence of liberalism, implicitly relying on the suggestion that it was a kind of historical mistake, rather than an appropriate development. He never actually says this, and indeed repudiates Burke as advocating the sort of conservatism that attempts to keep alive what has died. But it seems to be in the background that liberalism was in some real sense avoidable (as were the modern Enlightenment, and the demise of the teleological understanding of human beings, and the emergence of institution of the nation-state). And that is the first point I want to address.

Since there is some latitude in the term ‘liberalism’, it is helpful to specify very briefly what I have in mind. I take it that two of its central features are a commitment to individual liberties (religion, conscience, speech, assembly, press) and a belief in the ideal that the terms of social cooperation are ones that free and equal participants can be credibly regarded as subject to. More needs to be said, but let that suffice as a start. (Since my intention in the subsequent chapters is to produce a liberal answer to MacIntyre, I will postpone that discussion for now.) So why was liberalism so understood an altogether appropriate development rather than a kind of impudent mistake? The short answer to this is well-known to the reader and to MacIntyre: modern societies are liberal because the alternative is the sort of sectarian warfare that tore European civilization apart. In that sense, liberalism was not developed by idle *philosophes* in their salons but by engaged moral citizens horrified by the results of letting religious differences become cause for oppression and bloodshed. This is not hypothetical and counterfactual, but concretely connected to tradition in an unimpeachably MacIntyrean way. The wars of religion were a real calamity, and warranted a response that would limit the possibility of further sectarian conflict. By separating ecclesiastical authority into its appropriate domain (its own congregants), and similarly making state authority predominant in its domain (civil and criminal
law, public policy, taxation, foreign policy), politics can ideally be made safe from religious factionalism and freedom of worship can be made safe from both the state and from other creeds. This is familiar to the reader, so perhaps the point has been made sufficiently clearly. In short, liberalism was

adopted for reasons that made sense to people in terms of existing outlooks. Religious toleration seemed better than religious warfare, constitutionalism arose from the desire of various interests to protect themselves….43

Thus, we conclude that liberalism, at least so understood, was an appropriate development, rather than something improvident and avoidable. Freedom of religious conscience entails fairly clear restrictions on what either the state or other individuals may do to a person (notwithstanding admittedly difficult borderline cases). And there is widespread agreement on this norm among citizens of liberal democracies. MacIntyre himself is committed to it, and more besides, as we will see shortly. Admittedly, this does not get us very far; it is not a full-blown or comprehensive theory of justice, with a distributive norm or norms for other basic rights and liberties, opportunities, wealth and income—what we will be calling the background conditions of justice. To provide that, I would need to answer a much larger and more difficult question: what would be fair terms for citizens who regard themselves as free and equal?

We could let the preceding suffice to make credible the first criticism of MacIntyre’s understanding of liberalism: he falsely implies that liberalism is something other than the determinate response to specific (historical) realities of the received tradition. But since I indicated that liberalism—certainly the particular version defended in this essay—also involves a normative commitment to the idea that the basic terms of social cooperation ought to be ones that free and equal individuals can credibly be regarded as authorizing, something needs to be said on that score as well. Why then should we think of individuals as free and equal? My own answer

43 Barry, “The Light that Failed?”, 164.
to this involves the norm of self-determination, beginning in the following chapter. But for now, let’s bracket that question—the decisively important normative one—for the narrative question which must be addressed to decide whether liberalism is or isn’t ‘tradition-constituted’: why did the norm (the belief in the freedom and equality of individual citizens) come about?

I am not certain of the answer here, which is less clear than the one regarding the emergence of the norm of freedom of worship. There are perhaps four sorts of explanations for the emergence of belief in the freedom and equality of individuals. First, it might be thought of as the discovery of powers in individuals, powers that had been unknown prior to their elucidation by Locke and others (perhaps in a way similar to how some have understood Freud’s discussion of the unconscious). Second, it might be thought of as the valorization of powers always latent in individuals, but underappreciated (this is probably the view most congruent with the position developed in the subsequent chapters). If either of these explanations is correct, then a narrative would need to be offered as to how it occurred, and I do not presently propose such a narrative. A third explanation is that the emergence of belief in the freedom and equality of individuals might be thought of as a kind of result by default of the demise of belief in natural hierarchy. On this view, the claim that individuals are free and equal participants in a scheme of cooperation is not the discovery of something positive about human beings but an appeal faute de mieux—there isn’t much else to base an account of political legitimacy on. A fourth possibility is that it is ideological: belief in freedom and equality is the normative dimension to the economic developments which are the actual independent variable. On this Marxist view, norms (about what a human being is and about what relations are appropriate among individuals) legitimize relations of production which are themselves determined by what conduces to the actual forces of production.
Perhaps there is some truth to more than one of the four proposed narratives for how it has happened that liberal democracies take seriously the ideal that individuals should be regarded as free and equal participants. All I can offer here is the acknowledgment that a fuller account is warranted than I am providing presently. But again, we see that a salient feature of liberalism is neglected in MacIntyre’s narrative. The appeal to what individuals would choose for themselves as free and equal is not a callow intrusion onto the scene if it is a response to the demise of belief in natural social hierarchy. In that sense, the contractarian theory of justice I advocate in the following chapters is tradition-constituted in just the sense that MacIntyre proposes.

But we can make a stronger case than that for liberalism, and indeed challenge MacIntyre in a second way by denying that liberalism is the failure he depicts it to be. In at least two respects, to anticipate Rawls, there is a remarkably high degree of consensus. The first concerns basic rights and liberties, extending past freedom of religion to those of speech, press, assembly, and to the rights (of citizens) to vote and stand for office. There are many complicated questions here, to be sure, but the difficult ones (e.g., Wisconsin v. Yoder) take place against a background of legal protections for religious worship, parental rights, and children’s rights. That they are tested in hard cases doesn’t tell against liberalism; on the contrary, liberalism’s ability to attempt rational resolution through judicial interpretation of the Constitution amounts to a remarkable respect for basic liberties. Lacking, as we do, a Sophoclean deus ex machina, we are sometimes confronted with cases where there are differing views among reasonable people, but these exceptions are in sharp contrast with the myriad of legally protected free actions that don’t draw attention precisely because they are so uncontroversial.

Or to take a different example, equality of opportunity is a norm with deep appeal across many political divisions (why it should be compelling is an important question, and my own
answer will invoke the value of self-determination). What it means exactly is a very difficult question, but the norm of equality of opportunity is invoked without real objection. MacIntyre not unfairly (though not elegantly, either) asks: “Is positive discrimination in favor of members of hitherto oppressed and deprived groups in appointing to this job now an injustice?”\textsuperscript{44} That too may be a controversial question, but if we think about it in a broader context, Affirmative Action “looks like a very parochial squabble among people all committed to equal opportunity.”\textsuperscript{45} Now neither basic rights and liberties nor equality of opportunity has been shown to be grounded in something else, so I have some work ahead of me. And, in addition to borderline cases concerning religious liberty and equal opportunity, there are a great many questions that can only be satisfactorily resolved by treating each in turn, if they can be rationally resolved at all. But as a second criticism of MacIntyre’s treatment of liberalism, it is reasonable to contend that it is not the failure he claims it to be. A more robust version of this criticism is the subject-matter of the succeeding chapter, where I defend a specific theory of justice.

The third criticism of MacIntyre’s discussion of liberalism really concerns the question of the consistency between his own positive commitments and his condemnation of liberalism. Here, I contend that (just as we saw earlier that he is a value-pluralist), he is finally a liberal in spite of himself. To see this, we need to remind ourselves of his perfectionist ideal, which is that the best human life is one in which virtues are developed by pursuing and deliberating about the goods of practices, always with an eye toward how those goods are properly ordered. As we saw, this is an open-ended pursuit, one never really completed even by the most virtuous among us. The MacIntyrean ideal is not a self-actualized sage but a self-actualizing participant in many goods, not a saint recapitulating received forms of self-perfection but a restless seeker of new

\textsuperscript{44} MacIntyre, \textit{Whose Justice? Which Rationality?}, 393.
\textsuperscript{45} Barry, “The Light that Failed?”, 168.
productive, practical, and intellectual challenges. The value of autonomy is at work here, I suggest, a theme we will return to in the next chapter. It is neither the anomie of the criterionless chooser nor a hollow recapitulation of received forms, neither a rootless and evanescent self nor one incapable of or uninterested in thinking critically. So the question becomes: what kind of regime suits one who consciously undertakes the quest for the good? The short answer is that it is a recognizably liberal one, and for that reason MacIntyre is a liberal in spite of himself.

What, after all, does the quest require? More than anything else, as we saw in Chapter 1, the search for the good involves vigorous open deliberation, with other fellow practitioners, fellow practical reasoners in training. That activity is human flourishing. It does not leave the productive arts behind, as though they were mere instrumental means to ends. Instead, this ideal of perfectionism includes deliberation about them. And at the same time, the practical reasoner is mindful of theoretical questions that are raised by our engaging in productive and practical reason. Thus, it is not only an immensely challenging task for the individual, it also demands the social conditions in which it can and does occur. Individuals need latitude in their efforts. Otherwise, they could not encounter other traditions in order to challenge their own. The presence of different viewpoints, as we saw in Chapter 1, is not only tolerated in MacIntyre’s scheme but is in some sense a desideratum of the well-functioning community (contrary to the howls of protest from liberal critics of his supposed authoritarian embrace of the past). How would people learn what they need to, consistent with the self-critical perfectionist demand for factually informed and theoretically rigorous practical reason? To say that ‘social conditions’ are required for individuals who ‘need latitude’ invites some hopefully more precise terms, so I

46 As does Lewis Hinchman, in “Virtue or Autonomy: Alasdair MacIntyre’s Critique of Liberal Individualism”, Polity 21, no. 4 (Summer 1989), 652.
will say it this way: certain rights, liberties, and opportunities are necessary for individuals to
perfect themselves in accordance with the ideal he proposes. After all,

A person cannot, without difficulty, practice virtue if he is jailed without trial, silenced, banned, starved, brutalized, or tortured by the state or by private groups unhindered by the state, especially if virtue is understood as an ongoing quest to define the good for man.47

Thus, MacIntyre himself is committed to a doctrine of personal liberties, and cannot dismiss rights as fictions or deride the liberal self as rootless, role-shorn, anomic, and vanishingly thin. His own view requires that individuals be free and able to maintain some critical distance from their inherited traditions and roles, in order to see whether rival traditions have a more compelling narrative to tell. In the terminology of liberal political theory, the individual is able to stand back and revise her conception of the good. And MacIntyre’s position requires the individual to have some protections in doing so, ones of a recognizably liberal sort. Similarly, it is important to realize that communities, the loci of virtue-constituted practices, need protection, both from one another and from the state. Among communities, that is, there is stable disagreement about the good, and thus a principle of toleration, as opposed to a modus vivendi, is called for. What I argue for in Chapters 4 and 5 is not directed toward this specific question, though it is intended to be consistent with solutions to intercommunal hostilities.

Put into different terms, what MacIntyre advocates—virtuous practices—need institutional settings, not just in small communities but in societies, which constitute at some point nation-states. In any polity of appreciable size, there are too many practices to know (and the knowledge involved in any practice takes too much time to acquire for citizen-participants to have an adequate appreciation of all the goods involved).48 And that means that we must try to think through the relationship between individuals and the state, between individual rights and

47 Hinchman, “Virtue or Autonomy”, 653.
48 Murphy, “MacIntyre’s Political Philosophy,” 173.
liberties and the larger polity. This appears to be inevitable. We may not, as MacIntyre prefers, reserve the term ‘liberal’ for the admittedly contemptible features of modern society while regarding as inessential the features of liberal society to which he is implicitly committed and of which he explicitly approves (the Civil Rights Act, women’s rights, unemployment compensation, the Americans with Disability Act).\footnote{Jeffrey Stout, “Homeward Bound: MacIntyre on Liberal Society and the History of Ethics”, The Journal of Religion 69, no. 2 (April 1989), 231.} Under certain circumstances (a farm, a religious sect, a carpentry shop, a musical ensemble, a science laboratory, a university department), where the goods in common are acknowledged, practical reason can work one way, or set of ways. But at the political level of the state, we cannot expect the same, as MacIntyre himself insists. This means that politics cannot be a practice in the required sense without goods that are in common, leaving MacIntyre with a counsel that has been correctly described as a “despairing purism.”\footnote{Breen, “Alasdair MacIntyre and the Hope for a Politics of Virtuous Acknowledged Dependence,” 181.}

Instead, the worthier effort at this point is to query what a liberalism not afraid to call itself by that name looks like. What account of practical reason would allow us to engage that issue in ways that do not merely recapitulate interminable disputes among incommensurable first principles? What the preceding suggests to us is that we need a recognizably liberal theory to make any progress, even on MacIntyre’s own account. So: on what terms can fellow citizens of a state (and not only practitioners within communities) relate to one another? Even if one is a member of a family, and a practitioner within a community, we are also citizens of a state. We are not just givers and receivers of benefits (as in the virtuous community) but also those who trade goods and services with others who have things of value to offer. We are members of communities, we are bourgeois, and we are citoyens. What self-chosen norms should regulate our conduct as citizens? How would free and equal participants in a scheme of social
cooperation reason, in a principled way? Consistent with a plurality of goods, a perfectionist ideal of self-development, and stable disagreement about the good, what terms would they regard as fair?
Chapter 4: Contractarianism, Coherentism, and Justice as Fairness

Section I: Introduction

In view of the evaluation of MacIntyre’s position offered in Chapter Three, we are justified in rejecting many of his central claims. Let’s briefly recapitulate those points.

First, I rejected his claim that moral statements are now used emotivistically by showing that it depends on a highly implausible account of the relationship between the subjective meaning and the intersubjective use of moral language. Second, I showed that the contention that moral disputes have become interminable (the so-called ‘interminability thesis’) assumes the truth of the claim that moral disputes result from incommensurable first principles (the ‘incommensurability thesis’), which in turn assumes that our efforts at moral justification must rest on a foundation for which no further warrant can be sought and against which no decisive objections can be made (from the position of another such foundation). But foundationalism is not epistemically satisfactory, because in attempting to avoid an infinite regress of reasons, it asserts the truth of a basic premise or first principle for which no warrant is given. As a result, we can deny the seriousness of foundationalism’s alleged implications for the rational decidability of moral disputes. But this need not be a grave concern for us if there is a plausible coherentist alternative, as I will argue later in this chapter. For now, the conclusion is that neither the interminability thesis nor the incommensurability thesis is credible. As well, I rejected the ‘fragmentation thesis’ (that moral concepts and precepts are the pieces of a once-coherent teleological order) and suggested instead that there are many heterogeneous goods. For the purposes of rejecting MacIntyre’s account of modern moral life, I left it there: value pluralism without a priority rule for determining which goods take precedence over others. The
faculty of judgment involved in pursuing the various goods in one’s life has both practical and theoretical elements, and I do not propose to develop that complicated account of judgment here.

Moral pluralism, it turned out, is something to which MacIntyre is himself committed. The quest for the ordering of the constitutive goods of one’s life is an aporetic narrative, I argued. Even among those who virtuously pursue the goods internal to practices, there remains stable, reasonable disagreement about the good. MacIntyre, I concluded, is a kind of liberal in spite of himself and is implicitly committed to a recognizably liberal regime—not only because he acknowledges a plurality of goods, but also because the quest for the ordering of the goods requires civil rights and liberties. For individuals to undertake their quest for the good within communities, and for communities to inherit and develop their constitutive practices in a larger context of many diverse and overlapping communities, rights and liberties of a recognizably liberal sort are suitable, even required. This raises the question of what such a liberal regime should look like, which in turn forces us to turn to the issue of justification in normative political philosophy. We move, then, to the challenge MacIntyre leaves us with, both because his own position is implicitly liberal and because we need an alternative to his tradition-constituted form of practical reasoning: outlining a viable account of practical reason that yields an identifiably liberal political regime.

Before laying out the position in detail, I will outline it briefly in this introductory section. The position advocated for here is what I will call contractarian coherentism. Contractarianism is the attempt to mediate a model or conception of the person through a suitable device of representation. Here, I will borrow heavily from Rawls, even though the principles of justice yielded will be a slight variation on his own. Owing to a slightly different conception of the person and an altered account of rational choice under conditions of
uncertainty, a modified account of the principles of justice and their relative priority will be offered. Otherwise, the contractarian method utilized will be one familiar to students of Rawls.\(^1\) Coherentism, meanwhile, also draws heavily from Rawls, specifically the concept of reflective equilibrium. I’ll argue that one of the features of a viable account of practical reason is that principles of justice (however derived) should in the ideal case be in reflective equilibrium with a range of normative and non-normative considered judgments. On this view, justification consists of coherence with other beliefs (moral and non-moral) rather than fidelity to a code whose provenance precedes the deliberations of the participants.

Having laid out the position in more detail, I will in Chapter 5 proceed to argue that the quarrel between Rawls’ egalitarian liberalism and Nozick’s libertarian liberalism is not a clash of incommensurable first principles between which rational adjudication is not possible. This will defuse MacIntyre’s claim that political deliberation is rationally interminable among modern liberals, thus providing both an account of practical reason he says is not possible and a demonstration of its viability by using it to refute his claim that political deliberation is ultimately a rationally irresolvable clash of first principles.

Section II: The Aims of Liberalism: Freedom and Equality Amidst Value Pluralism

Rawls’ starting point is what he calls the “fact of pluralism” or “fact of reasonable pluralism,”\(^2\) that is, the existence of a great number of differing, sometimes conflicting, and even incommensurable conceptions of the good or beliefs about the meaning, value, and purpose of

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1 My efforts here are identifiably Rawlsian in the sense that I am proposing an account of the basic terms of political justice. A more ambitious form of contractarianism, one that proposes to extend over moral obligation generally, can be found in Thomas Scanlon, *What We Owe Each Other* (Cambridge, MA: Belknap Press of Harvard University Press, 1998).

human life. This notion of pluralism is familiar to us—after all, as we saw in the preceding chapter, MacIntyre is himself some kind of pluralist about the good—but it deserves to be spelled out in terms more congenial to the liberal project.

These different conceptions of the good, it is further supposed, are all compatible with the human capacity for rationality (the abilities to marshal evidence and good reasons for and against propositions, to employ truth-preserving inference rules, to eliminate cognitive dissonance, to match means to ends effectively, and so forth). Since we are cognitively finite and thus subject to the ‘burdens of judgment’[^3], it turns out that appeals to reason won’t serve to adjudicate disagreements arising from the fact of different and conflicting beliefs about what is valuable. Concerning final ends in human life, no agreement is forthcoming, not even pending the arrival of MacIntyre’s Trotskyite-Benedictine Godot. This means that barring unacceptable government force, there are effectively no prospects that the citizens of a liberal democratic order are going to agree on a substantive conception of the good or ideal of what is ultimately valuable.[^4] The root idea here is that since no one ideal of human flourishing is mutually acceptable to all members of plural society, no government which claims to represent its citizens can repress adherents of one way of life in the service of some other way. Since pluralism in modern society is unavoidable, the goal of liberal political theory is to find some common ground to serve as the basis for agreement on the basic terms of social life. What is required is consensus on what Rawls calls the ‘basic structure of society’—the background legal, political, and economic institutions within which individuals and groups conduct themselves and in the context of which they make reasonable claims upon and owe civic responsibilities to one another. In other words, a central task of liberal political theory is to show how a society can respect the range of

[^4]: In *Justice as Fairness: A Restatement*, Rawls calls this the “fact of oppression”.

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incommensurable conceptions of the good while nevertheless adjudicating differences among them concerning the basic terms of social cooperation. What is needed is a set of principles for deciding on an arrangement or scheme of basic rights, liberties, opportunities, and responsibilities that individuals have as citizens. More specifically still, what is called for is an account of practical reason which can justify the principles that underlie the basic structure. How then, given a plurality of conceptions of the good and assuming the moral unacceptability of state-coerced homogeneity, is agreement on the basic terms possible?

Rawls tells us that “the social role of a conception of justice is to enable all members of society to make mutually acceptable to one another their shared institutions and basic arrangements by citing what are publicly recognized as sufficient reasons as identified by that conception.” But how is that possible, without simply recapitulating disagreements at a different level? The hope is that we can make progress, but to do so requires a slight change of focus. Rawls claims that the fundamental question of political justice in the modern period is this:

[W]hat is the most appropriate conception of justice for specifying the terms of social cooperation between citizens regarded as free and equal persons?...It is this question that has been the focus of the liberal critique of aristocracy, of the socialist critique of liberal constitutional democracy, and of the conflict between liberals and conservatives at the present time over the claims of private property and the legitimacy (in contrast to the effectiveness) of social policies associated with the so-called welfare state.

Thus, the idea is that classical liberals inveighed against the privileges of feudal aristocracy by claiming that they denied political and economic liberties to non-nobles and so failed to treat individuals in keeping with their essential equality.

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Some socialists, in turn, have pilloried bourgeois liberal freedoms as ersatz liberties that provide a bogus legitimation of gross inequalities in living standards and opportunities. Appeals to freedom and equality have great power in our culture, and the disputes that surround them concern not whether they are valuable but rather what the correct or best or most satisfactory understanding of them is and what sorts of institutions and practices instantiate those interpretations most satisfactorily. In other words, settling on the best or most appropriate interpretation of the values of freedom and equality would potentially allow for agreement on the basic terms of social cooperation amidst plural dissensus on final ends. This is because it is precisely these values that are in dispute in modern liberal-democratic political culture. So there are really two points here: first, that appeals to the values of freedom and equality play a prominent role in the normative discourse and self-understandings of citizens of liberal democracies, and second, that these two values are themselves in dispute as well. As a result, Rawls proposes, we ought to direct our attention to providing the most persuasive or satisfactory account of what these values amount to in terms of their actual normative roles in legitimizing social institutions.

The preceding discussion brings the problem into sharp relief: on a rhetorical level, we are familiar with these terms in that we make appeals to the values of freedom and equality in describing and evaluating social institutions. But we do not agree on what these abstractions mean in concrete practices and institutions (e.g., tax policy, property law, criminal law). Social democrats and libertarians alike embrace the norm that individuals ought to be free, but are in sharp disagreement on what counts as a constraint on genuine liberty. Similarly, there is widespread normative appeal to the ideal of treating one another as equals, but as well
disagreement on what that entails in terms of the principles that should govern the basic structure of society. Rawls observes:

The course of democratic thought over the past two centuries, say, shows that there is no agreement on the way basic social institutions should be arranged if they are to conform to the freedom and equality of citizens as moral persons. The requisite understanding of freedom and equality, which is implicit in the public culture of a democratic society, and the most suitable way to balance the claims of these notions, have not been expressed so as to meet general approval.7

As a result of these disputes in plural society about the meanings of freedom and equality, we are in jeopardy of trading one problem (agreement on principles of justice amidst value pluralism) for another problem (agreement on principles which best express or honor the norms of liberty and equality). Is there some way forward?

Rawls thinks that this disagreement concerning the meanings of freedom and equality can be fruitfully addressed by means of an answer to the question:

which traditionally recognized principles of freedom and equality, or which natural variations thereof, would free and equal moral persons themselves agree upon, if they were fairly represented solely as such persons and thought of themselves as citizens living a complete life in an ongoing society? Their agreement, assuming an agreement would be reached, is conjectured to single out the most appropriate principles of freedom and equality and, therefore, to specify the principles of justice.8

What does this mean, to ‘represent’ persons solely as free and equal individuals? If there is already acknowledged disagreement regarding what it means to be a free and equal participant in a scheme of social cooperation, what kind of solution can be offered by representing or modeling us exclusively as free and equal? It involves three things, at least: [1] that as citizens, individuals are thought of as having certain moral capacities or abilities; [2] that as citizens, their possession of these capacities confers on them a civic status as one among equals; and [3] that justice consists of adherence to principles that honor (or take seriously or give the most adequate

7 Rawls, “Kantian Constructivism”, 305.
8 Ibid. My italics.
expression to) these capacities of citizens. Thus, a great deal hangs on this appeal to capacities of citizens, or what Rawls calls a “model conception of the person,” to which we turn shortly.

Section III: Persons and Their Moral Powers

To recapitulate the discussion so far, I began this section of the chapter by proposing to develop an account of the principles of justice amidst valuepluralism. This led to the need for a satisfactory interpretation of the key values of freedom and equality (key in the sense that they are in dispute among conflicting accounts of justice). Settling on the most adequate account of what it means to take seriously the values of freedom and equality, meanwhile, is supposed in turn to depend on providing a suitable account of moral personality. This model conception of the person, to which we now turn, will be central to the contractarian position I develop in this chapter.

First of all, what is this term ‘conception of the person’ supposed to mean? There are after all presumably many appropriate ways of conceptualizing human beings, depending on one’s purposes. An automobile safety engineer models what a human being is with a crash-test dummy, an auditorium designer does so with cardboard cut-outs, an epidemiologist thinks of humans as pathogen vectors, and so forth. Clearly, no such model, eminently useful as it can be in the appropriate practical context, will serve our purposes. Absent from these and related conceptions is a normative component in virtue of which persons have moral standing and thus are construed as citizens. So what are the moral faculties of individuals that are considerable for the purposes of fulfilling the social role of a theory of justice (that is, enabling society’s members to make their basic institutions and mutually acceptable)? If for the purposes of determining the basic terms of social cooperation we are to think of individuals as free and equal participants,
what capacities are supposed to be salient? In what idealized sense are we equal and free?

Clearly, any answer depends on what we think a human being is, and that is something that must to some extent be modeled abstractly.

Rawls proposes that we construe citizens as moral persons who are characterized by the possession of distinctive capacities or specific powers. He specifies two:

The first power is the capacity for an effective sense of justice, that is the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of justice. The second moral power is the capacity to form, revise, and rationally to pursue a conception of the good. Corresponding to the moral powers, moral persons are said to be moved by two highest-order interests to realize and exercise these powers.\(^9\)

The capacity for an effective sense of justice is the ability of persons to be citizens, that is, members of a polity who are not mere or reluctant participants in a fair scheme of cooperation but rather ones who understand and act out of allegiance to the principles of justice. Individuals with a capacity for an effective sense of justice are concerned about what kind of society they are members of, and not just for the purpose of promoting their own self-interest. Rawls claims that each person beyond a certain age and possessed of the requisite intellectual capacity develops a sense of justice under normal circumstances. We acquire a skill in judging things to be just and unjust, and in supporting these judgments by reasons. Moreover, we ordinarily have some desire to act in accord with these pronouncements and expect a similar desire on the part of others.\(^10\)

In other words, the presumption is that as we reach maturity, we become competent moral agents aware of, and capable of understanding and acting from, moral principles and juridical responsibilities. Possession of the capacity for an effective sense of justice means that we can act from principles of justice, but that is scarcely a start toward modeling the moral capacities of citizens. Rawls also claims that persons in democratic societies have a strong, even pre-eminent interest in determining for themselves what principles of justice are appropriate for them.

\(^9\) Ibid., 312.
(principles which are in some suitable sense consented to by being self-chosen). Citizens do not view the social world as a fixed natural order but rather as subject to their own deliberations about what principles they will be governed by. Again, this may not get us very far in determining actual principles, but there are three important ideas at work here. First, the claim is offered that you and I (as representative members of a polity of deliberative citizens) care enough about developing our capacity for an effective sense of justice that we want to see that capacity modeled in the contract. In fact, as we’ll see, this is required for civic self-respect. Second, the demand is that this feature of moral personality should be included in our conception of the person which is represented in the contract—otherwise, we would not regard the contract as representing us accurately. Third, the hope is offered that in what Rawls calls the ‘well-ordered society’, the capacity for an effective sense of justice can actually be realized.

What follows from the preceding is that if citizens of modern pluralist democracies are motivated to determine rationally for themselves the principles that will govern them, and if that rational political self-determination is to be on-going (as it must be, lest the principles be handed down and received heteronomously by succeeding generations), then those citizens will have an especially keen interest in securing for themselves the conditions under which such reflection can take place. What this will mean later in the argument is that persons so construed are going to have a paramount concern that certain rights and liberties be ensured. Otherwise, political self-determination would be impossible, citizenship a travesty, and consent a sham. There will be more to say about the representation of the capacity for a sense of justice in the contract, after more has been said about primary social goods and the original position.

The second moral capacity is to form, revise, and pursue a conception of the good. What this means is that moral persons are thought to have the power to set ends for themselves (pursue
ideals, goals, careers, avocations, and attachments), and so long as they do so in justice-respecting ways, their pursuits are regarded as morally worthy. In Rawls’ phrase, individuals are ‘self-originating sources of claims’. The assumption is that individuals of a suitable stage of development are thought to have some competency in knowing their affinities and ideals, and the model of the person must reflect this. The capacity for a conception of the good is perhaps most congenial to Mill’s ideal of individual self-development or flourishing, especially in the sense that the good involves the bringing about of some good consequence. (The capacity for an effective sense of justice is more Kantian, in that it sets constraints which are self-imposed.)

Individuals also have the capacity to revise their conceptions of the good after critical reflection and based on sound reasons—this is central to any conception of rational autonomy. Furthermore, it is stipulated that individuals are responsible for their ends, meaning that the conception of the person to be represented or modeled in the contract must reflect this feature of moral personality as well. In short, then, the second component to moral personality is that of a capacity to form, revise, and pursue a conception of the good.

Thus far, the model of the person offered here follows Rawls’ lead faithfully—I have provided no more than a gloss on his account. At this point, I propose the addition of a third moral capacity to supplement the other two, what I call the capacity for elemental well-being. As a starting point, I cite this lengthy passage from Rawls:

Our aim is to ascertain the conception of justice most appropriate for a democratic society in which citizens conceive of themselves a certain way. So let’s add that all citizens are fully cooperating members of society over the course of a complete life. This means that everyone has sufficient intellectual powers to play a normal part in society, and no one suffers from unusual needs that are especially difficult to fulfill, for example, unusual and costly medical requirements. Of course, care for those with such requirements is a pressing practical problem. But at this initial stage [of the argument], the fundamental problem of social justice arises between those who are full and active and conscientious participants in society, and
directly or indirectly associate together throughout a complete life. Therefore, it is sensible to lay aside certain difficult complications.\textsuperscript{11}

Rawls’ motivation here is clear and understandable: The task of producing a theory of justice is difficult enough without considering what to say about those with debilitating conditions. Moreover, to the extent to which the theory being developed is contractarian, there is some reason to avoid including those who are unable to represent themselves because they lack the faculties to do so—they cannot, after all, actually \textit{be} parties to an agreement if they are cognitively incapable. At this point, we confront a question with respect to his position: if possession of the two moral capacities is sufficient for full personhood (i.e., securing one’s status as a fully participating citizen), are they also \textit{necessary}? What about individuals who lack the full range of faculties the possession of which confers on an individual the status of a fully participating member of society? It seems that they have been, if not excluded outright, at least marginalized in the process.

I propose to amend Rawls’ account by supplementing it with a third moral capacity. If we are accurately to characterize what it is for us to be ‘fully cooperating members of society over a complete life’, then we ought to take into account two complications. First, individuals can be reduced to a state in which pursuing a real plan of life in the full sense is not the option that it is for most others. Second, individuals’ capacities can vary dramatically over the course of a lifetime, sometimes precipitously or catastrophically. The fragility of human beings is an essential feature of us—this was, I take it, MacIntyre’s point in describing us as \textit{dependent} rational animals. (Clearly, his purpose was not to ‘represent’ or ‘model’ a conception of the person for use in a contractual device of representation, but mine is.) At our fully-capacitated best, we rationally pursue well-chosen ends in justice-respecting ways, and the principles of

\textsuperscript{11} Rawls, “Kantian Constructivism”, 332.
justice will reflect this when we consider the contractarian representation of the person. That is supposed to be the purpose of modeling persons as having a capacity for a conception of the good. But of course it is not always the case that individuals are so capacitated. Sometimes, members of society are laid low in ways the amelioration of which does not reach levels of complex cognitive functioning bearing the august imprimatur of Kant or Mill. We can be reduced to conditions such that a less-vaulted capacity requires inclusion in the model of the person—perhaps the Benthamite notion of humans as (mere) loci of hedons is the closest model I can suggest within the canon. The idea has, however, less to do with the capacity for experiencing pleasure than it has to do with the capacity to experience suffering. So I am proposing here to supplement Rawls’ model of the person with a third capacity, a capacity for *elemental well-being*.

In order to make the notion of a capacity for elemental well-being clearer, it will help to sharpen the contrast with the second capacity, for a conception of the good. To have a capacity for a conception of the good means having some sort of plan of life, with goals to be achieved, goods to be effected, worthy ends to be advanced. It involves deliberation, planning, complex decision-making, and the judicious matching of means to ends. Ideally, one’s conception of the good is formed, revised, and pursued on the basis of good reasons, such that the associated activities, practices, and endeavors bear the stamp of rational self-determination. So understood, fulfilling one’s capacity for a conception of the good constitutes a considerable part of human *flourishing*. We judge an individual’s success in life in terms of both whether goals are suitably arrived at (their formation and revision) as well as by reference to whether goals are achieved. By contrast, some persons have little in the way of such vaunted capacities, such that representing their concerns or modeling their interests in the original position requires, or at least
suggests, inclusion of this third capacity. Individuals who are significantly or substantially compromised—cognitively, affectively, medically, psychiatrically—effectively lack the first two capacities, or anyway fall well short of being suitably or adequately capacitated. They may be born that way, or ill-fortune may have befallen them. To them—that is, to us insofar as we understand and appreciate the significance of the fact that we are essentially vulnerable to a thousand natural shocks—there may be no value to political liberties, fair or otherwise. There may for them be little value to equal opportunity, fair or formal, regardless of how primary social goods are distributed. Rational self-determination may for them be a bridge too far, not an ideal to strive for. In short, there may be little or no possibility of flourishing in the sense indicated by the capacities for a sense of justice and for a conception of the good. My suggestion here is that the limited capacities of such individuals can still be modeled or represented in the original position provided that we include a third capacity, for elemental well-being.

By ‘elemental’, I mean rudimentary or basic—effectively, the mere capacity to suffer or not suffer. Such individuals may not be able to fare well in the sense of deliberating about an ambitious or demanding plan of life, let alone pursuing it. But their lives can go better or worse, within limits. To such individuals—again, I mean all of us, if we acknowledge the human condition for what it is—the difference between forms of anguish and their relief is what matters. Merely not suffering, or at least suffering less, may be the relevant desideratum, such that securing the conditions under which individuals suffer less is the appropriate requirement of justice. It is my proposal here that a capacity for elemental well-being captures this feature of human life (moral personality, broadly construed). The implication of this proposal, I will argue later in the chapter, is the replacement of Rawls’ difference principle with sufficientarianism.
In sum, the model conception of the person involves three central features or elemental capacities: [1] a capacity for a conception of the good; [2] a capacity for an effective sense of justice; and [3] a capacity for elemental well-being. The capacity for a conception of the good is exemplified by Mill’s notion that a human life goes well when it is rich in the satisfactions that come from forming, revising, pursuing, and realizing things of value in their lives (whether or not we describe these experiences in terms of utility). The second capacity has to do with our being able both to determine principles of just conduct for ourselves and to regard them as action-guiding reasons (that is, as sufficient motivation for being willingly subject to the principles chosen). The ideal of rational autonomy intended here receives its most searching treatment in Kant’s ethical writings, though Rousseau’s ideal of freedom as being subject to a law one sets for oneself is at work. Put together, the first two capacities amount to an ideal of the person who is autonomous in two senses: first, in pursuing ends which are some suitable sense self-chosen and for which individuals are responsible; and second, in conducting oneself within the self-imposed constraints of the principles of justice. The third moral capacity, for elemental well-being, is unqualifiedly heteronomous and is not a power in the sense in which the first two are. It is more accurately construed as an aspect of that which happens to individuals rather a set of vaunted, or even distinctively human, abilities. That is, the capacity for elemental well-being is not really a set of talents or abilities in the positive sense, but rather the tendency to be subject to the vicissitudes of life, some of them dire and scarcely foreseeable. Whereas the first two capacities are features of the person as agent, the capacity for elemental well-being is a feature of the person qua patient (or one acted upon). This is an evident feature of human beings, and while this capacity—or really, tendency to be subject to unredeemed suffering—is scarcely so ennobled as the first two are (at their best), the suggestion here is that its salience is a sufficient
basis for its inclusion in a plausibly comprehensive conception of the person. Finally, by way of clarification, the three moral capacities are not reducible to a deeper common denominator, but are instead heterogeneous elements. It is in this sense that the conception of the person is *composite* (and thus also that the theory offered here is a mixed conception of justice).

Taken together, these capacities confer on individuals the status of being morally considerable as fellow citizens. It is a normatively charged conception of the person, as it must be for us to derive prescriptive results in the form of principles of justice. Is it defensible? We cannot say yet, since we have not derived principles of justice to see if they are in reflective equilibrium with other beliefs. But if we grant provisionally that it is a plausible account of the person for the purposes of a theory of justice, how can we proceed to construct a theory of justice from such a conception? And what social system-mediated understandings or interpretations of freedom and equality do they involve? In order to address these questions, the contractarian features of the position I am defending need to be described and partially defended.

**Section IV: Contractarianism**

How can the principles of justice be the object of a kind of rational choice? The view here is that principles are not discovered but rather decided upon by being constructed from a conception of the person. But that conception of the person, whatever its degree of plausibility, is too meager a basis for deriving actual principles. What else is required in order to arrive at a set of terms of social cooperation? In this section, the contractarian features of the position will be laid out. Much of the following derives faithfully from Rawls, though several emendations will be proposed. In view of the fact that the features of Rawls’ contractarianism are likely familiar to the reader, I will aim to be concise. In the end, we will see that the contractual
language is actually optional, inasmuch as the representation of persons in the original position is so tightly constrained by the veil of ignorance that the parties to the agreement are actually indistinguishable from one another, and the reasoning of anyone so situated would be identically structured.  

A. Circumstances of Justice

The conception of the person is a kind of idealization or abstraction which will serve little practical purpose without being situated in certain ways—this is an important point to keep in mind throughout the development of a theory of justice. The theory is situated within specific concrete circumstances, which are stipulated to be as follows. The subjective circumstance of justice is already familiar to us: stable disagreement about final ends in human life. There are effectively no prospects that members of plural society will agree on what the most worthy or suitable aims of human life are. We spoke of this earlier in the chapter as the ‘fact of pluralism’, a topic to which Rawls devoted considerable attention later in his writings. Meanwhile, the objective circumstances of justice are two, the first being that of moderate material scarcity. The idea is that we live neither in an edenic garden with an abundance of all things to all people (in that case there would be no distributive problem), nor a hellish wasteland in which it is not possible for us all to flourish (a sort of zero-sum game in which some must suffer or even die in order that others might live). Hence a scarcity that is moderate. The second objective

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12 Because all are similarly situated, the choice of principles in the original position is in a sense a matter of the decision procedure of the individual every bit as much as it is a deal or negotiated settlement among individuals with potentially competing interests. From behind the veil of ignorance, no one knows his or her interests, assets, and so forth, and so “the parties have no basis for bargaining in the usual sense.” Rawls, A Theory of Justice, 139. So understood, the original position is less a contract among individuals than it is an individual decision under suitably designed conditions. Notwithstanding this ambiguity, the notion of a contract is suitable for my purpose of enlisting Rawls’ help in answering MacIntyre.
circumstance, in Rawls’ view, is that principles of justice obtain within a specific or definite geographical territory (126). This is the familiar, though not uncontroversial assumption at work in Rawls, and I adopt it.13

B. Elements of the Contract

The contractarian method proposed by Rawls (and adopted here) gives pride of place not to the fear of violent death or the protection of private property (as do the contract theories of Hobbes and Locke, respectively). Rather, the contract under consideration here is one among citizens who are keen to represent themselves as free and equal possessors of the three elemental moral capacities. Like any valid agreement, theirs must be entered into under the right conditions: force, fraud, deception, and coercion are thus prohibited, as are any conditions that would grant some individuals an advantage in the bargaining process.14 But Rawls moves beyond these familiar considerations from contract law, and includes in the constraints on reasoning any considerations that would allow parties to it knowledge that would provide them with a bargaining advantage. If the principles of justice (that is, interpretations of the meanings of freedom and equality among persons with the elemental capacities for a conception of the good, for an effective sense of justice, and for elemental well-being) decided upon are to be fair, then they must be designed in a way that does not allow those deciding to have the information which would allow them to design the principles in ways specifically favorable to their own social standing and set of aims. If we are to arrive at a consensus on the basic terms of social

13 Some have proposed that since the borders of any nation-state are de facto contingent and one’s membership in one or another state is arbitrary from the moral point of view, the terms of the bargain being struck ought to be among all humanity. See Pogge’s Realizing Rawls for one such discussion. This is a powerful challenge, and it deserves more careful attention than I give it here. My own sense is that the primary warrant for localizing the theory to the level of the contiguous nation-state is a set of concerns about the feasibility or practicality of a global social contract.

14 See Rawls, A Theory of Justice, 12; see also “Justice as Fairness: Political Not Metaphysical”.

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cooperation, and the means to do so is contractual, then the bargain that is struck will be fair only if we rule out the kinds of considerations that allow for the interests of some to be favored over the interests of others. In turn, if the conditions under which the agreement is reached are fair, then that fairness transfers to the principles which are agreed upon. Finally, if those principles are institutionally instantiated in the well-ordered society, then that society, unlike the present one, will be fair to its members, and thus just. In other words, if this contractual situation—the original position—places free and equal persons fairly with respect to one another, then the principles of justice they opt for are likewise fair—hence the name ‘justice as fairness.’

Now the important question arises: granting that individuals have certain moral capacities, why should the terms of the agreement be fair? Whence the demand for fairness? What is supposed to make fairness valuable? Is it merely an ‘intuition’ of ours?

To begin, let us clarify that for Rawls, the key to ensuring that the original position is fair is that “persons equal in all relevant respects are to be represented equally.” In other words, Rawls is claiming that fairness means treating equals equally. Why should we think so? Why should individuals, who are clearly so unequal in certain respects (such as natural talents), be regarded as equals? The brief answer is that they are equal in their possessing (at least in principle, and for the purposes of their being represented in the bargain) the three moral capacities. Their being alike as possessors of the moral capacities entails their moral equality as citizens, whatever the contingent, heteronomous features of their lives as individuals in the world. If this point is granted, the question arises concerning what it means to regard members of society as equals for the purposes of determining what the principles of justice ought to be.

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16 Ibid., 337.
For that purpose, it suffices to place parties in a situation of symmetry, whereby none is advantaged or disadvantaged qua possessors of moral capacities.

It seems clear why force, fraud, deception, or coercion serve to render an agreement void: some party to the contract would have entered into it involuntarily or because of a false representation of the material facts or the like. But Rawls also thinks that the demand for fairness requires that we exclude from the contractual situation any conditions or circumstances that would grant one or another party an advantage. How does he propose to honor this demand? He writes that in the original position,

no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities….This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain.  

These conditions constitute what Rawls calls the ‘veil of ignorance’ and are intended to make sure that the principles that are decided on are fair, and therefore just. The idea here is not that justice and fairness are synonyms; rather, because the principles are arrived at by persons identically or symmetrically situated, they are ones that properly recognize the interests of everyone in having their moral capacities represented in a way that is equal—this is what makes the principles just. In effect, Rawls is asking us to consider what point of view we must assume in order that the principles we choose are ones everyone can be credibly regarded as having consented to. If, when the veil of ignorance is lifted, those principles are to have any society-wide appeal, then that point of view cannot be one that favors the interests of some persons over the interests of other persons. Otherwise, we would find ourselves endorsing principles of justice

17 Rawls, A Theory of Justice, 12.
that some citizens could justifiably reject on the grounds that they are thereby being treated unfairly. The veil of ignorance is the constraint on moral or juridical reasoning that excludes from consideration factors that are not relevant to the determination of the principles of justice among equally situated moral persons who are free to generate the terms by which they will govern themselves.

Thus, when we occupy the original position (behind the veil of ignorance), we aren’t permitted to decide on principles of justice with a view to what would be advantageous to those of a particular class or professional group or to those with one or another conception of the good in human life. If we deferred solely to the wealthy, or solely to the poor, or solely to adherents of one or another favored religion, or one gender, or one place in history, then we would be reasoning unfairly, and the principles we endorsed would lack society-wide appeal. So in short, the parties to the contract do not know who they are—not their religion, ethnicity, gender, wealth, native talents, psychological dispositions, or place in history. Hopefully, this ensures that the decisions arrived at are impartial, rather than tailored to suit the interests of specific individuals or groups. If some kinds of information are not ruled out, then either we will have no agreement (and thus no principles contracted for) or the principles will ‘stack the deck’ for some at the expense of others, leading to a society of injustice and instability. The original position is an expository device for taking seriously our belief (implicit or explicit) that society should be fair to its members, and deriving principles of justice that express that aspiration. If we figure out the correct way to construct the contract, then the results should be fair. That would mean that we know what principles of justice would be selected under conditions that are fair to everyone (i.e., not partial to anyone’s interests, but also not prejudiced against anyone’s).
The considerations excluded from the original position are said to be arbitrary or irrelevant from the moral point of view; they are, from a suitably constructed and normatively compelling point of view, not good reasons. The question now arises: what sorts of considerations are appropriate in motivating the choice of principles? There are two issues here. First, what knowledge of the world (particularly the social world) would contractors need in order to make reliable assumptions and predictions about how the world is causally ordered? What putative or presumptive social science do contractors need if they are to think about the world as the causally ordered place that it is? Second, and differently, what do contractors want to bring about in the world? Positively speaking, what do they value, and thus wish to bring about? I address the first question now, and turn to the second in the following section concerning primary social goods and their connection to the realization of capacities.

So what sort of knowledge is permitted to individuals in the original position? Rawls states:

they know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology. Indeed, the parties are presumed to know whatever general facts affect the choice of principles of justice.\(^18\)

It is clear why Rawls wants to include such considerations in the deliberations of contractors regarding the basic terms of social cooperation—the absence of such would render it effectively impossible to make rational determinations of any kind. How are people motivated? What economic relations are efficient in the production of goods and services? What economic relations generate the conditions for their own stability, and which do not? Apart from the normative concerns that are of course paramount in motivating the choice of principles, some reasonable beliefs regarding how the world works are required. Otherwise, one could have no

\(^{18}\) Ibid., 137.
reasonable expectations (i.e., make no reliable predictions) with respect to the effects of one or another policy or law.

Still, this raises a number of questions about what sorts of law-like regularities (at successive levels of generalization) social scientists have discovered. What is known? How is it known (i.e., what justifies the claims to know)? What implications does that knowledge have? How does it cohere with other beliefs? Or not cohere? What predictions are reliable in the social sciences? (If MacIntyre is right, none.) There are no obvious answers to the preceding questions and others. Nevertheless, presumably, the disciplines of psychology, sociology, and economics have indeed yielded some insights, and the claim here is that practical reason must incorporate these. For now, this point remains at a rather removed, abstract level. Later in the chapter, I will make use of one such putative insight from economics in arguing for sufficientarianism as against the difference principle. And in the following chapter, more will be said about social sciences in the discussions of reflective equilibrium and in the rejection of the libertarian alternative to liberal egalitarianism which MacIntyre says is its main rival.

The veil of ignorance, which we are presently articulating some features of, only excludes knowledge which is said to be irrelevant from the moral point of view, not knowledge which is involved in making rational sense of how the world goes. Thus, while one’s judgments in these domains are highly defeasible, they are necessary if one is to make any decisions (if not in the original position, then eventually at the level of comprehensive reflective equilibrium). In short, despite the limited degree of epistemic warrant in the social sciences, rational contractors are supposed to be as informed about the workings of the social world as possible.
C. Primary Goods

We begin by noting that the whole effort to propose a conception of the person (including the moral capacities) that best honors the values of freedom and equality would be pointless unless those in the original position know what to distribute. How to proceed? Before describing Rawls’ approach, let’s consider the problem of interpersonal utility comparisons: if the right action or just law is that one that creates the greatest aggregate utility, then questions of justice (if they are to be rationally decidable) require that we know how much utility different courses of action or different laws are expected to produce. This in turn requires us to be able to make an assessment (presumably a quantitative measurement) of how different affected individuals fare. But since actually observing subjective states is impossible, and relying on subjective reports still only provides descriptions rather than any sort of quantifiable metric, it is unclear how one can make a clear determination of whether or not an action is right or a policy is just. In short, it is difficult, if not impossible, to know how much utility individuals derive from different things.\(^{19}\)

Rawls’ suggestion is that we can avoid this difficulty by conceiving the distributive metric to be the all-purpose means which persons will find useful if they are to be able to fulfill their moral capacities (pursuing rationally chosen ends in justice-respecting ways). Here we recall that the contracting agents of the original position have a pre-emptive or paramount interest in the development of their moral capacities. When the veil is lifted, they will be well-

\(^{19}\) The problem of interpersonal comparison may not be an insuperable difficulty for utilitarianism as either a social policy or a personal moral code. Presumably, some consequences are demonstrably felicific and some are overtly contrary to well-being, whether or not we can reliably determine a numerical quantity. Arguably, utilitarians do well to incorporate this more ‘resourcist’ approach to questions of justice, and can do so without violating their consequentialist scruples. I am inclined to believe that the difficulties for utilitarianism as an overall political philosophy lie elsewhere.
served by living in a society whose principles of justice have been designed for the purposes of
their being able to make use of their capacities. Thus, in the original position, as parties are
deciding on principles, they will be choosing principles for the distribution of the means by
which the three putative moral capacities can be developed or realized in the well-ordered
society. This leads to two questions. First: what is to be distributed, that is, what distributive
metric? Second: how are they to be distributed, that is, by what principles? It is the first of these
two questions that the present section is devoted.

What then is the distributive metric, that is, the thing to be distributed? It is at this
point in the argument that

the account of primary social goods is introduced: by stipulating that the parties
evaluate conceptions of justice by a preference for these goods, we endow them,
as agents of construction, with sufficiently specific desires so that their rational
deliberations reach a definite result. We look for social background conditions
and general all-purpose means normally necessary for developing and exercising
the…moral powers and for effectively pursuing a conception of the good.20

Primary social goods are thus the things to be distributed by the principles which are
eventually chosen. Parties to the contract know that they have a capacity for a conception
of the good, a capacity for an effective sense of justice, and a capacity for elemental well-
being. When the veil is lifted, primary goods are the things that they will find practically
indispensable for realizing their moral capacities.

The list of primary social goods is as follows:

(i) The basic liberties (freedom of thought and liberty of conscience, etc.) are the background
institutional conditions necessary for the development and exercise of the capacity to decide
upon and revise, and rationally to pursue, a conception of the good. Similarly, these liberties

20 Rawls, “Kantian Constructivism,” 525–26. Note that this passage contains the revised account of
primary social goods, where they are understood as all-purpose means not to human ends in general, but
to the development of the moral capacities of persons. See also footnote 2 in “Justice as Fairness:
Political not Metaphysical,” 388–89.
allow for the development and exercise of the sense of right and justice under social conditions that are free.

(ii) Freedom of movement and free social choice of occupation against a background of diverse opportunities are required for the pursuit of final ends, as well as to give effect to a decision to revise and change them, if one so desires.

(iii) Powers and prerogatives of offices and positions of responsibility are needed to give scope to various self-governing social capacities of the self.

(iv) Income and wealth, understood broadly as they must be, are all-purpose means (having an exchange-value) for achieving directly or indirectly almost any of our ends, whatever they happen to be.

(v) The social bases of self-respect are those aspects of basic institutions which are normally essential if individuals are to have a lively sense of their own worth as moral persons and to be able to realize their higher-order-interests and advance their ends with zest and self-confidence.

(vi) Nourishment, shelter, clothing, basic medical care. Why are these goods primary? The idea is this: assuming that persons in democratic society have a keen interest in realizing their moral capacities, it follows that will have a correspondingly strong need for certain kinds of goods, no matter what specific set of final ends they happen to have. Take, for example, the basic civil and political liberties (freedom of speech and assembly, the liberty to elect representatives and take part in public political discussion. Because agents in the original position are aware of their capacity for an effective sense of justice (the ability not just to act on principles, but to deliberate about them in continuous public debate), they realize that as everyday citizens (after the veil is lifted) they will want to have those liberties protected. The contracting agents know that as citizens, they want to be capable of

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21 Rawls, *Justice as Fairness: A Restatement*, 58–59. The last of these is my addition to Rawls’ list.
sustained and rational reflection on what justice demands of them in the many concrete ways faced by responsible citizens. And given that such reflection requires free inquiry, access to information, and so forth, it follows that they will want to secure for themselves the rights and liberties in the absence of which democratic citizenship is nugatory.

Thus, in order that the agents of the original position honor their interest in realizing their capacity for an effective sense of justice, it is rational for them to choose principles of justice that are going to provide the social conditions under which that capacity can be best fulfilled.

We turn now to the relationship between primary social goods and the capacity for a conception of the good. In what ways do primary social goods serve the interests of persons in pursuing a set of aims or scheme of final ends (and even in being capable of reflecting rationally on those aims and ends)? To begin, the civil liberties stipulated in the list of primary social goods are things that agents interested in revising and pursuing a conception of the good would want to secure for themselves. The free exchange of ideas is after all crucial to any such efforts, as prominent liberals such as Mill have correctly insisted. So too are opportunities for reaching any number of offices or positions of responsibility—among the conceptions of the good some contractors in the original position find themselves having when the veil is lifted are those involving membership in one or another profession or prestigious undertaking. Income and wealth are likewise indispensable to almost any conception of the good, since we all need certain material items or services which are generally only available on the market. Education and health care are also on the list of those goods which agents in the original position are keen to secure for themselves no matter what plan of life or set of aims they have when the veil is lifted.\(^{22}\) This is a preliminary list of the primary goods desired by persons as they form,

\(^{22}\) Some have suggested that ascetics and monks need little to no wealth, and so are excluded from fair consideration in the contract. But it is not clear what this objection could amount to: individuals who are
rationally revise, and pursue a conception of the good or set of aims. Contractors who understand themselves in this way will want to secure for themselves the means by which they can undertake their ends.

Finally, how is the capacity for elemental well-being represented in the original position? If contractors know that they will be subject to a great many vagaries, they would plausibly be motivated to secure for themselves the means by which harsh deprivation can reliably be addressed and minimized. It is not only that when the veil is lifted, they may already be someone whose capacity for elemental well-being requires specific resources or extra resources. Even if it is their good fortune to be able and robust, their interest in securing the all-purpose means for elemental well-being, namely the elements specified in the sixth primary social good (nourishment, shelter, clothing, and basic medical care), would be a contributing motivation in the selection of principles of justice. Let us provisionally conclude, then, that primary social goods are a suitable metric for the purposes of deciding on questions of distributive justice. The next question concerns what principles for their distribution are suitable.

D. Rational Choice Under Conditions of Uncertainty

The agents of the original position thus know what they want (primary social goods), and what moral capacities those goods are supposed to be the reliably effective means to the realization of. Given the constraints stipulated by the veil of ignorance, these agents do not know what status, wealth, natural talents, and so forth they actually have. Under these conditions of uncertainty, the question of what principles of justice they would choose is not straightforward. If they know nothing about themselves as the actual individuals they are in neither taxed significantly nor inclined to utilize public services seem in that regard to be non-participants. Even then, there is the prior issue of civil liberties, which ascetics and monks would presumably be no less eager than anyone else to secure.
society (that is, who they are when the veil is lifted), then clearly they cannot make a decision based on their narrow calculation of self-interest—they lack the requisite information to do so. Some account of rational choice under conditions of uncertainty is thus called for. Would the agents gamble on inegalitarian principles under which they could have, say, either destitute lives or lives rich in opportunities? Or will they be risk-averse, fearing abject poverty and hopelessness more than they relish the possibility of grand opulence? In this section, I will contrast five different strategies, concentrating on Rawls’ approach (maximin) and an alternative which I defend (maximize expected aggregate benefits subject to a floor—sufficientarianism).

Consider the following five distributional strategies:

Table 1: Five Distributional Strategies

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<th>A</th>
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<td>D5</td>
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Now let’s clarify what these five strategies or decision-rules under conditions of uncertainty entail, and whether they are viable candidates (the first two are helpful by way of contrast, though not at all credible). Before doing so, it is important to make explicit the assumption that
individuals are concerned not with ordinal measurements of well-being, but rather with cardinal well-being. That is, what matters is how one fares in absolute terms, rather than in terms of how one compares to others.

D1 says that rational agents would choose to maximize equality, regardless of cardinal welfare. This approach is neither practical nor particularly desirable even if it were feasible. Rational persons do not make an idol of equality of outcome, especially in view of the fact that D1 would sanction even tremendous misery provided that it befalls all members of the polity instead of just some members.

D2 (maximax—maximize the well-being of the best-off, regardless of how others fare) would clearly not be preferable unless we were to build in some extremely doubtful assumptions. First, such a distribution would probably be incompatible with the goal of fostering the self-respect of all members of society, since some would be subordinate to others. Second, rational individuals would not gamble in this way, considering the stakes. In the absence of some dubious assumption by which individuals’ lives go best when someone among them does exceedingly well regardless of others’ welfare (some sort of elitist perfectionism), maximax makes no sense.

Now we consider the serious contenders, starting with D3 (maximize expected utility, or MEU). Why not choose aggregate utilitarianism, since after all agents in the original position have no information regarding their own personal circumstances? There is much to recommend this approach in some contexts, as acknowledged in the preceding chapter with respect to public health policy decisions (e.g., CDC policies and protocols the consequences of which are intended to be the greatest net balance of satisfactions understood as control of disease-vectors). But

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23 As Rawls notes, teleological theories which define the right as that which maximizes the good “have a deep intuitive appeal, since they seem to embody the idea of rationality,” namely that what matters in
from the standpoint of a rational individual, aggregate desire-satisfaction across society would
not be a preferable strategy for the distribution of primary social goods (the all-purpose means to
the realization of one’s moral capacities) unless it carried with it some guarantees for the
individuals whose interests might well be neglected should the expected utility calculus warrant
their exclusion. In Rawls’ expression, “utilitarianism does not take seriously the distinction
between persons.” Let’s explain this criticism more carefully, with Rawls’ help. There are two
main points to stress here, one concerning the distributive metric and one having to do with the
principle for its distribution. In the following, I treat these in turn.

Rawls notes that in utilitarianism, “the satisfaction of any desire has some value in itself
which must be taken into account in deciding what is right. In calculating the greatest balance of
satisfactions it does not matter….what the desires are for”\textsuperscript{24}. If the morally good is understood to
be desire-satisfaction, and there are no prior normative constraints on what counts as morally
permissible, then any satisfied desire (whatever its content or aim) constitutes moral value and
contributes to the aggregation of goodness. From within the utilitarian perspective, “we ask no
questions about their source or quality but only how their satisfaction would affect the total of
well-being.” Or more to the point for present purposes, employing MEU as a decision-strategy
in the original position would countenance the inclusion of illegitimate preferences, and this is
something which rational contractors would be unwilling to allow. Of specific significance here
are external preferences, that is, desires one person or group has for how others are treated.\textsuperscript{25}

Suppose that a religious minority is despised by a large segment of the population to such an
determining the rightness of an action or justice of a policy are its consequences. Justice as fairness,
whether Rawls’ canonical formulation or my proposed version of it, is an attempt to circumscribe what
can count as legitimate form of desire-satisfaction (that is, what interests are morally permissible from the
standpoint of justice).

\textsuperscript{24} Rawls, \textit{A Theory of Justice}, 30.
\textsuperscript{25} See Ronald Dworkin, \textit{Taking Rights Seriously} (Cambridge, MA: Harvard University Press, 1978),
234ff.
extent that their marginalization and social belittlement issues in an aggregation of utility experienced by the majority exceeding the disutility experienced by that minority. In this case, what constitutes the rightful treatment of an individual is a function (partly) of what others want for that individual. Of course, if the expected utility calculus indicates that their disutility outweighs the utility experienced by the bigoted majority, then the discrimination becomes unjust—a highly plausible outcome, as defenders of utilitarianism correctly observe. But Rawls’ point is that this sort of treatment of individuals must be ruled out in principle, and not merely owing to the contingencies and social vicissitudes of the calculus.

To elaborate (and anticipate the Rawlsian account, as well as the variant of justice as fairness I am proposing), there must be fairness constraints on what may count as utility. The fact that something makes an individual or group happy (i.e., having their desire satisfied) isn’t sufficient to make it good. It seems like other things matter, too, that is, other values are relevant besides the satisfaction of desires. It also matters what the desires are desires for, and whether those things being desired are permissible (or morally considerable). Presumably, wicked preferences and external preferences have to be ruled out. But then it appears that there is something else of value besides or in addition to the satisfaction of preferences. One suggestion is that in the case of external preferences, it would be unfair to those discriminated against. So how does unfairness fit into the utilitarian system? Not very well, because we do not merely have a preference for fairness; rather, fairness seems to be a condition we place on desires being acceptable in the first place (that is, permissible at all from the standpoint of justice). Since the contractors behind the veil (our proxies in designing principles of justice) would be unwilling to risk being subject to the discriminatory preference-sets of others, it follows that they would be unwilling to distribute the full range of primary social goods (including civil rights) by the
utilitarian decision-rule. This is the first of the two objections to D₃ (the rational choice strategy MEU).

A related issue is this: it matters how desires are formed, particularly whether they are the product of ignorance or some other autonomy-compromising element. And if the satisfaction of irrational preferences, uninformed preferences, and adaptive preferences is supposed to be made problematic by their being less than freely chosen under conditions of complete information, then it appears that some other norm (rational self-determination) is at work as well. Thus, even if we acknowledge that desire-satisfaction can be good (and no sensible theory can exclude this component in a comprehensive understanding of human well-being and justice), it would need to be supplemented with an account of rational self-determination that is not reducible to its role in the effective aggregation of utility. How do we rule out these forms of (irrational) preference-satisfaction from having moral worth? If the values here (self-determination, fairness) are valuable not merely instrumentally (that is, as efficient means or devices by which to aggregate utility), but for reasons independent of (and maybe even at odds with) the utility calculus, then our theory of justice should accommodate this concern. I attempt to incorporate the demand for rational self-determination in developing the modified account of justice as fairness proposed in this essay.

According to the first objection to MEU, then, justice concerns not mere desire-satisfaction but the priority of right. That is, consequences must first be permissible, i.e., justice-respecting, before their inclusion in our calculus of human well-being. This is one sense in which Rawls argues that utilitarianism fails to take seriously the distinction among persons: a distributive theory that can in principle countenance discrimination via external preferences is
not one that rational, reasonably risk-averse people would choose to have underwrite the constitutional scheme of basic rights and liberties.

The second objection to the use of MEU in the original position concerns not what kinds of satisfactions are allowed to count as normatively considerable, but rather how utility is distributed. To see this, let’s suppose we modify utilitarianism so that some kinds of desires are properly ‘filtered’ through cognitive reflection. There would still be the question of the proper way to distribute the aggregation of utility. To clarify, let’s return to Table 1. MEU tells us to choose D₃ because of its having the highest aggregation, even though A and B fare much poorer than they would under D₄ and D₁. This is what Rawls means when he writes that in utilitarianism, “no distribution of satisfaction is better than another” and “there is no reason in principle why the greater gains of some should not compensate for the lesser losses of others.”²⁶ That is, from the standpoint of contractors in the original position, there is a second way in which MEU neglects to take seriously the distinction among persons: it pays no mind to the ways in which individuals are affected, but only to the totality of desire-satisfactions (cognitively filtered or not). And for rational, reasonably risk-averse individuals in the original position, this would not be a preferred strategy. When the veil is lifted, one might well discover oneself to be a sub-optimal candidate for utility-creation. Perhaps one needs extra resources just to survive, and is thus unsuitable as a utility locus, given the opportunity costs involved.

To clarify this second objection to MEU, we might also consider the significance of Parfit’s ‘repugnant conclusion’. If utilitarianism is understood as a teleological doctrine, then it is a morally better world in which 100 billion individuals have a low utility score (let’s say one 1 unit) than the world in which 1 billion individuals experience a moderately well-off utility score

²⁶ Ibid., 26.
This is not merely repugnant, but outrageous—maximizing utility regardless of how actual individuals fare makes an idol of states of affairs rather than considering what happens to actual moral patients. Seen from this perspective, utilitarianism (specifically, the decision-rule MEU) would not be an appealing distributive norm for contractors in the original position because it fails to regard individuals as worthy, regarding them instead as so many prospects for the accretion of that whose worth is in some sense operationally external to them.

To be sure, utilitarianism can be improved in such a way as to remedy this shortcoming, a doctrine we can think of as average utilitarianism (details of which remain unspecified in my account). Clearly, this is more in keeping with the felicific intentions of the utilitarian. However, as Rawls notes, “if the distribution of goods is also counted as a good, perhaps a higher-order one, and the theory directs us to produce the most good (including the good of distribution, among others), we no longer have a teleological theory.” In other words: if it matters how individuals as individuals fare, then we need a theory of just distribution which reflects this. That is, if we do attempt to take seriously the distinction among persons, then the utilitarian distributive principle would be rejected. With this in mind, we turn to Rawls’ own position.

Now we consider D4, which is the decision rule Rawls believes would be employed under the circumstances specified in the original position. He claims that under conditions of uncertainty, and given the seriousness of the stakes, the agents in the original position will employ the decision rule maximin. We are considering, let us make clear, the principles that will

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28 As Kymlicka remarks, “it is entirely unclear why maximizing utility, as our direct goal, should be considered a moral duty. To whom is it a duty?” States of affairs cannot be moral patients or have moral standing; only utility loci—sentient beings—can have this status. See Kymlicka, Contemporary Political Philosophy, 2nd. ed. (Oxford: Oxford University Press, 2001), 35.
underwrite the basic structure of society, that is, social conditions affecting their life-chances—so the stakes are high. The maximin rule, Rawls writes, “tells us to rank alternatives by their worst possible outcomes: we [i.e., the agents of the original position] are to adopt the alternative the worst outcome of which is superior to the worst outcomes of the others.”

Rawls thus assumes a strong risk-averseness among the agents of the original position, and he justifies this assumption by claiming:

The person choosing has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule. It is not worthwhile for him to take a chance for the sake of a further advantage, especially when it may turn out that he loses much that is important to him.

Rawls’ solution to the problem of how to make a rational decision under the quite strict epistemic constraints of the original position, then, is to assume that persons want to secure for themselves at least a minimum of the all-purpose means to realizing their moral capacities. That is, they would be unwilling to risk membership in a society in which there is a chance of being bereft of even a minimum amount of the opportunities for the rational pursuit of a conception of the good and for reflective participation in the deliberations of the republic, along with dim prospects for elemental well-being. Doubtless a greater amount of wealth, for one, is useful for nearly any conception of the good, and so presumably all persons would want to have as much of it as possible. Forgoing principles of justice which would give them a greater chance at grand wealth is in one sense costly (we would all like to win the lottery, so to speak, and have the financial means to do whatever we like), but worse still would be risking a place in a social system in which the prospect of boundless wealth for some is closely shadowed by the prospect of abject poverty for others. In one sense, aggregate utilitarianism could be thought of as the

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30 Ibid., 153. The word ‘maximin’ is a contraction of ‘*maximim minimorum*, literally, ‘the greatest of the least’.
31 Ibid., 154.
target here, though in this essay I will cast a more critical eye on the libertarian position. After all, given the conditions of the original position (behind the veil of ignorance), individuals do not know what relative position they occupy, and so Rawls calculates that they will decide conservatively. The idea is not that we are all pikers—we are not, after all—but rather that in the determination of the basic structure of society, we know that the stakes are too high to risk membership in a society whose principles of justice legitimate the existence of positions in which scant opportunity for the exercise of the moral capacities is afforded.

Rawls’ argument is compelling in that he correctly maintains that the destitute cannot credibly be regarded as having consented to the terms of their own immiseration. Some criticize Rawls for neglecting the objective fact that many individuals act in ways that are demonstrably not risk-averse, thus rendering his rational decision rule (maximin) an unsuitable one—it would not be in reflective equilibrium with our considered judgments. However, this misses the mark. Of course individuals have particular aims that involve some risk-taking—it seems evident that no one ever truly knows his prospects for success at any talent-stretching endeavor or enterprise that involves many contingencies. But what is being considered here, behind the veil, is the availability of even the means of subsistence and survival should one, when the veil is lifted, find oneself among the particularly vulnerable or luckless.

The contractors don’t know all kinds of information that would allow them to design principles which are tailored to meet their particular ends (if some parties did have such information, and others did not, then the outcome would be principles that don’t produce stability, but civil discord). You don’t want to find out that when the veil of ignorance is lifted, you have chosen principles that leave you out in the cold rain and snow. With the stakes so high, and the epistemic constraints so tight, a rational agent is going to be risk-averse. After all, what
if one ends up in a religious group that is scorned by the many? One would regret having chosen principles that don’t protect one from discrimination (this was the earlier point concerning the problem of external preferences, which is the single most serious objection to a utilitarian decision rule in the original position). Or suppose you are born with multiple handicaps on the wrong side of the tracks—you would regret having chosen principles according to which you are a disposable waste of resources.) This will connect shortly with a discussion of the strains of commitment.)

Thus, I conclude that Rawls’ proposed decision rule, maximin, would be preferable to the three alternatives considered before it. However, it is not preferable to D₅, which is Maximize Expected Benefits subject to a minimum or floor below which individuals reliably do not fall. For brevity, let’s call this decision-rule ‘MEBₕₐ₉₉’, which I now aim to defend. Following a point of clarification in the next paragraph, I will argue that there are two reasons for preferring MEBₕₐ₉₉ to Rawls’ maximin.

To begin, however, it is imperative to explain the meaning of the outcomes in D₅ represented by the variables X, Y, and Z. The other four decision-rules involve expected benefits (utility for utilitarians; primary social goods for Rawlsians) expressed both quantitatively and ordinally, making their meaning as transparent as possible within the abstract realm of distributive schemes. What makes the approach in D₅ different is that it considers cardinal well-being (that is, how an individual fares in absolute terms) rather than ordinal well-being (that is, how an individual fares relative to others). From this perspective, what matters is that individuals have access to a sufficient amount of the means by which their legitimate needs can be met (or moral capacities can be realized). In the simplest terms, it means that the divergent distributive shares are ceteris paribus permissible (that is, are potentially just) provided
that there is a level of sufficiency in all cases.\footnote{According to the principle of sufficiency, “what is important from the point of view of morality is not that everyone should have the same but that each should have enough. If everyone had enough, it would be of no moral consequence whether some had more than others.” Harry Frankfurt, “Equality as a Moral Ideal,” *Ethics* 98, no. 1 (Oct, 1987), 21–22.} Whether some are materially much better-off does end up mattering in justice as fairness, but this is more satisfactorily addressed at the level of comprehensive reflective equilibrium and what is required for the stability of a well-ordered society. It is unlikely that wide gaps in wealth can withstand the strains of commitment, but this is a topic that is bracketed for now. (Also, the expectation is that the liberty principle (LP) and the principle of the fair equality of opportunity (FEO) would have a limiting effect on class divisions.) The point in the present context is that $D_5$, if opted for in the original position, would yield a sufficientarian account of the principles of justice (with respect to material well-being, I will argue, though not with respect to basic rights and liberties). The question now is: why would it be preferable to $D_4$? I offer two reasons for preferring $D_5$ to $D_4$, one from empirical research into the subject and one that trades on $D_5$ providing a greater assurance of achieving the risk-averse outcomes Rawls is himself keen to endorse. I discuss them in turn.

Frohlich, Oppenheimer, and Eavey\footnote{Norman Frohlich, Joe Oppenheimer, and Cheryl Eavey, “Laboratory Results on Rawls’ Distributive Justice,” *British Journal of Political Science* 17, no. 1 (1987), 1–21.} conducted research in Great Britain, Canada, and the United States in which they asked experimental subjects to undertake the Rawlsian thought experiment of placing oneself behind the veil of ignorance for the purposes of deciding what terms of social cooperation would be fair. Several interesting conclusions are reached, including that what matters to people is cardinal welfare rather than ordinal welfare. It turns out that among four decision-rules (1. Maximize Expected Average; 2. Maximin; 3. Maximize the Average Subject to a Range Constraint; and 4. MEU$_{\text{floor}}$), the overwhelmingly favored choice is MEB$_{\text{floor}}$. Interestingly, maximin fares dead last among the four alternatives, both in terms of...
number of first place rankings and in terms of the number of fourth place finishes. As the authors understatedly remark, these results cast serious doubt on the attractiveness of Rawls’ Difference Principle as a principle of justice. Its failure to be chosen by a single group, and its last place average support, should be cause for concern among champions of this principle.\textsuperscript{34}

I do not mean to suggest that these results are by themselves conclusive. Quite apart from the possibility of flawed empirical research (data collection as well the statistical models for their interpretation), there is the abiding concern that what people believe stands in need of revision for reasons of which they are unaware or to which they are insufficiently attentive. But these findings do have significance for justice as fairness in that they introduce decisive considerations for what is involved in the ability of the principles to withstand the strains of commitment. Rawls rightly insists that a theory of justice must produce the conditions for its own stability, or else in cannot reliably endure. Thus, from his own perspective, justice as fairness points its compass not toward his own difference principle but to a more sufficientarian one.

Of course, it is one of the virtues of Rawls’ coherentist approach that it can readily accommodate revisions in ways that are not as congenial to foundationalist or intuitionistic theories. If it turns out that justice as fairness has a sufficientarian character in part because the demands of stability (or more precisely, because of it being in closer reflective equilibrium with our considered judgments), then so much the better for justice as fairness. The outcome of Rawls’ procedure is not what he thought it to be, but one strength of his approach is that it can yield revised and improved results.\textsuperscript{35}

\textsuperscript{34} Ibid., 18.

\textsuperscript{35} A related and significant conclusion of their research is that people’s considered judgments reflect a value pluralism or ‘mixed’ principle. They want both fairness to the vulnerable and poorly-off and the
Clearly, the preceding is only a sketch, but it is adequate for the purpose of providing a good reason to claim that sufficientarianism coheres with considered moral judgments better than Rawls’ difference principle does. Now let’s set aside this first reason, and consider a second reason to prefer the sufficientarian version of justice as fairness to Rawls’ difference principle. To do so, let’s suppose that the choice between $D_4$ and $D_5$ is thus far aporetic—they both take seriously the core idea that justice demands that even the less well-off in society be credibly regarded as having consented to the terms of social cooperation, and it is unclear at the present level of abstraction which would be preferred by our representative contractor. They both seem not unreasonable, at this point in the decision about distributive principles. What would be a truly risk-averse strategy, if we think of persons as having the three moral capacities? -The suggestion here will be that if our concern is the well-being of the worst-off, then the choice between maximin and MEB$_{floor}$ is not without resolution, but in fact favors the latter. We turn then to a second reason for preferring MEB$_{floor}$, one which objects to the difference principle on the grounds that it is not adequately risk-averse.

First, recall that behind the veil, contractors are said to have a working knowledge of basic social science and natural science. The parameters here are unclear, but let us suppose that such relations between cause and effect as are reliably in place are to some extent within the deliberative purview of the contractors in the original position. Now if deliberators know that much, then they surely are aware of this second-order truth: judgments in the social sciences, especially in economics, are highly defeasible. Specifically, the predictive track-record of macroeconomists is checkered, to put it charitably—this is so familiar a lament as to be an item of common knowledge. We need not adopt MacIntyre’s trademark contrarianism here, but we possibility of higher averages for all, themselves included. Thus, it is sufficientarianism that seems to capture what is morally concerning about poverty.
should acknowledge in particular the fact the economics has not yielded a large body of theories (and higher level theories) which provide impressive predictive success. I do not mean to suggest that no generalizations are credible or that no reliable claims issue from economists— that would be false, not to mention quite disempowering for those hoping to show that the terms of social cooperation can be thought of as the result of informed reflection. So let’s put the point guardedly: there is considerable unreliability in the predictions of economists, including with respect to how groups and individuals will be affected by one or another policy. Granting that assumption (which does seem to be entailed by second-order judgments with respect to the first-order beliefs about basic social science), where do we stand? That is, how would persons in the original position proceed?

Rational choice, in one simplified and helpful scheme, requires both utilities (beliefs about what is valuable) and probabilities (beliefs about what is likely and unlikely). Thus, a total absence of the latter would vitiate any attempt at serious deliberation about consequences. Here, we remind ourselves of the risk-averseness of the contractors, that is, the presumed unwillingness of rational individuals to risk their prospects for material sufficiency on the possibly dubious prediction that the poor are benefitted by tax decreases for wealthier individuals, cuts in social services, increased capital mobility, and financial deregulation. In other words, we acknowledge that the predictive accuracy of theories in the social sciences is limited. We thus realize that it could plausibly but falsely be claimed that upper income tax cuts will satisfy maximin (that is, instantiate the difference principle), whereas no such difficulty attends sufficientarianism. If contractors in the original position are truly concerned to avoid poverty and deprivation (or by proxy in the original position, an insufficient amount of primary social goods which are useful in fulfilling one’s moral capacities), they will be better served by
choosing $\text{MEB}_{\text{floor}}$. The floor—assuming some account of what that consists of can be stated satisfactorily—has the virtue of being demonstrable, and conditions which fall short of it are at least identifiable. Put differently, the contention that the sufficiency principle has been met is at least in principle verifiable and falsifiable (assuming reliable criteria), whereas the contention that a policy satisfies the difference principle is not—such, alas and inevitably, are the potential serpent-windings of consequentialist macroeconomic reasoning. For an illustration, consider the following gloss on tax policy.

Graph 1: Government Revenue and Tax Rate

![Graph 1: Government Revenue and Tax Rate](image)
In the revenue curve in Table 1, M represents the maximal or optimal tax rate (understood for simplicity solely as a function of total tax revenue.) A represents a tax rate lower than the hypothetical maximum, and B represents a tax rate which is higher than the revenue-maximizing rate set by M. (Obviously, there are many other points on this curve, but these three suffice for our purposes.) Whether the difference principle is fulfilled depends upon where one believes a polity’s tax rates lie on the revenue curve. If it is claimed that a society is presently at B (or any point to the right of M), then there exists the strong possibility that regressive tax measures will be implemented—and what is noteworthy is that this could be justified by invoking the difference principle. In other words, the potential for upward wealth-transfers is too great with the difference principle, under the pretense of so-called ‘supply-side’ economic theory. By contrast, no such risk attaches to sufficientarianism, since it is concerned only with cardinal measures of well-being and not whether it is hypothetically possible that the lot of the least well-off will be improved by upper-income tax cuts (or increased capital flow, or deregulation). Whether someone has a level of sufficiency is problematic, owing to some unclarity concerning what the criteria are (that is, what is meant by ‘enough’). But if the criteria are in place, then whether the sufficiency condition is met is in principle ascertainable. Since no such guarantee is carried by the difference principle, then, and given the earlier assumption of the risk-aversioness of the contractors, they would therefore choose D₅.

For both of the preceding reasons, contractors in the original position would choose D₅ over D₄ (sufficientarianism over the difference principle). More needs to be said about sufficientarianism, and in the following section on the principles of justice, I will develop the

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36 One gross simplification here is to consider only tax revenue. But in justice as fairness, tax revenue can be regarded as a partial proxy, assuming the institutions of the state abide by the principles of justice. Of course, even in that case, much else is involved in the maintenance of a well-ordered society besides collecting tax revenue.
position a little more thoroughly, and situate it within the context of the liberty principle and the fair equality of opportunity principle. Before that, it might help to clarify a point that has been implicit in the preceding discussion about the superiority of sufficientarianism to the difference principle.

Both arguments just provided trade on empirical claims. One has to do with experimental results involving test subjects, which if accurate suggest that $D_5$ coheres better with the considered moral judgments of real people than does $D_4$. (Significantly, this would also mean that the desideratum of stability would be better served by $D_5$.) The second argument, in turn, invokes a pair of empirical claims, one involving the greater reliability of sufficientarianism in securing the needs of the most vulnerable and one involving a kind of epistemic modesty about the predictive success of economic theories. In both cases, the reader may be wondering what role is actually being played by the contractarian method of theory justification. The question had been what decision-rule to employ in the original position, which has now become two questions. First, what principles produce (or are expected to produce) what outcomes? And second: what decision-rule produces or yields what principles? Once we have answers to those two questions, we can return to the original question of which decision-rule to utilize.

This may strike the reader as odd: to decide on a decision-rule, we see what principles each would yield, and then modify the reasoning behind the veil in order to yield the principles we have already decided on for independent reasons (narrow reflective equilibrium with the experimental results of Frohlich et al and wide reflective equilibrium with macroeconomic

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Admittedly, there is a tension between these two claims. But the one is, though tentative and defeasible, inductively warranted by reference to the spotty predictive success of economic theory in general, whereas the other, though tentative and defeasible, is justified by reference to identifiable trends in wealth distribution that positively correlate with plausibly related policies such as tax cuts for upper income individuals, deregulation of financial markets, and free trade/capital flight. There is no inconsistency here, though clearly there is (and perhaps always should be) some tension between second-order epistemic guardedness and any first-order claim to understand how the world actually works.
realities). But this is how coherentism works. We first have to see what principles would be
generated by which decision-rule, then see what consequences those principles have, in order
subsequently to test them for coherence with our considered judgments, both moral and non-
moral.

It is not of decisive importance whether the relevant empirical considerations enter at the
level of the model-conceptions of the person or of the original position or of a well-ordered
society, or at the level of the decision-rule to be employed under conditions of incomplete
information, or at the level of comprehensive reflective equilibrium. From the coherentist
perspective developed here, this is more a matter of presentation than of substantive theory-
formation. At some point, the empirical considerations have to enter into the deliberations. And
so even if something is not well-known to the contractors in the original position, then it would
be to you and me, and thus would have its impact at the level of comprehensive reflective
equilibrium rather than in the original position. But since the whole thing is supposed to hang
together, it is not clear why or how it matters at what level of reflection the empirical
considerations enter. In Section VI, the method of reflective equilibrium will be developed
further in defense of coherentism.

Section V: Principles of Justice

The principles of justice yielded by the contractarian method of reasoning closely parallel
those Rawls defends. However, in keeping with the modification to the model conception of the
person (a third moral capacity, for elemental well-being) and the preferability of MEB_{floor} to
maximin as a risk-averse decision-rule in the original position, a variant of justice as fairness is
the result. I will borrow from Rawls in defending the liberty principle and the principle of fair

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equality of opportunity, but offer a different third principle, sufficentarianism. As well, my account will differ from Rawls’ in that no lexical priority is asserted among the three principles. (My position is closer to what Rawls calls ‘intuitionism’, by which he means the idea that there are several competing values among which trade-offs can be required and among which none is said to be prior. Another way to think of this might be that practical reason often demands that we employ our best judgment, because we never have a rule for how to employ rules.) This should not give the Rawlsian concern, though, since there are not likely to be real circumstances in which the sufficiency principle requires the violation of basic liberties and opportunities.

The three principles are these:

1. Each person has the same indefeasible claim to an adequate scheme of basic liberties (which scheme is compatible with the like liberties for all). This is the Liberty Principle (LP).

2. Social and economic inequalities are permissible so long as they occur amidst fair equality of opportunity. This the principle of Fair Equality of Opportunity (FEO).

3. Reasonable means should be in place for all individuals to avoid falling below the level of material sufficiency. This is Sufficientarianism.

What follows is an exposition and partial defense of these three principles.

A. The Liberty Principle

This concerns what Rawls calls basic liberties:

–political liberties (the right to vote and hold office; the right to free speech and assembly)

–liberty of conscience and freedom of thought

–freedom of worship
– the right to hold personal property
– freedom from arbitrary arrest and seizure
– the rule of law (the freedom to set one’s ends under the reasonable expectation that the basic terms of social cooperation will be respected and enforced)

These are liberties possessed by all citizens of a just regime—all have them, none lacks them, and they all have them to the exact same degree or extent. The idea here is not the most extensive system of equal liberty as such, because that would not permit any restrictions on any liberties, even to prevent things like harm or nuisance.\(^{38}\) (Otherwise, the liberty to honk your horn at 3am would trump your neighbor’s interest in getting sleep, for example. As well, it is important that false advertising, libel, shouting ‘Fire!’ in a crowded theater, and inciting an angry mob to violence against a specific individual not be protected forms of free speech.) Rather, it is the liberties that matter or have value (i.e., are basic) for us that contractors are keen to guarantee in the original position. More specifically, individuals are keen to exercise their moral capacities, especially the capacities for a conception of the good and for a sense of justice. The liberties to be protected and promoted are those that have to do with people being able to actualize themselves in that normatively weighty sense, and not merely to engage in the unrestrained exercise of negative rights to be hurtful or obnoxious to others.

Two further points are important to make. First, in Rawls’ account of justice as fairness, the basic liberties are prior to what is required by the second principle (FEO and Difference Principle), meaning that in the just state the basic liberties are never overridden by economic considerations. At a certain point in the development of society and its productive forces, people care more about civil and political liberties than about more income (in case they have to choose

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between the two options). I agree that the liberty principle is inviolable, though I do not see why it needs to be prior. The formal conditions on what may count as a morally considerable instance of desire-satisfaction already preclude external preferences, after all, and it is not altogether clear under what circumstances the demands for liberty, opportunity, and sufficiency actually conflict. Secondly, Rawls thinks that in order to have fair equal political liberties, there must not be a situation in which moneyed interests can dominate. If there are vast differences between two persons’ abilities to influence the political process, then there is not fair equality of political liberties. To some extent, this is redressed by the second principle (fair equality of opportunity) and the Difference Principle—Rawls says that you cannot really satisfactorily evaluate the principles separately, but only as they work together. In his view, which I aver, campaign finance reform is required in order to assure the fair value of political liberties. In *A Theory of Justice*, he had implied some approval of campaign finance reform; later, he endorsed it explicitly, either in the form of public campaign financing or limits to what private entities can contribute.³⁹

Why are the basic liberties so important? Why are they inviolable? There are at least three reasons. First, as Rawls notes, if one’s basic wants are fulfilled (roughly: the circumstance of moderate scarcity), then the situation is favorable for individuals to pursue their ‘more fundamental interest’ in determining their own plan of life.⁴⁰ If one’s material needs are met, one cares about being the author of one’s own life’s story—and that requires that certain rights be protected: conscience, assembly, expression, and so forth. You care more about that than you do being able to accrue material wealth at the expense of your own basic liberties. People want

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³⁹ Rawls, *A Theory of Justice*, 225–26; *Justice as Fairness: A Restatement*, 149. The situation in the U.S. is now evidently far more grave that it was at the time of Rawls’ writings, both currently and in view of the predictable consequences of the egregious *Citizens United* ruling in a society witnessing upward wealth-transfers.

to be free to form, revise, and pursue a conception of the good (that is, realize their capacity for a conception of the good). The basic liberties are among the primary goods that make this sort of self-determination possible. That’s one reason for the inviolability of the liberty principle.

A second reason for the paramount importance of basic liberties is the crucial role they play in developing the capacity for a sense of justice. It matters to us to be just, and that means being able to be just. What does that ability itself require? Unless you have certain rights and liberties guaranteed, then your capacity for acting on that sense of judgment is limited. You can’t make informed choices about how to vote, and why, unless there is freedom of expression, for example, as well as of the press, and of assembly. And you can’t honor the civic responsibility to ask questions of elected officials, challenge fellow citizens to clarify and defend their views, and so forth, without these rights and liberties.

The third reason for the importance of the equal liberty principle is that it helps to make real the primary good of self-respect. How so? If some individuals have fewer legal rights than others, then it becomes an assault on their sense of self-worth (and particularly on their children—MLK stressed that in the letter from the Birmingham jail, to take one helpful example.) No one would choose a system in which he cannot maintain his dignity and self-respect (and in which his kids would so grow up), so that is a third reason for the priority of liberty.

Why aren’t civil liberties and rights just empty promises to the worst-off among us? In other words, since some liberties (e.g., the right to travel or write a book) are pretty close to worthless for those who lack basic material necessities, what good does the liberty principle do such people? One aspect of the second principle (to which we will turn shortly) is that it helps to guarantee the worth or value of the liberty principle. If individuals enjoy fair equality of
opportunity, it is likely that a great many of them will not be destitute. The idea is to try to insure the \textit{worth} of everyone’s basic liberties—that’s why in justice as fairness, it is not as though rich and poor alike are just equally free to sleep under bridges, as the wag says. Note that among the basic liberties is not the right to unlimited accumulation and disposition of capital and land. If it were a basic liberty, and some individuals ended up as surplus labor (less profitable than other investment opportunities), then their moral capacities would not be given equal consideration with others’ capacities. This is why contractors wouldn’t choose the system of ‘natural liberty’ (laissez-faire libertarianism) in the original position.\footnote{Note that the libertarian position considered in Chapter 5 (Nozick’s) is not at all a contractual theory, but one based on natural rights.} Private property is permitted and even advocated by the principles of justice, but it is more properly understood in terms of the second principle, not the liberty principle. It will turn out that the sufficientarian principle sanctions it.


What does it mean? And why would contractors in the original position choose it? Let’s start by thinking about four different approaches to the distribution of opportunities:

1. no equality of opportunity: Different life-chances would be based on social and economic inequalities, and there would be no discrimination laws regarding employment and admissions. Since individuals should be able to do with their property what they like, they are under no compulsion to hire on the basis of public reasons. And it’s not objectionable (or anyway, not \textit{actionably} so) that children born to families of different socio-economic levels have different opportunities in education, employment, etc.
2. **formal equality of opportunity**: Legally, no discrimination is permitted in hiring decisions, even in private firms. But different life-chances owing to the social lottery (family, class) and natural lottery are not compensated for or regarded as morally objectionable.

3. **fair equality of opportunity**: This goes further than formal equality, and attempts (from the standpoint of justice as fairness) to ‘correct for’ social disadvantages. The idea is supposed to be that those with similar talents who are socially disadvantaged can compete.

4. **perfect equality of opportunity**: all individuals have the exact same likelihood of achieving any social position from birth. This is not even remotely realistic, given the natural differences among individuals in their talents, dispositions, etc. As well, even attempting to achieve this would probably require the abolition of the family, which would violate the Liberty Principle. Perfect equality of opportunity would not be worth the costs, even if we could achieve it (which we can’t).

Rawls says that contractors in the original position would choose 3 (fair equality of opportunity), and I agree. Why would they choose it over the others? Following Freeman, there are three main reasons. First, it is a social basis for self-respect because to be excluded from opportunities for advancement would be a continual affront to one’s dignity (note that 2 above—legal/formal equality of opportunity—claims this as well). But without a more active role for the state here, formal equality of opportunity is in some cases a sham. For example, a kid who doesn’t actually get to go to school, but could if his parents had the means, is not someone for whom opportunities are fairly equal with those of his peers whose families have the means to secure their advancement. We are supposed to be free and equal citizens, and FEO gets us closer to this

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ideal than do other norms for distributing opportunities. Second, FEO takes seriously the idea that individuals have a capacity for a conception of the good. Behind the veil, they don’t know what it is, but they do know that they’ll have one. And they’ll want to be able to pursue it, which may require both educational opportunities and very likely legal restrictions on discriminatory (i.e., morally arbitrary) hiring practices. Third, it is part of justice as fairness in an overall sense when combined with the sufficientarian principle. It will turn out that the least-advantaged group does better overall if those with talent and ambition but from socially disadvantaged backgrounds are allowed to compete for open positions against those from more favorable backgrounds. It’s better for all of us if bright kids get to go the best schools rather than the scion of wealthy alumni who get a “Gentleman’s ‘C’” and contribute far less than another, more qualified but less well-connected individual would.

Next, what does FEO actually mean? This is a large topic, beyond my scope here. But its essence is well-expressed in in Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. And it is given further elaboration in the Americans With Disabilities Act of 1990, which extends the concept of unfair discrimination in important ways. No one who is supposed to be cooperating as a free and equal member of society can be regarded as having consented to a social contract in which employment, housing, transportation, and access to public services are restricted on the basis of information which is morally arbitrary (and thus excluded in the original position behind the veil of ignorance). Crucially, FEO means access to education which is publically funded (whether the public system or a suitably managed voucher system, or mixed. This is an interesting question that can’t be decided in the original position, of course—contractors would need more information than they have. But with the principle in mind, citizens can and should
try to make informed and prudent judgments.) Notice that this might seem tilted in favor of those want more education and training and against those who want to take relatively low-skilled jobs right out of high school. But the latter are not excluded, so they haven’t been treated unfairly. Plus, they too benefit from a society in which the naturally talented but socially disadvantaged make the most of their talents, consistent with the constraints of the criminal law and as governed by the sufficientarian principle.

Arguably, an adequate provision of basic health care is required by the fair opportunity principle, as Rawls himself argues later.\(^43\) The idea is that unless an individual has access to basic health care, then the opportunities that would otherwise be available to an individual are (potentially) hollow promises. It wouldn’t be fair equality of opportunity, because individuals aren’t responsible for the misfortune of a debilitating condition. This skirts the question of what health issues arise because of poor lifestyle choices, it should be noted. People aren’t responsible for most of what happens to them medically, but sometimes they are. (Note that there is a compelling case for basic health care if we are taking the sufficientarian principle seriously in its implications—but we’re not there yet. It’s demonstrably inefficient not to provide primary care that prevents more expensive treatments later, and thus not having basic care available to all is probably not in keeping with any distributive principle that is likely to gain wide assent for good reasons.)

The basic idea is this: similarly talented individuals who are willing to work to develop their natural talents and compete for positions should have similar opportunities to do so. The justification for it is not desert (meritocracy), though desert will be the correct criterion for some kinds of goods, such as awards and honors within civil society. Nor is the maximization of expected utility the normative basis for fair equality of opportunity. Rather, the basic justification

is that it is how contractors with the moral capacities would decide to distribute opportunities in keeping with their interest in maximizing the social bases of self-respect for all individuals, whoever they are.

C. The Third Principle: Sufficientarianism

The sufficientarian principle, like FEO, can be thought of as a kind of proviso concerning what sorts of inequalities are permissible within a society characterized by justice as fairness. Specifically, it requires that adequate means be made available to individuals in order that they not become avoidably miserable or destitute. On this view, every member of society is entitled to an adequate provision of primary social goods for the purposes of making use of or realizing the essential moral capacities. Of specific importance here is the proposed third moral capacity, for elemental well-being. Rational individuals know that, like all flesh, they are subject to many natural shocks—even with due diligence, hard work, careful preparation for life’s contingencies, and so forth. Thus, with an eye toward their own possible future immiseration, they would see fit to provide the means by which individuals may reliably avoid finding themselves bereft of the means to their elemental well-being. They know that below some difficult-to-specify level of material well-being, their lives would go very badly. Distributions above a threshold, though desirable, would not be insisted upon for good moral reasons by contractors concerned to advance their interest in securing the means to elemental well-being.44

There are other principles by which vulnerable individuals have reasonable prospects for avoiding desperate poverty, of which Rawls’ Difference Principle is a leading candidate. But as

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44 In this way, sufficiency is a threshold concept, rather than a scalar one. The idea here is that “once people have secured enough there is a discontinuity in the rate of change of the marginal weight of our reasons to benefit them further.” See Liam Shields, “The Prospects for Sufficientarianism,” *Utilitas* 24, no. 1 (2012), 101–17.
I argued earlier in the discussion of the preferability of $D_5$ (MEB$_{floor}$) to $D_4$ (maximin), it appears that the former does a more reliable job than the latter. The conclusion is that sufficientarianism is superior to the Difference Principle, if the goal is to avoid the worst outcomes in allowing individuals of a well-ordered society to realize their essential moral capacities.

Yet another candidate is prioritarianism, which is the view that justice requires benefitting individuals more the worse off they are. From within the original position, it is hard to see how rational agents would choose meaningfully between sufficientarianism and prioritarianism. Both seem like fairly sensible options at this point. My contention, which is more asserted than rationally established, is that the vagueness of the sufficiency principle (i.e., determining when an individual’s allotment of primary social goods is adequate) is a less intractable problem than is the prioritarian’s difficulty in determining who among us is the least well-off or least-advantaged.

Sufficientarianism applies to what Rawls calls the “basic structure of society” more than it does the distributive share someone hands you. Society is an on-going enterprise in which people have to have a stake in things if they themselves are expected to cooperate over the course of time and across generations. Distributive justice is therefore not altogether what it sounds like—the norms determining the size of one’s slice of a productive pie, or ‘how much stuff you get’. More significant are the background conditions that play a large role in how people’s lives actually go. Put differently, the idea is that the sufficiency principle is supposed to apply procedurally with respect to how the system works (laws, taxation, income structure, and so forth), and not only to how the state treats each individual or group seriatim. It concerns how the background institutions work procedurally, a background against which individuals go on to behave as we would expect: moderately self-interested agents who would rather pay less than
more for goods and services, etc. In short, the basic structure of society is the complex interplay of property, taxation, business law, labor law, contract law, public sector employment, unemployment compensation, job training, and so forth which are in operation and constitute a kind of structure within which individuals make choices about a vocation, going back for retraining, starting a business, whether to buy or rent a home, whether to get married and have kids, \textit{et cetera}. Sufficientarianism would establish “background procedural justice” (to use Rawls’ phrase) and so is not an allocative principle the way the principle of utility is. Justice as fairness is whatever distribution (of wealth, income, prestige, institutional prerogatives, etc.) occurs when individuals and groups pursue their chosen ends within the system that operates fairly.\footnote{See \textit{A Theory of Justice}, 87–88 for Rawls’ discussion of some of these themes. What I have stated here is borrowed from Rawls, with modifications \textit{ceteris paribus} (the substitution of the sufficiency principle for the difference principle). See also Freeman’s \textit{Rawls}, 126, for the claim that justice as fairness is an allocative, rather than a strictly distributive, theory of social justice.}

There are at least two questions here. The first concerns why contractors would choose it in the original position, and this was addressed earlier in the discussion of the five principles under consideration for the distribution of primary social goods. The argument there was that MEB\textsubscript{floor} would be preferable to MEU, DP, and the other candidates.

The second question regarding sufficientarianism concerns what this third principle actually means or entails at the objective, institutional level. What I have in view here is the criticism according to which the sufficiency standard is too vague to be practically workable. My intention is to suggest that the sufficiency principle, though imprecise, is workable, unless we grant the critic an indefensibly skeptical view of practical reason. What then does sufficiency consist of? This is not a straightforward question, because there are many different ways in which basic terms of social cooperation that are fair to all members might be instantiated.
Individuals have different needs, geographical differences are enormous, social circumstances vary dramatically, industrial cities are different places from agricultural regions, and so forth.\textsuperscript{46} Consider the following to be a kind of propadeutic to a defense of sufficientarianism.

There are different doubts one might express about the suitability of the sufficiency criterion as a principle of distributive justice. First, one might say that there is no such thing as enough because there is no such thing as too much—there is no such thing as \textit{pleonexia}. Denying that there is such a thing as too much (and thus no suitable contrast class) is one skeptical track, though it seems discordant with common moral belief and practice. In any case, the real concern raised here is whether we know what sufficiency looks like in practice, so let’s consider that more carefully. How could we plausibly claim to know when an individual’s allotment of primary social goods meets the threshold of sufficiency? What does ‘enough’ mean in the context of an actual human life?

According to this second skeptical concern, we lack criteria for determining when the threshold has been reached. We either do not know enough about ourselves, or about the differences among different individuals and groups, to be able to say when people are sufficiently well-off. (This worry doesn’t concern their having different conceptions of the good, or the means to pursue them, but for their elemental well-being.) In other words, perhaps there are no recognizable and uncontroversial criteria for determining what it actually means for someone’s allotment of primary social goods to be enough (let alone as a function of that individual’s possessing the three moral capacities).

But why should we share this doubt? Such a degree of skepticism is not warranted unless we are so remarkably opaque to ourselves that the very faculty of practical reason is in peril.

\textsuperscript{46} In this context, Sen’s ‘capabilities’ approach has considerable appeal as a distributive metric. In that theory, different questions arise: what actual capabilities are possessed by what individuals? What means to them (all-purpose or otherwise) are needed?
How much an individual wants is one thing, and not an issue that justice as fairness is concerned with. But what an individual needs in order not to fall below a level of material deprivation is not so mysterious: at a minimum, food, shelter, basic health care. Secondly, such skepticism seems belied by everyday moral practice. That all such judgments are confused (including the folkish expression, “enough is enough”) would seem to imply a sort of widespread lack of insight into ourselves that beggars belief.

Perhaps this sounds to the reader like bluster, since I have scarcely stipulated criteria for what constitutes sufficiency. So I will take a cue from Crisp’s proposal of a compassionate impartial observer who can make the determination. Such an observer is a kind of idealization, to be sure, but it is potentially workable if we include the further condition or stipulation that the well-ordered society is animated by the reflective practical judgment of the citizens of which it is composed and expressed through the legislative and policy decisions among their duly-appointed representatives. The implementation and maintenance of a sufficientarian principle of justice requires judgment, but so does any principle. Its tenability is no more doubtful than the prospect of individuals in a well-ordered society acting as informed citizens. Disputes among well-intentioned sufficientarians are not thereby eliminated by some kind of legislative or deliberative alchemy, but they are brought to the attention of citizens and their representatives who rightfully expect reasons from one another for their claims. In this way, perhaps citizens of a well-ordered society and their representatives could be thought of as occupying the role of impartial observers—not because individuals and groups have no partiality but because when deliberating collectively at the level of legislation and policy, attention is paid to what sufficiency requires.

One further point is important to stress in attempting to blunt the force of the criticism that the sufficiency criterion is too vague to be workable. I have already said that the criterion

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requires interpretation, which in turn requires judgment. In this context, we should realize that sufficientarianism’s main rivals (the difference principle and prioritarianism) both require judgment as well. After all, how do we reliably identify who is ‘least advantaged’ or ‘worst off’ or the like? One individual can be demonstrably well-off in some respects (e.g., wealth) and utterly miserable in others (e.g., friends and personal relationships); by turn, someone else may have an inverted profile. It is judgment that the prioritarian relies on to guard against the absurd conclusion that justice requires that the rich but lonely fellow be made better off. No normative principle (of distributive justice or otherwise) amounts to much of anything unless it is interpreted—given expression in objective institutions, laws, policies, and practices, all the while maintained and animated by (among other factors) the sensible judgment of reasonable citizens. Indeed, this is also true of the first two principles (liberty principle and fair equality of opportunity) in the Rawlsian theory I am offering. What after all is a basic liberty, as opposed to any others? (This requires judgment, clearly, which is why Rawls saw fit to revise his account of rights and liberties in response to Hart’s telling criticism.) Similarly, what does fair equality of opportunity require? Clearly, there is no one-size-fits-all instantiation of the principle, owing to differences among individuals, localities, and contingencies. And so if it is true that the first two principles of justice require interpretation by sound judgment, we should already be forthright about that element of practical reason and acknowledge its indispensability for all three principles.48

A closely related concern about sufficiency would be that though there might be such a thing as enough, we cannot recognize it when we encounter it. This would involve not whether

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48 In the position I am advocating, the principles are indexed to the three moral capacities. For example, the basic liberties are valuable for developing one’s capacities for an effective sense of justice and for a forming, revising, and pursuing a conception of the good. That is why there is no basic liberty to honk a car horn at midnight, etc.
there are criteria for determining sufficiency, but whether we can reliably employ them in distinguishing between just and unjust policies and institutions. This sort of skepticism concerns whether practical reason is capable of determining whether theory and practice are in accordance. While our judgments are of course defeasible, I see no reason to suppose that this doubt has great merit. And if it did, it would not only apply to this theory of justice as fairness, but to all theories.

A related point is worth making in the context of at least partially defusing the criticism that the sufficiency criterion is too vague and imprecise to be workable. I suggest that to some extent, the plausibility of this criticism is based on an illusory contrast with distributive schemes which assign quantitatively designated ‘scores’ or ‘pay-offs’ to identifiable parties (Table 1 provides an example). It is important to note that these distributive schemes are more heuristic than substantive, that is, far less descriptively accurate than the numerical designation might (somewhat speciously) suggest. At its best, a numerical score is indeed useful if it tracks something which is quantifiable—wealth and income, specifically. No actual society—not even a small one, let alone a nation-state-sized polity—consists of individuals whose well-being is plausibly represented in terms of identifiable and reliable quantitative metrics. Justice and injustice have more to do with the background social institutions within which individual lives are led than they have to do with distributive shares parcelled out in identifiable bundles that allow us reliably to compare actual outcomes to avowed norms. Sufficiency will mean different things in different cases. For example, the AIDS clinic and needle-exchange program that are called for in an inner city would be totally out of place in a rural setting where individuals need access to traveling dental and optometric services. Urbanites need mass transportation whereas rural children need school bus service. Sufficiency requires the use of the faculty of judgment,
but so does any principle which is designed to be more than a hypothetical score in a didactic exercise.

The preceding remarks are clearly incomplete as an argument for the practical applicability of the sufficiency principle. But it seems that only an undue skepticism about practical reason should make us think that it is too vague a concept to be used.

There are also criticisms of sufficientarianism according to which it would have unacceptable consequences. One criticism states that sufficientarianism sanctions an objectionable degree of inequality once everyone has enough. On this worry, if all are above the poverty level, sufficientarianism could legitimate or be indifferent to large discrepancies in wealth. As well, the sufficiency principle might even tolerate (i.e., is consistent with) policies and legislation that produce ever greater upward transfers of wealth. These are potentially serious objections to sufficientarianism as an overarching distributive principle, but that is not its role in the version of justice as fairness I am defending. Instead, the sufficiency principle works in conjunction with the liberty principle and the principle of fair equality of opportunity. On any plausible understanding of fair equality of opportunity, a wealthy overclass is neither permissible nor likely even if it were allowed. If there is fair value of political liberties, then citizens of a participatory democracy would not be reduced to drones hanging on for dear life. It's their society, too, after all, and if they have availed themselves of their rights and liberties and discharged their civic responsibilities, then as citizens they should be able to avoid the sorts of concerns about objectionably inegalitarian outcomes. A well-ordered society is supposed to consist of citizens who remain vigilant and aim to limit the strains of commitment. On any likely instantiation of the sufficiency threshold combined with LP and FEO, these concerns about gross inequalities would be sharply diminished. Furthermore, principles of justice must be in
comprehensive reflective equilibrium with our best understanding of social and economic theory. Thus, any defensible distributive scheme must be attended by a viable economic model, that is, one that can sustain itself. But a society with highly unequal distributions in income and wealth faces the problem of insufficient aggregate demand and precipitous decreases in employment opportunities. For this reason as well, the concern that the sufficiency principle warrants objectionable degrees of inequality is not well-founded.

The preceding discussion of the three principles of justice has been limited to a fairly abstract level, and many practical applications remain unexplored. Still, I submit that it is a reasonable charter for a society that is characterized by justice as fairness. The argument has been that these principles would be the outcome of a suitably designed reasoning situation in which contractors decide upon terms of social cooperation that take seriously their basic capacities for a conception of the good, for a sense of justice, and for elemental well-being. The argument to this point has thus been contractarian. Now we turn our attention to the other main feature of the conception of practical reason offered here, coherentism.

Section VI: Coherentism and Reflective Equilibrium

Let’s review how the position in this chapter has been developed to this point. First, it is contractarian. This involves idealized conceptions of the person and of a well-ordered society as mediated through or represented in the original position. Meanwhile, among the assumptions that have played a role in this chapter (and in my view, in all of practical reason) is that normative principles gain their force not just from their appeal as norms but also from their being consistent with other features of a comprehensive theory of how the basic terms of social cooperation can credibly be regarded as the outcome of the fair representation of free and equal
participants (participants being individuals who understand themselves as possessing the three elemental moral capacities). The theory is thus both contractarian and coherentist as well.

According to coherentism, normative considerations have to hang together with other considerations, including non-normative facts and theories. That is, the reasonableness of a belief about what is just or right depends not only on the presumed consonance with the values it avers, but also on whether that belief is consistent with other beliefs and theories, including non-normative ones. This feature of the theory of justice as fairness, then, is its coherentism, an outline and defense of which is the subject-matter of this section.

According to coherentism, “one’s moral belief p is justified insofar as p is part of a coherent system of beliefs, both moral and nonmoral, and p’s coherence at least partially explains why one holds p.” In general, if a belief does not fit with one’s other beliefs, it wouldn’t make sense to hold it, and to the extent that it does fit, then that is some justification for believing it. So what in turn does coherence consist of? Brink continues: “the degree of a belief system’s coherence is a function of the comprehensiveness of the system and of the logical, probabilistic, and explanatory relations obtaining among members of the belief system.” Let’s spell this out. ‘Logical’ here refers to the entailment relations of deductive (truth-preserving) inference rules. [I leave aside an inquiry into the question of what warrants our use of modus ponens, modus tollens, inter alia.] ‘Explanatory’ refers to causal accounts of how the world goes—what causes what in an ordered universe that undergoes orderly change. ‘Probabilistic’, in a closely related way, has to do with questions of predictive accuracy, specifically in the natural and social sciences. Note that this is only a start. The causal schemes invoked in defense of explanations and predictions themselves involve ontological commitments—not merely the metaphysical assumption that events have causes, but more importantly commitments to specific

49 Brink, Moral Realism and the Foundations of Ethics, 103
descriptions of the world, of what it is that is undergoing change. So clearly, moral coherentism involves a complex set of considerations—not just about what has value, but also about basic ontology (what there is, really) and about how the world (human and non-human) is causally ordered. One way of trying to elucidate the doctrine of coherentism is by articulating and briefly defending the doctrine of reflective equilibrium, to which I now turn.

In the following, I borrow liberally from Goodman and Rawls and from Daniels’ well-known discussion and defense, and amend the position slightly by introducing a distinction between wide reflective equilibrium (WRE) and comprehensive reflective equilibrium (CRE). As well, I will note some of the ways in which reflective equilibrium has already played a role in the argument so far. Finally, the reader is requested to keep in mind that the discussion of reflective equilibrium in this section is preparation for the argument in the succeeding chapter that MacIntyre is utterly wrong in claiming that the quarrel between Rawls and Nozick is an aporetic stand-off. As we will see there, the absence of coherentist considerations in justifying principles of justice is one of several weak points in Nozick’s libertarian position, both when evaluated on its own terms and especially when compared to the Rawlsian position presently under development.

There are by my reckoning at least three levels of reflective equilibrium: narrow, wide and comprehensive. Distinguishing among them is not philosophical logic-chopping but is instead important to understanding the account of practical reason being developed and defended in this chapter. We begin with narrow reflective equilibrium (NRE), which refers to the coherence and mutual reinforcement between a principle on the one hand and a considered judgment (or set of judgments) on the other.
A. Narrow Reflective Equilibrium (NRE)

To elucidate NRE, let’s begin by considering two kinds of non-equilibrium or disequilibrium. What happens when a principle and a considered judgment are in conflict? If there is some discrepancy between a judgment and a principle, what then? To borrow from and slightly alter Goodman: *a principle is rejected if it yields an implication that we are unwilling to accept, and a judgment is rejected if it violates a principle that we are unwilling to amend.*\(^5^0\) In either case, there is not a balance being struck, but an antecedent being deductively negated (by *modus tollens*). For example, the principle ‘individuals ought to be able to do as they like with their discretionary income’ conflicts with the judgment, “it is not permissible to have slaves even if you can afford them.” So if we aver this abolitionist judgment categorically, then we must reject the principle. In that case, the conviction with which one holds a judgment is strong enough to warrant the peremptory denial of the principle as it stands. By turns, if one judges, “the voluntary selling of organs is appalling” and yet unreservedly avows the principle that individuals ought to be free to do as they like with their own bodies, then the judgment as it stands would have to be denied because of the putative greater authority of the principle.\(^5^1\)

Refutation is not accommodation; the examples here are of disequilibrium— not ones of equilibrating between judgment and principle, but of one trumping the other.

\(^{5^0}\) Nelson Goodman, *Fact, Fiction, and Forecast*, 2nd ed. (Indianapolis, IN: Bobbs-Merrill, 1965), 64.

\(^{5^1}\) Rawls, as I understand him, is suggesting the following to illustrate the ways in which the two cases work, one from linguistics and one from celestial mechanics. In the example from linguistics, the judgments (or ‘intuitions’) of native speakers have a kind of asymmetrical authority, and the greatest ever scholar of Germanic languages is not free to announce an account or theory (principle) of English syntax that is discordant with them. In the example from physics, ordinary perceptual judgments of normally-sighted terrestrial beings such as ourselves do not carry their own warrant with respect to the laws of celestial mechanics. Here, there is an asymmetry that goes the other way— theory trumps naïve beliefs about what is moving relative to what in the great quarrel of two world systems. Notice in this latter case, the perceptual judgments are not so much useless as utterly misleading. The corollary in the first case would be someone for whom a set of convictions is foundational, even if they are discordant with our best theories. See Rawls, *A Theory of Justice*, 49.
So much for disequilibrium. What then is it to bring a judgment and a principle into NRE? This is not obvious by some transparent operation of the human mind, but we can distinguish two broad types. The attempt to bring one’s considered judgments into narrow reflective equilibrium with a principle can be fairly simple and straightforward, or else relatively nuanced and stage-wise. In the simpler case, there is a consonance of principle and judgment, an equilibrium that warrants one’s being more confident of each (and thus both). There is in this case a straightforward fitness of a norm and an instance of it. The moral pronouncement, “it is wrong to ban this book, even if it is potentially subversive” is readily justified by the principle of freedom of the press, and as well (in ways more psychologically complicated than are described here) the principle of liberty of expression is suggested to one by the moral repugnance of book-banning. Likewise for the principle that individuals ought to be able to spend their discretionary wealth as they see fit and the judgment “it is ok for you to buy yourself some new shoes”.

But if this is all that NRE amounts to, then two problems come to light. First, if the justification for a principle is that it systematizes our judgments, then the coherence amounts to giving epistemic priority to judgments. And if the judgments are probative, or privileged, then the position is really a kind of intuitionistic foundationalism, not an equilibrating of judgments and principles. Second and more serious is the concern that the coherence is a kind of vicious circularity that might license wickedness. After all, the same strategy can be used with respect to the mutually justificatory relation between “she should be burned” and the principle that witches are malevolent forces whom duty or virtue requires us to kill by fire. Here, too, is a form of mutual support, and it suggests the inherent unreliability of this method of justification. This is the objection that reflective equilibrium is vicious or flagrantly circular. Maybe so—certainly, this simpler or more straightforward version of NRE has its limits.
The more nuanced form of NRE involves adjustment between principle and judgment, that is, a process of amending the one because of the other. For example, the judgment, “That kid deserves a chance to make something of himself” is in some tension with the principle of merely formal or legal equality of opportunity. The truth is that the kid does not have a real chance if he grows up in poverty, without dental care or schooling. In this case, NRE is (or can be) achieved by modifying formal equality into fair equality (the FEO principle together with its practical implications). In that case, one has found out that a judgment of which one is confident or certain serves to alter a principle of distributive justice. Or this example: the principle that individuals ought to be free to spend their discretionary wealth as they see fit is called into question by the judgment, “it is a subversion of representative democracy if in order to run a successful campaign candidates must solicit large contributions from wealthy donors and interest groups.” A kind of equilibrium is reached by the modification of the principle as constrained by campaign finance reform (and most likely, public funding of campaigns). We could throw up our hands and think of this as the clash of rules, but the more descriptively accurate account of what happens (and more promising prescription for fruitful practical reasoning) is to modify the principle in the light of the strong conviction. The equilibrium in these two cases is more nuanced than in the first case of straightforward consonance, inasmuch as it requires some reflection and attention to the actual meaning of the principle. The tension between the principle and judgment is creative in the sense that one’s capacity for practical reason is called upon to see how one might make one’s set of beliefs internally consistent. In this case, the concern about vicious circularity is partly allayed, since the principle and judgment were not in immediate alignment, and some serious reflection was involved.
Still, the worry about a less-than-virtuous circularity between one’s principles and one’s judgments remains, and it is here that we call on Daniels’ distinction between narrow and wide RE.

B. Wide Reflective Equilibrium (WRE)

According to Daniels, WRE allows us to allay the worry about vicious circularity since (in the Rawlsian scheme) the principles of justice have warrant not merely because they systematize one’s considered moral judgments, but also because they “can be construed as inferences from some set of relevant background theories”, specifically about what a person is and what the characteristics of a well-ordered society are supposed to be, and about what fairness among free and equal citizens would look like. In this way, WRE as Daniels characterizes it amounts to two equilibria (one between considered moral judgments and principles of justice; one between the principle-generating original position and the model conceptions of the person, the well-ordered society, and fairness), although we might just as well think of it as an equilibrium or coherence among “the ordered triple of sets of beliefs held by a particular person,”\(^{52}\) which is Daniels’ helpful characterization.

An instance of WRE thus occurs when, within the belief set of an individual practical reasoner about the basic terms of social cooperation, a balance is struck (that is, coherence is exhibited) among considered moral judgments, principles of justice, and the background theories that motivate the choice of principles in a suitably constrained reasoning situation (the original position). That is, in the Rawlsian scheme under development here, WRE refers to a coherence among the following three: (1) the beliefs that generate and justify the use of the original position

\(^{52}\) Norman Daniels, “Wide Reflective Equilibrium and Theory Acceptance in Ethics,” *Journal of Philosophy* 76, no. 5 (1979), 258
as a device of representation; (2) the principles that are produced in the original position; and (3) a set of considered judgments. What this means is that the principles generated in the original position are not only checked against considered judgments, but also justified in light of many other first-order beliefs and higher-level theories (particularly beliefs and theories about what a person is, as being free and equal and possessing elemental moral capacities; and of what it is for a society to be well-ordered and fair to its members). In other words, the values and normative considerations that motivate or animate the use of this artificial device of representation provide a different kind of check on what principles can be endorsed on reflection. WRE is thus different from NRE in that potentially distinguishable sorts of beliefs are involved in the former (about what a person is, what a well-ordered society would be, about fairness, freedom, and equality) than are expressed in any given considered judgment. The judgments that are in NRE with a principle are thus “to a significant extent disjoint from” the more abstract theories of personhood, capacities, and what it takes for a polity to have one character or another. Thus, if the charge of vicious circularity is going to stick, then it would be one involving three different sets of axes or points: considered judgments; original position; and ideals, theories, and beliefs that are given expression in the original position. This seems to me closer to a virtuous circle than a vicious one. Thus (and with a view toward Chapter 5), if a set of principles of justice is in NRE with considered moral judgments and is as well inferentially derived from relevant background theories to a greater extent than a different set of principles, then we would be able to say that it has greater warrant, or is all things considered more justified (because it exhibits a greater degree of WRE).

53 To be clear: WRE incorporates NRE as well as extending the deliberative process to broader normative concerns (i.e., ideals and theories that motivate the original position).
So characterized, I think reflective equilibrium is defensible, or anyway highly sensible, as a scheme for generating rationally warranted normative claims. But it is incomplete as it stands. As Daniels correctly suggests, broader nonmoral considerations pertain to the feasibility of any proposed scheme of social cooperation and thus also set constraints. This indicates that WRE is embedded in a higher-order or more expansive sort of equilibrium among considered moral judgments, background theories, principles of justice and more broadly the social and natural sciences. What I mean is that a more comprehensive account of RE is needed, one which attempts to balance considered moral judgments, principles of justice, background theories of the person and of the well-ordered society, as well as considerations from empirical inquiry broadly construed. If this could be achieved, that is, if this equilibrium among beliefs could be reached, it would amount to the philosophical desideratum of attempting to align a whole belief set into a coherent package. This ideal we can call comprehensive reflective equilibrium, to which I now turn.

C. Comprehensive Reflective Equilibrium (CRE)

CRE is a somewhat loose category of moral deliberation incorporating NRE and WRE as well as other relevant considerations not yet explicitly included. By ‘loose’, I mean less that the remarks are tentative than that the category stands in need of further elucidation. The overall point that motivates inclusion of CRE in each case is that a more accurate description of how practical reasoning actually works must also take into account some considerations not yet taken note of. The discussion will be brief but should serve to point out features of practical reason that merit more careful treatment in an effort to elucidate the practice of reflective equilibrium that is more comprehensive than wide reflective equilibrium alone.
CRE concerns the relationship between the normative considerations that animate the theory of justice (on the one hand) and (on the other hand) insights from the social and natural sciences. What connection, if any, is there between ethical deliberation and the sciences? The task of the sciences, I take it, is to describe, categorize, explain, and predict phenomena, none of which is going to tell us what has value. Yet very clearly, any theory of responsible agency or prediction about the consequences of a policy or principle involves reasonable expectations about how things go in the world, and our most reliable way of understanding that world is to follow norms of scientific inquiry. To some extent, this has all along been a consideration, since the original position is supposed to be a deliberative situation in which one has access to reasonable beliefs about psychology, sociology, and so forth. But let’s be clearer: as one learns about humans, about society, and from the natural sciences, one’s belief set is modified and augmented, and inasmuch as these non-normative beliefs inform rational deliberation, they are a feature of a satisfactorily elucidated coherentism. How do beliefs from the social and natural sciences inform deliberation?

We saw an instructive example earlier in the chapter in deciding between different distributive schemes (I argued there that in light of empirical considerations from economics, MEBfloor is a more suitable decision-rule than the Difference Principle. In that instance, a putative insight from the social sciences hopefully allows us to think about probabilities more rationally. One significant aspect of reflective equilibrium concerns the relationship between the norms that motivate the principles and the economic realities that inform and constrain them. As well, reasonable beliefs about human motivation, about what conditions are required for social stability, about what Rawls calls the “strains of commitment”, and so forth are salient in any account of how a set of beliefs about social justice coheres with other beliefs. I intend to argue
in the next chapter that the account of justice advocated in this chapter is coherent with reasonable beliefs about economics and perhaps even recommended by them. This will occur in the context of showing that MacIntyre is wrong to claim that the dispute between justice as fairness and minimal-state libertarianism is aporetic. I will suggest that considerations from economics make the position advocated here not only a fairer alternative but a viable one, unlike its rival. The general point here is that empirical reality sets feasibility constraints on what norms are reasonable to embrace and on what counts as carrying through with a normative commitment. Practical reason involves many considerations, and the modest point here is that normative beliefs must be brought into connection with non-normative ones in the course of deciding on action and policy. In that sense, CRE is one feature of a descriptively accurate picture of practical reason. To be sure, this leaves many questions open, including what counts as settled science, in addition to the meta-level question about how well we expect theories in the social sciences to be confirmed or unfalsified, and so forth. Very well, then—these, too, would be among the matters that reflective practical reasoners encounter in their deliberations.55

At a minimum, it should be clear that the charge of a vicious circularity between principles and judgments is not warranted. As we saw earlier, the model of WRE attempts to incorporate three different sorts of normative considerations: considered judgments; principles of justice generated by the original position; and a conception of the person that is modeled or represented in the original position. As well, an important role is reserved for some other considerations, including non-normative ones, at the level of CRE. The critic may be

55 In this deliberative vein, many questions arise concerning epistemic warrant, theory confirmation, and so forth. In the sense that defensible claims about psychology, sociology, and economics (whether ontological, descriptive, explanatory, or predictive) implicitly require justification, CRE involves defensible assertions about epistemology. I do not propose to investigate these questions here, though I do explicitly acknowledge them. Perhaps these meta-cognitive matters constitute some further level of reflective equilibrium, though I am content to bracket them for now.

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unconvinced, noting that the prospect of ideological blindness looms. Perhaps a coherence in WRE among considered judgments, principles, and the theories and ideals that generate the principles amounts to little more than a *description* of how systematic prejudice can work (rather than a *prescription* for sound moral reasoning). Indeed, in view of the structural complexity of the model of CRE, a more serious worry is that practical reason would be overwhelmed by its task rather than prematurely and smugly congratulating itself on the fitness between judgments and principles in a viciously circular NRE.

All told, there seem to be three concerns to raise about CRE. I will treat them in order, together with responses of varying degrees of length and sophistication. First, such a coherence would still be circular in the sense that while a belief set may be internally consistent, no check is thereby provided on the various tendencies to false consciousness, prejudice, blindness, confirmation bias, and other cognitive biases. Perhaps sufficientarianism expresses class bias, for example. I do not think this is so, but am open-minded regarding the possibility of some sort of *Ideologiekritik* exposing such systemic prejudice.

The second and to my mind more serious criticism is that it is not clear that CRE is ever achievable, in the sense that an individual cognizer could never reliably be in a position to claim that she has investigated all the assumptions behind each belief and considered all the implications of each belief. The worry, expressed one way, is that to the extent that warrant for a belief depends on that belief’s being coherent with an individual’s wider set of beliefs (moral and nonmoral), the actual justification is always deferred until a larger and larger set of interrelated and mutually supporting beliefs has been validated, which belief set is itself not yet justified (or even articulated). This process ends up in a kind of regress, not so much linear as multidimensional. In that case, no actual warrant or comprehensive justification can truly be
offered in support of a normative claim. WRE ends up as an exercise in itemizing a set of beliefs and explaining or articulating the coherence among them, not as an actual vindication of one’s claim in the full sense. If belief p is said to be supported by a set of beliefs q, r, etc., whose warrant is a still-larger set of beliefs (along with coherence with p), then no actual warrant is truly ever provided for a belief. The problem here, if it is a serious one, is not that normative assertions have only circular justification, but that they would in this model never actually be provided with any robust justification, even a circular one. Warrant would be not so much question-begging as never genuinely provided, according to this criticism of CRE.

In response, I propose that we utilize a distinction made by Brink between systematic and contextualist justification. Systematic justification is complete or absolute, incorporating the expectation that any justifying beliefs themselves be given justification. Contextualist justification, by contrast, is partial and incomplete. If we provide contextualist justification for a normative claim p, “certain background beliefs are treated as justified that would actually have to be justified if p were being systematically justified.” The idea here is not that there is no systematic justification but that in the actual practice of normative justification, “we satisfy ourselves with some degree or other of contextualist justification, both because we believe our background beliefs can be justified, and because the pursuit of systematic justification would prevent us from getting on with our inquiries.” A more systematic justification is not thereby dismissed as either unworthy of one’s efforts or as unachievable, but as unnecessary and impractical. What then should we say about the demand for systematic justification? It is both intelligible and understandable from the standpoint of conscientious reflective agents who expect normative judgments—their own and those of others—to be supported by good reasons (good

57 Ibid.
because they are relevant, cogent, and are themselves supported by good reasons). How can we have the contextualist justification we need without the systematic justification that is implicitly assumed but presently deferred?

This is where the ideal of CRE is illuminating. CRE is what systematic justification would be like (or what it is actually is, for someone who achieves it). For most purposes, that is, in most efforts at reflective inquiry, we offer contextualist justifications, not systematic ones. Coherentist justification in that way acknowledges that normative beliefs have to be consistent with and reasonable in the light of a number of different considerations, moral and nonmoral. For the purposes of the next chapter, the coherentist position developed here regarding claims about justice has to do with norms (freedom, equality, fairness), with beliefs about what it takes for those norms to be honored or given expression in the basic terms of social cooperation, and with reasonable beliefs about psychology and economics. There is no closed circle of considerations or set of axioms and inference rules; rather, it is an effort to make the maximal number of beliefs at differing levels of generality about relevant normative and non-normative matters consistent with and reasonable in the light of one another.

A third possible criticism is that even if this model of CRE is neither ideologically blinkered nor unable to generate a satisfactory degree of coherence, it may be that (arbitrarily) many different comprehensive reflective equilibria are possible. Given that there are different belief sets among different individuals, it would follow that different kinds and degrees of CRE would be reached or achieved amidst the heterogeneity of belief sets. In that way, CRE may still seem subject to the problem of perpetual aporia (and thus not a promising response-in-the-making to MacIntyre). I do not think this is true, and hope to make it clearer why in the following chapter.
In this chapter, I have argued for a model or conception of practical reasoning characterized by two main features: contractarianism and coherentism. The result of its implementation, I argued further, is a mixed conception of justice involving three broad principles: the liberty principle, the principle of fair equality of opportunity, and sufficientarianism. What I have not yet done is provide a convincing argument for how this package (of a conception of practical reason and of a set of principles that result) provides a refutation of MacIntyre’s claim that the quarrel between Rawls and Nozick is without resolution. It is to that task that I will turn my attention in the following chapter.
In the preceding chapter, I offered a broadly Rawlsian response to MacIntyre concerning the basic terms of social cooperation. The position advocated and partially argued for is contractarian and coherentist, and it led to a mixed conception of justice (the liberty principle, fair equality of opportunity, and sufficientarianism). So how is this a response to MacIntyre?

We saw in Chapter 2 that he claims disputes about justice in liberal regimes are rationally interminable, as typified by the quarrel between the incommensurable claims of Rawlsian justice as fairness and Nozickean minimal-state libertarianism. On MacIntyre’s view, we recall, the dispute between the broadly social democratic norms of Rawls and the minimal-state libertarian norms invoked by Nozick is not merely another example of the interminability of normative disputes (as were abortion and just war theory, according to MacIntyre); it is also the characteristic problem for modern liberal theory, which in principle is supposed to provide the normative basis for the institutions and practices of the state. On MacIntyre’s view, we don’t just disagree about final ends (as all liberal theorists acknowledge); we also cannot rationally agree on how to organize society justly in response to the heterogeneity of ends and goods. Thus, in order to continue the response to MacIntyre, it is crucial that I now attempt to argue that the Rawlsian position advocated here is a more rationally compelling one than the theory advanced by Nozick. If I can show that the dispute between them is not rationally interminable (because based on incommensurable first principles), then three things follow.

First, it will show that another of MacIntyre’s dire pronouncements about the interminability of disputes is doubtful, if not plain false. Taken together with the assessment of MacIntyre offered in Chapter Three, the material in this chapter will finish the argument against
the interminability thesis as well as the incommensurability thesis. This is the subject-matter of the present chapter. Second, the argument in this chapter will show the way to a partial improvement of MacIntyre’s own theory, since as we saw in Chapter 3, he is a liberal in spite of himself and needs to make accommodations for what his own positive theory of social justice implicitly requires. Supposing we wanted to salvage some features of MacIntyre’s account of virtue-promoting communities, how would they fit into the broader liberal society of which they are a part? How can there be what Rawls calls a “social union of social unions”? Justice as fairness is intended to be hospitable to community, and offers an ideal of what that might look like. Third, the position offered here will allow us in an ecumenical spirit to see what accommodations can be made (within the contractarian coherentist liberal position I have advocated) for some of the concerns raised by MacIntyre that are still important for us to keep in mind even if we are largely persuaded by the argument presented in Chapter 4. These two connected issues—in effect, how MacIntyre’s views fit within justice as fairness—will be the subject-matter of brief concluding remarks at the end of the chapter.

Section II: Nozick: Libertarianism as Utopian Ideal

Before proceeding with the above outline, let’s briefly note the inspired utopian vision of Nozick’s theory: a society of individuals who are prohibited from coercing one another and free to find meaning in their lives in voluntary association with one another. He thinks of his account of justice, with its strict moral limits on what may be done to or with individual persons by other individuals or governments, as a “framework for utopia” in the sense that its determinate content cannot be specified ahead of time. Utopia, he writes, is “what grows spontaneously from the individual choices of many people over a long period of time . . . ,” and is thus a process rather
than an end-state to be achieved and held in stasis. The character of the lives of individuals, alone and in community with others, will be the contingent, tentative, possibly quite fleeting result of freely chosen ends. The hope is that free, non-coercive associations of individuals will preserve the conditions in which people can flourish, though it is important to note that the creating of happiness is not the actual purpose of government. The minimal state, which is justified because of its status of guarantor of negative rights, provides a legal background within which pattern-upsetting liberties can be exercised (it is in this sense that Nozick’s theory is non-anarchist). A society so governed would inscribe on its banner: From each as they choose, to each as they are chosen. No one is coerced, and no one is forbidden from the justice-respecting exercise of her faculties or capacity for choice.

Section III: Nozick’s Minimal-State Libertarianism: Intuitionist or Coherentist?

To begin, it is helpful to distinguish between two different sorts of arguments found in Nozick’s *Anarchy, State, and Utopia*. One is a case for minimal-state libertarianism that amounts to a kind of intuitionistic foundationalism. According to this view, the basic moral belief or foundational principle that individuals are self-owners has the status of an asymmetrical, top-down justification for beliefs about the permissibility of governmental policy. Persons have a natural right to the products of their labor and free exchanges, and taxation for purposes other than the ensuring of free exchanges and enforcement of contracts constitutes a violation of that right. This is a kind of deontological Kantian theory according to which individual self-owners (possessors of labor-power) have inviolable title to what they can earn in a market of free exchanges.

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Meanwhile, according to the second construal of Nozick’s position, the doctrine of laissez-faire is justified because it is (maximally or sufficiently) coherent with our considered judgments about individuals being entitled to all of the proceeds of their free transactions. This is, or can be plausibly construed as being, an argument based on the justificatory method of reflective equilibrium—attempting to establish the credibility of a principle by showing its consonance with some set of considered judgments. I will briefly present each construal of Nozick’s position, together with criticisms and a comparison with the Rawlsian argumentative strategy offered in Chapter 4.3

We begin with the argumentative strategy that is intuitionistic and foundationalist. Nozick claims in the book’s opening sentence: “individuals have rights, and there are things no person or group may do to them (without violating their rights).” Whence do these rights come? How do we know they are real? Nozick notes a few pages later that he does have “some general theoretical worries. This book does not present a precise theory of the moral basis of individual rights….”4 One interpretation of the preceding claims is that he admits that he really has no argument at all, a more or less singular admission in the annals of preface-writing.5 According to this criticism, no justification is actually even offered for the claim that individuals have rights. A more charitable interpretation would be that Nozick is saying that all inquiries (including normative ones, like the search for principles of justice) must ‘bottom out’ somewhere, that the providing of reasons or justification has to come to an end. (The alternative would be an infinite regress of reasons, which can never be provided by finite minds in finite time. An intuited first

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3 No effort is made here to offer even a remotely comprehensive interpretation of the book, including its clever discussions of numerous topics. The salient feature of the book is its argument for no more than a laissez-faire minimal state.
4 Nozick, Anarchy, State, and Utopia, ix and xiv.
5 This is the view of Thomas Nagel, in his review titled “Libertarianism Without Foundations,” Yale Law Review 85, no. 1 (November 1975), 136–49.
principle is the foundation or basis on which to avoid the regress.) In Nozick’s case, that search for the normative grounds of interpersonal conduct ends in the intuition that individuals have rights (understood as absolute side-constraints), that is, categorical prohibitions on what one person or group of persons may do to someone.

If this interpretation of Nozick is correct, then the plausibility of his position depends decisively on whether one shares the intuition that individuals naturally have these specific rights to self-ownership and the products of their free exchanges. In other words, one is persuaded by his position if one also intuits that there truly are inviolable side-constraints on conduct. But in that case, his argument would not be very persuasive. What exactly are rights supposed to be, ontologically speaking? Where do they come from? By what faculty do we know of their existence (and thus implications)? As an ontologically robust doctrine of rights, Nozick’s position is insufficiently articulated and defended, pending improvements. Thus, construed as a sort of philosophical intuitionism, the doctrine of self-ownership is not well-established. This does not entail that Nozick’s laissez-faire conclusions are false, much less readily dismissable. The ontological and epistemic questions (regarding the nature of rights and our cognitive faculties for recognizing these normative verities) would need to be answered more explicitly, for starters. In Chapter 3, I provided an argument against foundationalism by claiming that the notion of a first premise or foundational belief for which no further case can be made is doubtful. Provided that argument is cogent, we should in turn be skeptical of a doctrine that claims for its warrant a foundational belief (that there are rights as absolute side-constraints) if no broader justification is offered.

The aspiration he expresses at the end of the preface to Anarchy, State, and Utopia to provide the needed supplement to the theory is not one Nozick ever fulfilled in the considerable scholarly output of the subsequent four decades. I will suggest an ontologically less robust and epistemically less ambitious interpretation, according to which Nozick’s is a doctrine of self-determination, and the notion of self-ownership is more derivative.

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Thus, as a doctrine based on an intuitionistic foundation of natural rights, Nozick’s case is not yet persuasive but also not yet refuted. Before considering the alternative, coherentist construal of Nozick’s argument, I will briefly suggest two reasons for thinking that the doctrine of rights as absolute side-constraints is not a promising candidate for the role of an intuited foundational principle. First of all, many people simply do not share it. That individuals ought not to be used as a means to others’ ends is one claim, and \textit{prima facie} it has a high degree of moral appeal. However, that individuals must never be used for others’ ends is by no means held by people whose ‘intuition’ is that it is absolutely obligatory (not merely permissible) that we sacrifice one to save one million. Thus, it looks like individuals have different intuitions, and so the appeal to intuitions is aporetic. (My own view, as presented in Chapter Four, is coherentist, which offers an alternative to the intuition-swapping of foundationalism.)

A second, rather serious objection to the doctrine of the individual as self-owner has to do with the realities of human reproduction.\textsuperscript{7} Gestating and birthing a human being is an undertaking which demands a great deal of effort and labor on the part of the mother—far in excess of nurturing crops or making furniture, let alone picking up nuts or shiny pieces of metal. In fact, the pre-parturitive effort expended calls into question to what extent, if any, new human beings could even \textit{be} self-owners without violating the property-rights of the mothers who bore them. Suggesting the prospect of a ‘matriarchal slavery’ may seem tongue-in-cheek, but it is not. If individuals are self-owners, and their powers include producing new human beings, then an unresolved paradox is generated every time a woman gives birth to an already-owned self-owner.\textsuperscript{8} The theory seems to yield a society of maternally-owned sub-leasers of their bodies no

\textsuperscript{7} The argument presented here is from Susan Okin, \textit{Justice, Gender, and the Family} (New York: Basic Books, 1989), Chapter 4.

\textsuperscript{8} Okin’s own conclusion concerns the way in which Nozick’s theory implicitly excludes women’s reproductive labor. She is right, though I suspect her discussion also points to a broader problem, which
less than it yields a minimal state. Would a grandmother have a larger ownership stake in her
daughter’s child than in her son’s child? Does a woman’s ownership share in her children
increase when her own mother dies? These are serious questions within Nozick’s system of
thought, I gather. The problem here, if it is as serious as I suggest, renders incoherent the
doctrine of self-as-owner-of-powers, because it generates conflicting claims that it cannot (by its
own limited repertoire of moral reasoning) resolve.

Thus, the intuitionistic argument for natural rights is at best unpersuasive and at worst
incoherent. Let us then turn to a second, coherentist construal of Nozick’s position. On this
view, the warrant provided for minimal-state libertarianism is that its principles are in reflective
equilibrium with (some set of) our considered moral judgments. This is how I interpret the
canonical ‘Wilt Chamberlain’ example, as follows. Let’s begin with a distribution of one’s
choice, perhaps absolute equality of resources. Call this $D_1$. Over time, people do different
things with their distribution, and owing to many factors, they have different ‘distributions’ or
amounts of wealth and property (which Nozick calls ‘holdings’). Call this $D_2$. This goes on
constantly, iteratively, and in all sorts of non-linear patterns and loops. Some are frugal, some
are spendthrift. Some innovate, and some like to sleep late. Some can defer gratification, and
some have little in the way of impulse control. Some are prudent, and some are foolish. Some
are lucky, and some unlucky in the ebb and flow of social and economic life. Over time, there
are different holdings of property, and so long as no one’s rights were violated through force or
fraud or theft, then those holdings are justified. Thus, if people voluntarily pay the price of a
basketball ticket, and a (sizable) portion of that goes to Wilt, he is entitled to it. Schematically, it
looks like this:

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is the weirdness of conceiving of people as self-owners. We can, I believe, share Nozick’s insistence that
there are moral limits to what may be done to individuals without having to adopt the self-ownership
thesis.
D₁→D₂→D₃→…Dₙ (where →=“is justly transferred to”)

The example teases out an intuition we have that Dₙ is justified because it is the outcome of a series of legitimate transfers. In other words, the considered judgment that Wilt Chamberlain has a right to what has been transferred to him in voluntary, justice-respecting ways, and this is in close (narrow) reflective equilibrium with the doctrine of minimal-state libertarianism. “By what process,” Nozick asks, “could such a transfer among two persons give rise to a legitimate claim of distributive justice on a portion of what is transferred, by a third party, who had no claim of justice on any holding of the others before the transfer?” None whatsoever, if we think about it in the terms proposed. After all, no one coerced anyone else in the offering of contracts, purchase of tickets, and so forth. The intuition or considered judgment that Wilt is entitled to his wealth is highly coherent with the doctrine of laissez-faire. Nozick thereby proposes a ‘historical’ standard of justice, rather than an ‘end-state’ theory such as utilitarianism, or a Rawlsian account of procedural background justice.

I want to make three points regarding the use of the Wilt Chamberlain example, all intended to call into question its usefulness in a coherentist justification of minimal-state libertarianism. The first, immediate one concerns what this intuition of ours is actually supposed to be. Nozick believes that it concerns the results of all transactions that do or could occur in justice-respecting ways. Is the intuition supposed to be that in this case, Wilt has earned his income and should not be taxed at all except to enforce the terms of the contracts he signed (and maintain the other night-watchman functions of the state)? Or is the intuition supposed to be that he is entitled to all the benefits of his free exchanges? To most of the benefits? To some? Indeed, is it clear to us what it even means or could mean to endorse a principle whose consequences have not yet been articulated or foreseen? This seems misguided, as Nagel claims:

9 Nozick, Anarchy, State, and Utopia, 161–62.
“It is hard to see how anyone could seriously arrive at firm moral opinions about the universal principles of human conduct without considering what it would be like if they were universally applied, in iterations which might create complex effects of scale.”¹⁰ This is here not so much an objection to Nozick’s substantive conclusion as it is a point of order: it is less than clear what precise considered judgment it is supposed to be with which the principles of laissez-faire are coherent. I will return to this point shortly in a discussion of WRE.

The second response takes its cue from the preceding by pressing Nagel’s question a bit further. Suppose there are indeed effects of scale, specifically a set of holdings which is highly unequal. In his uncoerced dealings with some, Wilt has accumulated wealth by which he has also acquired a bargaining advantage in his dealings with others who were not party to these transactions. In this way, previous voluntary transfers may create externalities in virtue of which some are subordinate to others, or anyway at a comparative disadvantage. To make this point clearer, I bracket the topic of financial compensation and consider instead the classic question of the appropriation of land. Let’s suppose that the available land has been appropriated. It would seem to be the case that ‘enough and as good’ does not remain for these others, although Nozick rightly notes that the increase in the social product that comes from privatization may well provide compensation in terms of opportunities for bettering one’s condition. Very well—suppose this is so. The difficulty remains that the autonomy of those who arrive later has been ignored in the justification of the arrangement they encounter. They are in fact subordinate to and in important ways dependent on the will of those who have appropriated. Cohen points out that in such a system, while “everyone is entitled to work for no one,” in the sense that slavery is forbidden, “the power matching this right is differentially enjoyed. Some can live without subordinating themselves, but others cannot. The latter face a structure generated by a history of

market transactions in which…they are forced to work for some or other person or group.”

Assuming the cogency of this criticism, I conclude that the considered judgment that Wilt is entitled to the full proceeds of his transactions is by no means altogether plausible. Nagel’s point was that without a fuller sense of the meaning of the judgment that Wilt is entitled to his holdings, we cannot be sure what the judgment even is which might offered up in a coherentist justification of a laissez-faire regime. Cohen’s point is stronger: the judgment that Wilt is entitled to all the proceeds of his transactions is actually not very credible, such that any coherentist justification it is alleged to provide is illusory.

The third problem is that construed as an argument from NRE, Nozick’s invoking of the Wilt Chamberlain example is unconvincing because the warrant it provides for his libertarian conclusions is effectively counterbalanced by the fact that there are other equilibria, such as those between considered judgments about vulnerable individuals and broadly social-democratic principles of distributive justice (such as those advocated on Chapter Four). As an appeal to our intuition or considered judgment, his position has some merit. Who else is entitled to it but the guy who signed the contract and performed his end of the deal? Notwithstanding the points made in the preceding paragraphs, let us grant that the principle of laissez-faire is indeed in NRE with the considered judgment that Wilt deserves his earnings, that he is entitled to the accrued proceeds of the many discrete actions of voluntary transfer. But at the same time: if it is an appeal to intuition that is supposed to provide support for a theory or principle, note that it conflicts with other intuitions (or considered judgments) that we have (e.g., that orphans shouldn’t starve, or that persons born into disadvantaged positions are not getting a fair shake). So it’s not clear that the Wilt Chamberlain example is probative. In fact, this form of moral

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justification is aporetic (without solution), it would seem. NRE is aporetic as a method of moral reasoning, because there can be (and sometimes are) multiple equilibria that conflict. In the present case, it appears that there are at least two such narrow reflective equilibria: one between the Wilt example and the principle of laissez-faire, and one between the judgment regarding the developmentally challenged orphan and the sufficientarian principles of justice as fairness. Or alternatively: there is an equilibrium between the Wilt Chamberlain example and the principle of laissez-faire, and there is an equilibrium between the example of a poor but earnest kid who lacks access to a decent education and the principle of fair equality of opportunity. If matters were left here, then perhaps MacIntyre would be basically correct: there are conflicting, incommensurable principles (each in NRE with at least some specified considered judgments), and thus interminable disagreement among advocates of differing accounts of distributive justice.

Section IV: Wide Reflective Equilibrium: Formal Self-Ownership vs. Substantive Self-Determination

It is at this point that some of the argumentative resources of WRE play an important role in my argument: it will be my contention that the quarrel between minimal-state libertarianism and justice as fairness is by no means unresolved or unresolvable. To the contrary, the deep implausibility of Nozick’s position is perhaps most effectively brought to light by making use of the more comprehensive form of reflective equilibrium advocated in the preceding chapter. When we do so, I shall argue, the seemingly aporetic dispute between the two narrow reflective equilibria recedes, because each position relies for its overall defensibility on broader considerations that tilt strongly against Nozick. So in what follows, I will attempt to show that the Rawlsian theory of justice developed here is in greater comprehensive reflective equilibrium than is Nozick’s minimal-state libertarian position. With that task at least satisfactorily begun
and partially executed, we will be in a position to claim that the last of three of MacIntyre’s challenges has been met.

WRE, we recall, involves a second sort of coherence, that between the principles of justice and the conception of the person. In the Rawlsian scheme I defend, the conception of the person as possessing the three moral capacities is mediated through the original position, yielding principles. In Nozick’s argument, by contrast, the normative conclusion (“to each according to how he is chosen”) is not derived from a hypothetical contract, because it is a natural rights doctrine from which normative principles are more like deductive, deontic inferences concerning what is permissible. Nevertheless, in each theory the conception of the person plays an important role, so for comparative purposes, we can seriously ask: which conception of the person is more plausible, all things considered? For the purpose of justifying a theory of justice, are we Nozickean self-owners or Rawsian possessors of moral capacities? If one of the two appears to be a more plausible construal of the value of self-determination, then we would be in a position to say that (notwithstanding subsequent deliberation at the level of CRE), it provides warrant for that position.

So what exactly is Nozick’s ‘conception of the person’? In order to clarify what the task is here, we begin with two preliminary points. First, as noted in Chapter 4, it is plausible and appropriate to conceptualize human beings in different ways, depending on the practical task at hand (epidemiology, furniture design, whatever). In the present context, the question concerns how to conceive of persons for the purposes of generating a satisfactory theory of social justice. This task is familiar to the reader of Chapter 4, where I described and partially defended a Rawlsian conception of the person with three fundamental moral capacities. Second, given the intention here, which is to compare Nozick to Rawls, I bracket other aspects of moral
philosophy—what individuals owe one another in ways not mediated through the institutions of
the state. It’s not clear whether or not being an unencumbered self-owner is supposed to extend
through of all an individual’s relations with all possible moral patients—presumably any
plausible comprehensive moral theory allows for numerous positive duties within families,
between friends, among neighbors, and within communities. Were I defending Nozick, one of
the essential tasks would be to differentiate the two domains of ethical life (political and non-
political), on the assumption that we do have positive duties of beneficence to one another, not
merely duties of non-interference. Perhaps self-owners can and would acquire positive duties as
persons who make commitments (if the idea is that our being self-owners is a metaphysically
true description of us, a descriptively accurate claim about social ontology). For our purposes, it
will do suitably to think of his account of the individual as self-owner as a political conception of
the person, that is, one suited to the task of generating a theory of social justice.\footnote{12}

Nozick’s conception of the person, to a first approximation, is not so unlike Rawls’. He
writes that a person is

\begin{quote}
a being able to formulate long-term plans for its life, able to consider and decide
on the basis of abstract principles or considerations it formulates to itself and
hence not merely the plaything of immediate stimuli, a being that limits its own
behavior in accordance with some principles or picture it has of what an
appropriate life is for itself and others, and … [that has] the ability to regulate and
guide its life in accordance with some overall conception it chooses to accept.\footnote{13}
\end{quote}

In effect, this amounts to what Rawls calls a capacity for a conception of the good—the forming,
revising, and pursuing of a plan of life (a more or less ordered set of ends). The capacity for a
kind of self-directed pursuit of the good appears to confer on the individual the status of an end-

\footnote{12} Furthermore, there would be questions regarding the morally permissible treatment of non-humans. See Nozick, \textit{Anarchy, State, and Utopia}, 45–47 (“Underdetermination of Moral Theory”) for a provocative discussion of what it means to say that it is morally forbidden to use another entity for one’s own well-being.
\footnote{13} Ibid., 49.
setting rational agent who may not be used for others’ purposes. This inviolability is in turn the basis of or justification for the claim that individuals are self-owners. Thus, for the purposes of producing an account of the basic terms of social cooperation, Nozick conceives of the person as a discrete, independent individual who has sovereignty over his body and is entitled to the products of his labor and what others transfer to him (in justice-respecting ways and in keeping with the proviso that enough and as good be left for other appropriators). So understood, a person naturally possesses a negative right to be left alone unhindered (which entails that others have a duty of non-interference) and is encumbered by no positive duties (except for those voluntarily chosen).

Nozick helps us to see that a recognizably Kantian conception of the person is at work in his theory. He asks: “Why does mixing one’s labor with something make one the owner of it?..[W]hy isn’t mixing what I own with what I don’t own a way of losing what I own rather than a way of gaining what I don’t?”

Judged from one perfectly intelligible point of view, an individual who labors on objects or exerts effort in the external world has wasted his time and energy. After all, he has incurred an opportunity cost by not doing other things, and he has dissipated some of his energy. Oddly, Nozick doesn’t answer that question altogether straightforwardly (he raises it in the context of his discussion of Locke’s theory of acquisition and rejection of the labor theory of value). Nevertheless, I think it is clear from the preceding paragraph (as well as the overall tenor of the book, including especially his criticisms of Rawlsian redistribution) that it is because we are purposive beings, end-setting rational agents capable of goal-directed activities. The reason, or anyway one of the reasons, that labor produces property is that the effort expended had an intelligent purpose, consistent with either the agent’s own needs and desires or else the needs and desires of others (if the labored-upon

good or service is to be offered to others as part of a free exchange). The idea that individuals are purposive agents with their own goals and interests is after all what motivates Nozick’s view that rights are absolute side-constraints, and that it is categorically wrong to use people to achieve goals without their consent. In other words, at work in Nozick’s theory—implicitly in his account of just acquisition, explicitly elsewhere—is the idea that human beings are ends-in-themselves, goal-directed individuals whose autonomy trumps other considerations. So understood, the laissez-faire principle he advocates is an attempt to take seriously the moral demand that individuals are rightly regarded as beings who are capable of rational self-determination.

This interpretation of Nozick is a propitious one for us here, because self-determination plays a crucial role in my Rawlsian argument as well. Thus, we have a convenient way to consider the relative strengths and weaknesses of the two positions: which theory provides a better account of self-determination, justice as fairness or minimal-state libertarianism? Asked differently, is the value of self-determination better understood as being left alone to do as you wish (negative liberty) or as being guaranteed enough resources to make use of the three moral capacities? We need to be careful here—after all, Nozick has no reason to deny that individuals have the three moral capacities. He wouldn’t write a book about political philosophy if he didn’t think we had a capacity for an effective sense of justice. As well, he clearly believes that individuals have a capacity for a conception of the good, or else he wouldn’t care about whether the state interferes with their choices. And that we have a capacity for elemental well-being seems pretty uncontroversial (at any rate, I can see no reason why Nozick would demur). Thus, while he would have no particular objection to characterizing human beings as possessing these capacities, he would deny that we need to ‘model’ individuals in a contractarian determination of

principles of justice. That individuals are self-owners is for Nozick more basic, morally speaking, and its foundational status circumvents the deliberative contractarian approach to normative political philosophy (or at any rate, trumps the results of that process). So with respect to comparing justice as fairness and minimal-state libertarianism, which conception of the person is more plausible? More narrowly, which provides the more satisfactory account of self-determination? If I can show that the principles of justice argued for in Chapter Four amount to a more persuasive account of how to give institutional expression to the value of self-determination, then I will have shown that the conception of the person that generates those principles in the original position is in greater WRE with considered judgments about justice than is Nozick’s conception of the person as self-owner.

Following Kymlicka, we can distinguish between Nozick’s position and more liberal egalitarian views as follows. Nozick’s is a doctrine of formal self-ownership, whereas the liberal egalitarian view is that justice requires ‘substantive self-determination’.16 Adopting this (hopefully non-tendentious) distinction, I will characterize justice as fairness as promoting substantive self-determination and minimal-state libertarianism as promoting formal self-ownership. Granting that, why is the former a more plausible construal of self-determination? Let’s compare the two positions with respect to both the capacity for an effective sense of justice and the capacity for a conception of the good. In doing so, we will see that justice as fairness fares better as a construal of the value of self-determination, thus demonstrating a greater degree of WRE with our considered moral judgments.

How do the two positions compare with respect to political self-determination? To begin, we acknowledge that both accounts of justice entail a wide range of civil and political liberties. In that broad sense, they are clearly kindred doctrines within the liberal-democratic tradition of...
thought. But on closer examination, we will see that there are two ways in which justice as fairness as defended here takes more seriously the ideal of political self-determination than does Nozick’s position. The differences can effectively be brought to light by invoking a distinction Rawls makes in “Kantian Constructivism” between rational and full autonomy.¹⁷ Rational autonomy is that of the parties in the original position who choose the principles by which they will be governed (ergo self-rule). Full autonomy, in turn, is that of citizens in everyday life who affirm and act from—that is, are willingly constrained by—the principles they would hypothetically agree to in suitably circumscribed conditions (i.e., within the original position). Rational autonomy, then, concerns the legislating of principles, and full autonomy concerns the conscious and willing acting upon those principles in the context of pursuing one’s conception of the good in everyday life (in a well-ordered society, one “effectively regulated” by publically acknowledged and properly instantiated principles of justice). Granting this distinction between rational and full autonomy, we can sensibly ask how justice as fairness and minimal-state libertarianism compare along those two axes.

Let’s start with rational autonomy. In justice as fairness, individuals are rationally autonomous in that they are supposed to have ‘authorized’, i.e., are authors of, the basic terms of social cooperation (constitutionally guaranteed rights and liberties, equality of opportunity, and a basic minimum). The principles of justice are chosen in the original position by contractors keen to exercise their moral capacities, especially those for a sense of justice and for a conception of the good. This is an appeal to the value of rational self-determination: though the contractors behind the veil of ignorance don’t know all sorts of things about themselves, they do know that they have certain powers and that they will in everyday life (when the veil is lifted) need the all-purpose means (primary social goods) in order to exercise those powers. Their

¹⁷ Rawls, “Kantian Constructivism,” 308.
motivation, then, is to be able to be empowered in the exercise of those capacities that they regard as constitutive of human personality. And at the same time, they are willing to be constrained by norms of their own choosing, under conditions in which they understand themselves to be the free (i.e., unencumbered by antecedent law) and equal (i.e., equally empowered to determine the principles). This is in effect, or at least in theory, the Rousseauian and Kantian idea that genuine freedom involves being subject to a law you’ve set for yourself. In short, within the defense of justice as fairness offered here, rational autonomy means the authorizing of the principles of justice to which one is subject.

The comparison here with Nozick is difficult, because the libertarian principles he defends do not proceed from a suitably constructed reasoning situation in which interests are taken seriously. His is a doctrine of natural right, according to which there is an antecedent standard to which he claims some kind of epistemic access. As I stated earlier, this doctrine leaves us with questions about both ontology and epistemology. What kind of thing is a natural right? Or else: What kind of thing is a natural law from which rights are derived? As well, what faculty is it by which such a thing could be known? Intuition? In the absence of any answer to either the ontological or epistemical question, let alone a satisfactory one, it is difficult to compare justice as fairness and Nozick’s libertarianism here with respect to rational autonomy. Of course, if he is right, he is right. If there truly is a law of nature, our having chosen it or not is irrelevant to its being the case (not to mention our having or having not chosen it in a contrived reasoning situation, which the original position most certainly is). If the right to mix your labor and

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18 What is illuminating here is the comparison with Locke, who claimed that the natural law is “writ on the hearts of all mankind” by the God who created them. Locke’s own epistemology here is of course interesting. For the Essay’s purpose of clearing away the rubbish in the way of corpuscularian science of nature, Locke avers an empiricist account of ideas, and for the purposes of justifying resistance to the crown in the Second Treatise, he relies on some kind of innatism. Clearly, such a pairing of views would not survive comprehensive reflective equilibrium.
appropriate subject only the Lockean proviso is antecedently the case (as, say, Boyle’s Law and other scientific laws are), then neither constructivism, contractarianism, nor coherentism would seem to have much to do with normative justification. (Nor need one be concerned that a doctrine of binding natural law would constitute what Kant thinks of as heteronomy—being subject to a law not of your own choosing, but given to you by some antecedent set of conditions.) All I can say here is that Nozick is not necessarily wrong, but he certainly owes us more than a throw-away confession at the end of his Preface that he hasn’t provided answers to the obvious onto-epistemic questions. And since he never returned to these matters, as he claims there to hope to do someday, his position is as it stands is not well-grounded.

So with respect to rational autonomy, the approaches to normative justification are so divergent that it is difficult to compare the two positions in a neutral way. But at least justice as fairness as defended here does claim to be coherent with the idea that the principles of justice are supposed to be self-chosen, that requiring the consent of the governed for the legitimacy of the state takes seriously the demand that individuals be self-rulled. And that seems a better rendering of rational autonomy than the (implicit) claim by Nozick that there happen to be some normative truths he has discovered through a mysterious faculty that some other cognitively capable beings lack. Be that as it may, we turn now from rational autonomy to full autonomy, where the two positions can be compared more carefully.

Full autonomy, in brief, means obeying oneself, that is, acting out of respect for the law one has set for oneself. At the level of ideal theory, justice as fairness involves the aspiration that in everyday life, citizens are empowered to be responsible for the content of the laws and policies carried out in their name. They can learn what they think they need to, talk with whom they choose, speak truth to power, vote, and stand for office. They use their rights and liberties
to make their voices heard—in support of this or in opposition to that. By having basic rights and liberties (including, importantly, the fair value of political liberties), their capacity to be good citizens is genuinely realizable. They can inform themselves, listen to others, express themselves, assemble with others, organize themselves into protests that can change law or policy, and so forth. And since they have fair value of political liberties, elections aren’t supposed to be dominated by moneyed interests which saturate the public sphere with some ‘meme’ or ‘memes’ that determine both the content and parameters of political discourse. Political debate is then supposed to be a matter of citizens using their capacities for rational deliberation to determine for themselves how they will collectively govern themselves. In this sense, citizens (i.e., the contractors after the veil of ignorance is lifted) are autonomous—they are subject to laws they set for themselves.

What about full autonomy in Nozick’s account? As stated earlier, it seems clear that Nozick makes room for as full a range of basic civil and political liberties as possible. In fact, whereas citizens of a Nozickean utopia could not be conscripted or be subject to mandatory public service, no such deontic proscription attends a society governed by the norms of justice as fairness—it would for me depend on a number of factors in comprehensive reflective equilibrium. I pass over that interesting subject here.

Turning our attention to the idea of making effective use of one’s sense of justice, there are two main objections to Nozick’s account of political self-determination. First, he makes no provisions for the development of an effective sense of justice across society’s groups. Education would be strictly a function of what can be garnered from free exchanges, and public education would be prohibited because of its implicitly redistributive tendencies. Merely formal equality of opportunity leaves the prospect of a not inconsiderable number of individuals
incapable of genuine political self-determination simply owing to a paucity of the relevant cognitive tasks such as reading. There would be no requirement that individuals be schooled in order that they be sufficiently literate, numerate, and scientifically informed to make rational decisions about the affairs of the day (or their own lives, to which we turn when discussing the capacity for a conception of the good in the next section). Thus, owing to foreseeable disparities in their opportunities for becoming sufficiently informed to be deliberative participants in the polity, the minimal-state fails as an account of the fair equality of the value of political self-determination.

Second, in Nozick’s ideal theory, restrictions on campaign contributions by private individuals and groups would constitute an infringement on what an individual can do with his holdings, and would thus be prohibited. As individual self-owners of assets, they are free to exercise their capacity to influence elections via political donations. They can do with discretionary income as they see fit, and the state has no business distinguishing between ballot measures and bowling shoes as objects of consumer choice. In short, in the minimal state, one is entitled to make use of one’s capacity for an effective sense of justice not only by informing oneself and voting, but also by using accumulated assets to swing elections. Considering the sharp differences in the capacities of formal self-owners to influence elections through campaign contributions, the predictable result is that there would not be the fair value of political liberties, as Rawls calls it.\footnote{Rawls, \textit{A Theory of Justice}, 225–26; \textit{Justice as Fairness: A Restatement}, 148–50.} An individual whose holdings allow him to influence the content and outcomes of election processes would be able to actualize his capacity for political self-determination that would violate the norm of fair value of political liberties.\footnote{Public financing of campaigns would presumably be strictly proscribed because of the fact that individuals would have to be taxed in order to finance them.}
For those two reasons, Nozick’s account of political self-determination is deficient. The full autonomy of individuals in a minimal state—the capacity of all citizens to develop and exercise an effective sense of justice—is not taken seriously the way it is within justice as fairness. The fair value of political liberties is made a mockery of within this system, assuming the cogency of these objections. We can say this one of two ways. Either we say that the value of self-determination that implicitly underlies Nozick’s doctrine of individual self-ownership is not coherent with the implications of his laissez-faire position (since in such a society, some do not have meaningful opportunities for genuine political self-determination). Or casting this in the language of WRE, we can say that our considered judgments about what genuine political self-determination requires (public schooling, for one) are discordant with Nozick’s conception of the person as formal self-owner. But the problem runs more deeply, as we see when exploring the idea of full autonomy more carefully. Recall that full autonomy is the ideal not just of being self-governed, but of being self-governed while pursuing a plan of life. Full autonomy, in other words, is the process of forming, revising, and pursuing a ‘conception of the good’ (as we called it) within self-imposed norms (those that are the deliverances of the rational autonomy employed in the original position). We can thus sensibly ask whether with respect to the pursuit of a conception of the good (the other aspect of full autonomy), the minimal-state approach is in wide reflective equilibrium with our considered judgments. Or more specifically, we need to ask whether minimal-state libertarianism or justice as fairness is in greater WRE with our considered judgments about what it is for individuals to act as self-determined beings with a capacity for a conception of the good. To do so, let’s start with justice as fairness.

In justice as fairness, individuals’ capacity for a conception of the good is realized by means of an adequate provision of primary social goods. In this regard, self-determination
involves several things. First, individuals are able to form and revise a plan of life, all along knowing that the basic liberties are constitutionally guaranteed—you can move, if you so choose, or pursue a career-change, or find reading material that exposes you to things you might develop an interest in pursuing, or assemble with like-minded folks, or visit a different house of worship as you so choose, etc. Individuals are free to form and revise their conception of what is valuable in life and worth pursuing—free from interference from either the state or others in society. So far, Nozick would have no quarrel with this regime of civil liberties.

Second, fair equality of opportunity means having access to educational resources (primary school, vocational school, etc.) in order that one can in theory develop a plan of life or conception of the good that is not irrational or uninformed—owing not only to the specific content one learns in school but crucially the skills one learns (reading, writing, arithmetic, critical thinking, world history, one’s own country’s history, natural science, etc.). Publicly funded libraries are vital in this effort, as well. In turn, having sufficient opportunities and a social minimum allow you to pursue the ends you have deliberated on and decided upon. Thereafter (not temporally, but within the procedural background conditions), it is up to individuals to decide whether career or family (or both) is more meaningful to them, whether they enjoy the arts or athletics (or both), or whatever. You are responsible for your ends at this point, and neither the state nor other citizens can justifiably deter you from your (justice-respecting) ends—not for paternalistic reasons, not because the majority disapproves, not because some are offended by it. You are in this sense also the ‘author’—not a contractor who ‘authorizes’ the principles of justice, but in the sense that you are the author of your life’s story. Your conception of the good might be fairly narrow in scope (family, kids, neighborhood, place of worship, bowling league, etc.) or it might be grandly cosmopolitan and directed toward a
number of ends and aims that a more parochial neighbor can scarcely imagine. It can be altogether self-concerned, or then again it might be directed toward the needs of others. Presumably, it is for most of us some combination of both. But in any case, as autonomous agents, individuals are responsible for what they choose to do with their allotment of primary social goods. The claim here is that these implications of justice as fairness exhibit a considerable degree of WRE with the notion of the individual as a self-determining being with the capacity for a conception of the good.

How does Nozick’s account compare with respect to the concept of the person as self-determining? Equality of opportunity would in his scheme be formal or legal (equality before the law, and presumably laws against discrimination), but it would not extend to such things as public schooling, public health funding, transportation subsidies, and other ostensive efforts at providing the means for less-advantaged persons to have greater opportunities. This is because the “available space of rights fills up,” by which Nozick means that the existing (negative) right an individual has to her holdings preempts considerations of any claim to (or putative positive right to) some of those holdings for the purposes of effecting a fairer system of equality of opportunity. A poor kid whose capacities are unfulfilled cannot claim a positive right to some share of resources because those resources are already someone else’s holdings, and that latter individual (or group of individuals) who would be taxed under justice as fairness has an

21 Compare ‘welfarist’ forms of utilitarianism, according to which the good to be realized by a just society is desire-satisfaction. This generates the following problem: if one person has expensive preferences, then he will actually be at an unfair disadvantage if he doesn’t get more resources than someone with inexpensive preferences. If we think that justice amounts to equal opportunity for welfare/happiness/desire-satisfaction, then equal treatment requires unequal distribution of primary social goods. Whether this constitutes a clever variant of utilitarianism or a kind of reductio ad absurdum of welfarist utilitarianism I cannot decide.

22 This is tricky for the libertarian. If the owner of a firm wishes to discriminate in terms of clientele, or whom he employs, does his negative right trump the rights of others to patronize where they choose? Likewise for the property-owner who seeks renters, and would-be renters who seek somewhere to rent.
untrumpable (negative) right to them. No matter how it ramifies over time in terms of the ability of all individuals to exercise their self-owned powers, it is morally impermissible to attempt to maintain background social conditions for the purposes of fair equality for opportunity. If you are a self-owner of powers and you have little to offer others—whether because of the brute luck of the genetic lottery, or from a privation of circumstances (poverty, no education, lack of dental care), or from a culpable lack of willingness and discipline to develop one’s capacities—then you have no legitimate claim on resources. Justice in this scheme requires no attempts at mitigation of these circumstances; indeed, justice prohibits it. This is what Nozick means when he writes that redistribution of any sort is “nothing more” than the use of some for the benefit of others.²³ From the standpoint of justice as fairness, meanwhile, redistribution has the potential to extend the prospects for self-determination to a broader range of individuals. Of course, it is only in the context of being applied over time in the functioning of background institutions that practical reasoners can make the determination about how such a system can most effectively work to broaden the prospects for dignified self-determination.

My contention is that if we interpret self-determination as formal self-ownership, it has implications that are discordant with our considered judgments about equality of opportunity, meaning that Nozick’s conception of the person is not in WRE with our considered judgments. That is, if equality is merely formal and not fair, there will predictably be individuals for whom self-determination is not truly on offer, owing to a privation of circumstances. Justice as fairness in the form defended here relies on the expectation—one that can eventually only be vindicated in CRE—that social democratic “redistribution doesn’t sacrifice self-determination for some

²³ Nozick, Anarchy, State, and Utopia, 33.
other goal. Rather it aims at a fairer distribution of the means required for that goal.” As I interpret it, that is what fair equality of opportunity (the second principle) is about.

Put a different way, we can say with Nozick that individuals are ends in themselves, and then ask the following two questions: First, what is it to use another? And second, what’s the best social system for trying to curtail the violation of genuine human autonomy? According to justice as fairness, taxing a wealthy individual to make sure that children become literate does not constitute using him objectionably, but as laudably promoting the value of self-determination for everyone. Ideally, at least, no one’s capacity for a conception of the good is disregarded altogether in the way that is entirely foreseeable within a system of laissez-faire. Meanwhile, offering a day-laborer poverty-level wages in the absence of alternatives (and no remaining commons from which to appropriate), and no public assistance, does constitute an objectionable use of him, according to justice as fairness. Being subject to taxation decreases a well-off individual’s discretionary income and latitude of consumer choice, but it does not undermine his ability to carry on his life as he sees fit. In other words, the trouble for libertarianism is that “not everyone can parlay their formal self-ownership into substantive self-determination.” Of course, no system can promise all things to all people, and justice as fairness is not a panacea for all human woes. But individuals with access to at least a social minimum, fair equality of political liberties, and fair equality of opportunity do have the means to some kind of substantive self-determination. The providing of such by redistributive means is strictly forbidden by Nozick’s conception of what it is for someone to be used by others. At the level of ideal theory, his system leaves to the social lottery, natural lottery, and other vicissitudes the prospects for meaningful self-determination among individuals across society. Justice as fairness—again at

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24 Kymlicka, Contemporary Political Philosophy, 123–24.
25 Ibid, 123.
the level of ideal theory—claims that merely formal self-ownership is an unsatisfactory account of what it is to take seriously the concept of the person as a self-determining being.

My claim, then, is that Nozick’s conception of the person as self-owner is not in WRE with considered judgments about the need individuals have for background social conditions that guarantee a broader distribution of the means to realizing the capacities of individuals for self-determination. As a way of rendering or giving institutional expression to the value of individual autonomy, justice as fairness offers a more plausible account than does the minimal-state libertarian view under examination. Formal self-ownership is in this way not denied by justice as fairness, but sublated (as Hegelians say), that is, included and improved upon.

To review, NRE refers to coherence between considered judgments and principles, and WRE refers to coherence between considered judgments and a conception of the person. I have argued that at best, Nozick’s position is in NRE with some judgments, though not others. And I argued that the degree of WRE between Nozick’s conception of the person as self-owner and our considered judgments is far less than the coherence between our considered judgments and the conception of the self in justice as fairness.

Section V: Libertarianism and Justice as Fairness in Comprehensive Reflective Equilibrium

What argument can we provide that the three principles advocated in Chapter 4 (justice as fairness, for short) exhibit greater CRE than does Nozick’s principle of natural rights-based laissez-faire? That is, how does CRE contribute to my case for justice as fairness and against minimal-state libertarianism?

CRE refers to the ideal of putting into a coherent package all of one’s relevant beliefs, including considered judgments, principles, the conception of the person, and as well
considerations from the empirical sciences and inherited traditions of inquiry. CRE is a regulative ideal—not one ever quite achieved, but which orders or organizes our cognitive efforts. It is the most suitable ideal we have as cognitive beings for organizing beliefs, across a range of matters that we suppose to be relevant (considerations of relevance being themselves part of the belief set), into an internally consistent whole. More specifically in the present case, we need a way of seeing how minimal-state libertarianism and justice as fairness compare when it comes to reasonable beliefs from the empirical sciences, specifically social (and if relevant, natural). In this context, I ask: are both systems equally stable? Would they both be stable, as Rawls puts it, “for the right reasons”? Addressing this will require incorporating reasonable beliefs about psychology, economics and other social sciences. In doing so, the superiority of justice as fairness becomes clearer—not only because it hopefully has the resources to connect reasonable beliefs from the social sciences with normative claims about what justice requires, but also because (more basically) it actually takes these issues seriously as part of the task of practical reason. Minimal-state libertarianism, at least in Nozick’s rights-based deontic framework, by contrast does not allow these kinds of considerations to enter into its deliberations, rendering it not exactly foundationless but more to the point without any capacity to incorporate considerations about the psychological strains of commitment, the inherent instability of markets, the realities of macroeconomics, and the like. So I will be suggesting that when we consider the two systems in the light of reasonable beliefs about psychology and economics, justice as fairness will exhibit greater CRE than will minimal-state libertarianism.

In Chapter Four, I focused on the conception of the person as having three basic moral capacities (a partial modification of Rawls’ account of the two highest-order moral capacities). Borrowing from Rawls without modification, the original position is a device for modeling that
conception among individuals who regard themselves as free and equal moral beings (inasmuch as they are regarded as having those capacities). One of the important desiderata of the hypothetical agreement that is supposed to result is that the society regulated by its principles be ‘well-ordered,’ to borrow Rawls’ term. The basic idea of a well-ordered society is that the principles of justice that regulate society are (within reasonable limits) publicly known, agreed to, and tolerably well instantiated in the background social conditions.\textsuperscript{26} A crucial feature of the well-ordered society is supposed to be that it is stable, by which Rawls means that it can withstand what he calls the “strains of commitment.” Let’s briefly clarify these terms.

Concerning stability, Rawls wisely writes: “all social systems are subject to disturbances of some kind, [and] they are practically stable…if the departures from their preferred equilibrium positions caused by normal disturbances elicit forces sufficiently strong to restore those equilibria after a decent length of time, or else stay sufficiently close to them.”\textsuperscript{27} It is supposed that free and equal individuals regard themselves as having in some credible sense consented to the basic terms of social cooperation, or else the system will not be stable for the right reasons. Thus—quite apart from the challenges to maintaining a stable social system which might come from changes, sudden or gradual, with regard to the circumstances of justice—the problem of stability is particularly acute if individuals are asked to withstand demands which they cannot plausibly be thought of as having agreed to. These demands Rawls calls the “strains of commitment”, which he describes this way:

since everyone is…[agreeing]…in good faith, and not simply to make the same choice, no one is permitted to agree to a principle if they have reason to doubt they will be able to honor the consequences of its consistent application. This limitation will similarly affect everyone’s deliberations, particularly since they must keep in mind that the undertaking is final, binds them and their descendants

\textsuperscript{26} Rawls, “Kantian Constructivism”, 308–309.
\textsuperscript{27} Rawls, \textit{A Theory of Justice}, 457.
in perpetuity, [and] yields a public conception of justice to apply to the basic structure of society…\(^28\)

The more familiar implication of these considerations about the stability of a well-ordered society has to do with the decision-rule employed in the original position (whether maximin, as in Rawls, or MEU\(_{\text{floor}}\) as I advocated) with respect to what a rational, risk-averse individual would want for himself (or anyone, given the conditions set by the veil of ignorance). This was decisive with respect to the choice of all three principles of justice. But a closely connected matter is whether the principles of justice agreed to are tolerably feasible over the medium- and long-term. One way of including considerations about the stability of a social system would be by including that information as part of the set of reasonable beliefs shared by contractors in the original position. Here, I will consider them in the context of CRE.

To summarize the preceding: in order to be objects of rational agreement among free and equal individuals, principles of justice should help to create a well-ordered society. A well-ordered society, in turn, is stable, and stable societies can withstand the strains of commitment.

To continue the argument: since a just society should be able to withstand the strains, we have in effect a way of evaluating the relative merits of minimal-state libertarianism and justice as fairness. Conceptually distinct from (though inextricably tied to) considerations of whether free and equal individuals are satisfied with their lot is the question of what kind of society can or would be stable for the right reasons. Let’s put it this way: in which society would the strains of commitment be greater? If I can show, or at least outline an argument according to which, justice as fairness exhibits greater CRE than does minimal-state libertarianism, then it will buttress the conclusion that MacIntyre is wrong to say that the quarrel between them is aporetic.

Granted certain assumptions that are close to truisms from the social sciences, I intend to provide

reasons to claim that justice as fairness would be more stable than minimal-state libertarianism, in that its prospects for stability are greater. If this is the case, the argument continues, then we have reason to say that justice as fairness is in greater CRE with reasonable beliefs from the social sciences, thus extending and strengthening the conclusion arrived at earlier in the chapter that MacIntyre is wrong to contend that the quarrel between laissez-faire and social democracy is without resolution.

Until now, I have enjoyed the privilege of operating at the level of ideal theory, arguing that justice as fairness is in both greater NRE and WRE than is minimal-state libertarianism. But justice as fairness, though not alone in this respect, has among its virtues the flexibility that any feasible theory of justice should exhibit. In what follows, I mean to show that justice as fairness is consistent with, or more to the point reliant on, efforts at affecting (sometimes dramatically, though typically more marginally or gradually) such pertinent variables as unemployment levels, tax rates, and currency valuation. While I claim no particular competence in these matters, much of what I assume here I understand to be virtual truisms in the social sciences—not exactly proven truths, but also far from wild assertions—potentially defeasible but by no means unwarranted or heterodox. My claim will be that justice as fairness has the resources at least to address responsibly matters of governance. By contrast, Nozick’s libertarian minimal state seems incapable of so acting, I gather. Not only does he insist on strongly deontological strictures against redistribution, but as well he implicitly forswears macroeconomic adjustments that are part and parcel of competent governance. As a result, I conclude that justice as fairness exhibits a greater degree of CRE with (at least some) credible beliefs from social science than does minimal-state libertarianism.
For simplicity of presentation, let us orient the discussion around the topic of unemployment. I do not insist here that we are essentially laboring animals (though that does seem to be part of the truth about us), such that the overcoming of alienated labor and the realization of our species-essence are the linchpins of a just future. For the record, justice as fairness cannot eliminate alienated labor, though it can earnestly attempt to mitigate some features of the less gratifying work that appears to be ineliminable. Nor will sufficient attention be paid to the related issue that gainful work is an important element in what Rawls calls the “social bases of self-respect”, though that is hopefully a significant feature of a polity characterized by justice as fairness. Instead, I will propose three different ways in which justice as fairness has the wherewithal to address unemployment in concrete, constructive ways not available to the defender of laissez-faire: unemployment compensation; adjustment of income tax rates; currency valuation.

To begin, let’s suppose a minimal state, one characterized by Nozick’s principle of laissez-faire. In this nation-state with a recognized currency, self-owners use their powers to appropriate and to engage in uncoerced transfers. Firms are created, they compete with others for market share, and so forth. Owing to the demands of competition, they increase efficiencies of production and distribution, including through automation and by decreasing labor costs. Let’s suppose further that as these firms produce goods, the efficiencies of production create a surplus and it becomes competitively necessary to lay off employees. If this sounds like boiler-plate Marxist economics, then very well. The serious question becomes: what is to be done about the problem of surplus-production, within the laissez-faire system? The resolute answer is: nothing. First, unemployment compensation would of course be proscribed, since it would by Nozick’s lights constitute ‘nothing more’ than the use of some (say, stock-holders in firms) for
the benefit of others (those thrown out of work by the competitive demands placed on the firm that cashiered them). So who then is going to buy the products the firm needs to sell to stay solvent? Not the unemployed, presumably—or at least not reliably or for more than the short-term.

What about devaluing the currency in order to decrease the cost of the goods abroad and thus increase demand for them (thereby keeping people employed)? Surely that, too, constitutes a kind of theft (by Nozick’s lights), since it would immediately decrease the holdings of those with assets. In other words, the self-owner who is retired and living on savings would be used on behalf of the self-owner who doesn’t have a job (or whose job is contingent on the firm keeping him, which is dependent on exporting the surplus). What about vocational training for the emerging surplus army of the unemployed? Is it permissible (not to say indicated, or prudent, much less just) to reset the marginal income tax rate in order to generate the revenue needed to fund a training program in order that self-owners be able to seek gainful work (now that the commons has been appropriated by self-owners who stole a march on others)? Absolutely not, since (once again) this would involve a ‘taking’ of holdings.

Thus, none of the three proposed means of mitigating unemployment can even be countenanced by Nozick—not unemployment compensation, not job-training, not currency devaluation. Let’s now press the point by supposing that over time, the rate of return on investment tends to outpace the economic growth—this is Piketty’s claim (R>G).29 If so, can the system be stable (for the right reasons)? If the ever-increasing concentration of wealth does not become self-correcting, but actually ramifies, what then? If there is a tendency for those with assets to accumulate more, then over time grave problems arise. If, as wealth accumulates, aggregate demand drops (with its recessionary tendencies), what comes next? Laissez-faire

means just that—let it go, let it be. Nozick’s rights-based minimal-state libertarianism appears to be a system that is inherently unstable and yet normatively prohibited from correcting for its own (actual, not just potential) systemic flaws. The general point, in other words, is that the theory in principle forswears all manner of centralized efforts at economic stabilization. That is, even with the tremendous strains of commitment entailed by increasing unemployment, such an issue cannot even rise to the level of a pertinent, normatively significant consideration within Nozick’s minimal state. *Fiat justitia pereat mundi.*

Or so I extrapolate from *Anarchy, State, and Utopia*. It is not totally straightforward, since Nozick effectively ignores these kinds of issues, claiming “liberty upsets patterns.” True enough, says the defender of justice as fairness, and long may it be so. But it doesn’t follow from the fact that free exchanges can and do change patterns of holdings that constantly changing patterns create the conditions for their own maintenance or stability. “Wholes are not easily scanned”, writes Nozick. No, they are not, but that doesn’t mean either that there are not wholes (or systems) or that we cannot discern them or that they do not have normative significance or that they cannot be affected by prudent decision-making. It is a mark of the utter insouciance of this eminently clever book that these kinds of issues are overlooked in deference to abstract theory. But more to the point, as I will suggest shortly, the contrast with justice as fairness here is salient, since among its virtues is the flexibility to respond to insights and reasonable beliefs from the social sciences and attempt to cohere with them comprehensively.

Before moving to that conclusion, though, one more potential deficiency of minimal-state libertarianism (that is, evidence of its not being in CRE with reasonable beliefs from the social sciences) should be highlighted. I assert here (though my evidence is more anecdotal and impressionistic than I would like) that, at least in the U.S., one of the major obstacles to the
formation of small businesses is the prohibitive cost of health care insurance. It is clear that employers seeking skilled employees are burdened by very high costs in this regard, unless of course they offer no such benefits (and thus find their prospects for hiring suitable workers diminished). So there is some case to be made for a level of health care that is publicly funded—just from the standpoint of small-business creation. There is thus reason to believe that unemployment levels could be improved if—notwithstanding other factors—some manner of health insurance were offered as an element of the background social conditions. This is a defeasible assertion, one the defender of justice as fairness would like to see empirically confirmed or disconfirmed.

Here in the context of health care, a further consideration with respect to stability arises. In the libertarian state, anyone who for whatever reason lacks health insurance (even owing to a recent loss of employment) risks serious financial hardship. Life-threatening conditions are a considerable burden on individuals and families to begin with, and if they are accompanied (as they predictably will be, for a non-negligible number of people) by the prospect of financial ruin, then the threat to stability is obvious. This is, to clarify, not merely a point about justice in an abstract normative sense, but very much a matter of whether the laissez-faire society can be well-ordered.

What about justice as fairness? To begin, let us acknowledge that there are no magic formulas or algorithms here. The hope is that a well-ordered society can balance different considerations prudently. Justice as fairness, rooted as it tries to be in considerations of the strains of commitment and the requirements of stability, aspires to adjust accordingly. There is no magic bullet for full employment, but there are ways of mitigating the worst effects of the movement of capital and dislocations of the market. Among the salient important background
social conditions would be the sorts of attempts at mitigation, some Keynesian and some monetarist, which I claimed above would be eschewed by Nozick. If there are not brakes on capital flight, then at least the resulting situation can be partially remedied by unemployment compensation and job training. If there is a productive surplus, then marginal charges in currency rates can soften the resulting unemployment. If aggregate demand has diminished, then the marginal income tax rates can be adjusted so that the purchasing power of the less well-off can be increased. All of these are in a sense piecemeal, partial, incomplete, temporary, tentative, and revisable—much like the equilibria they seek. It is clear that the measures attempted in good faith toward the end of decreasing unemployment and maintaining stability will not be the same in all regions or sub-sections of a nation-state. Owing to the variability of geographic conditions, the contingencies of historical legacies, and so forth, it is unlikely that there could ever be a one-size-fits-all set of measures, let alone solutions. But at least this much I assert with confidence: whereas rights-based minimal-state libertarianism does not even countenance questions of what is required for stability, justice as fairness has the theoretical resources to undertake practical measures which, though imperfect, tend toward greater stability. Thus, minimal-state libertarianism is discordant with reasonable beliefs in the social sciences about what is required for the stability of a well-ordered society among individuals who regard themselves as free and equal. In short, it exhibits little if any CRE, whereas justice as fairness has both the theoretical potential and the practical mandate to do so.

I do not claim to have settled the many issues involved in what constitutes a well-ordered society. Clearly, what I have said in the preceding stands in need of considerably more support than I have offered here. Nor do I intend to hide the fact that a sufficientarian society would face its own particular strains of commitment. Even granting that justice as fairness is overall more
stable than minimal-state libertarianism, sufficientarianism could engender its own problems, such as the moral hazards attending a guaranteed minimum. (My tentative suggestion is that it would involve public works projects which the able-bodied can reasonably be expected to participate in if the government is the employer of last resort.) And I acknowledge that fair equality of opportunity, when instantiated in public institutions, can be abused by the unscrupulous egoist, or by an individual with a personality disorder. Denying that there are moral hazards here is like a libertarian blithely insisting that markets are all self-correcting or self-sustaining. The hope is that a well-ordered society can try to limit free riders and other abusers of the system, but not at the cost of consigning the marginalized to lives of avoidable desperation. How exactly that is to be done is an open question with fluid dimensions to it. But at least justice as fairness as defended in this essay tries to take seriously the demand that the just society be stable for the right reasons.

The conclusion I draw from the preceding is that justice as fairness is more consonant with reasonable beliefs from the social sciences, specifically economics, about the strains of commitment, than is laissez-faire. That is, it has better prospects for being stable for the right reasons, and thus well-ordered. And if this is so, then we can say that it is more coherent with empirical beliefs, and thus in greater CRE with reasonable beliefs about relations of cause and effect, than is its competitor.

On offer here would not be what Dean Baker calls ‘loser liberalism’, which seems to some to punish the productive and enterprising, and certainly produces its own strains of commitment.\textsuperscript{30} It is not a society hostile to the sorts of lives Nozick envisions in his utopia; in fact, it is unclear to me what of decisive value in his utopia is not evoked in Rawls’ inspired

description of the sense of justice in Chapter 8 of Theory. Being taxed is not like being mugged, and far less is it akin to the almost histrionic counter-examples Nozick offers of having body parts removed forcibly and the like. The well-ordered society would be one fairly hospitable to those who value not only liberty, but express that value by trying to make substantive self-determination available to those who believe themselves to be equal as citizens with basic moral capacities. Justice as fairness offers the additional feature of recognizing and incorporating the fact that upward wealth transfers are a medium-term macroeconomic problem and a long-term socioeconomic disaster. In that way, it is not so clearly primed for instability as is a rights-based laissez-faire system which is deontically forbidden from even addressing by prudent means its possible self-destruction.

This concludes the argument that MacIntyre is wrong to say that the quarrel between Rawls and Nozick is without resolution. I have provided arguments based on coherentist considerations—NRE, WRE, and two levels of CRE—that the case for justice as fairness is more compelling than is the case for minimal-state libertarianism.

Thus, it also concludes the response to MacIntyre’s claim that liberalism is a failed enterprise (that could have been avoided).

Thus and finally, it concludes the overall response to and rejection of MacIntyre’s jeremiad as characterized in Chapters 1 and 2.

Section VI: MacIntyre and Justice as Fairness: Rapprochement and Accommodation

In Chapter 3, I argued that the liberalism is not an irruptive or errant undertaking, that it is not a failure, and that MacIntyre should welcome these claims since he is a liberal in spite of himself. Moreover, I have argued in Chapter 5 that he is wrong to say that the dispute between
social democracy and laissez-faire is without resolution. This was the argument marshaled on behalf of justice as fairness—as developed in Chapter 4—against rights-based minimal-state libertarianism. In this concluding section, I will make one further argument: that justice as fairness as presented and partially defended in this essay can be seen as partially accommodating MacIntyre’s notion of virtue-fostering communities. In this way, I will suggest that a well-ordered liberal regime characterized by justice as fairness (the three principles of justice defended in Chapter 3) is not inhospitable to his perfectionist ideals. As well, this rapprochement will acknowledge that there are ways in which his criticisms, particularly of capitalism, may not be dealt with satisfactorily here. As well, I will acknowledge that his ideal of community will continue to have great appeal, and may even outlast the nation-state whose facticity I have been assuming in this essay.

In the course of this essay, I have offered a Rawls-inspired theory of liberal justice. In one sense, that account is a refutation of MacIntyre’s claim that the quarrel between social democracy and laissez-faire is without resolution. At the same time, it is intended as a corrective to MacIntyre’s own cynical counsel of free-riding on the institutions of the modern state. And now finally, and in a more conciliatory spirit, the account of justice as fairness defended here offers some accommodation of MacIntyre’s ideal of the community as the locus of virtue-promoting practices. In the following, I hope to show, or at least plausibly suggest, that his perfectionist ideal can find suitable room for expression in a well-ordered liberal polity.

In MacIntyre’s account, to recall, practices have as their goal both the achievement of external goods (such as farmers growing food) and internal goods (the virtues involved in and required for the pursuit of those goods). The development of excellences of character is thus central to the ethical life of an individual as well as to the justice of the community in which
those virtues are fostered. Meanwhile, as we have also seen, justice as fairness is not based on a perfectionist account of the good (whereby the right is constituted by the optimization of some specific excellence of character or production of some ideal type or exemplar). Indeed, one feature of liberalism is the assumption that the fact of stable disagreement about the good disqualifies such perfectionism from consideration. So on the face of it, the two positions seem incompatible, or anyway at sharp odds with each other. But on closer examination, we can see that justice as fairness as defended here is far from hostile to MacIntyre’s ideal. By incorporating the three moral capacities, justice as fairness does attempt to acknowledge that (as Rawls writes) “the exercise of our natural powers is a leading human good.” Justice as fairness not only accommodates the development of character but would be unrecognizable without it.

Citizens are said to have a capacity for a sense of justice, and this sense figures prominently, even decisively, in the stability of the well-ordered society. The capacity for a conception of the good as well would be scarcely recognizable without the virtues or excellences of character which the formation, revision, and pursuit of worthwhile ends typically requires. In a different way, the capacity for elemental well-being draws on the virtues of those who are called upon to take seriously the needs of vulnerable individuals—much as MacIntyre aims for in his reminder that we are not only rational animals, but dependent ones as well. All of these points could be elaborated on by considering more carefully the possession and development of moral capacities as they relate to the pursuit of justice-respecting ends.

We can make this same point about the consonance between justice as fairness and virtue-promoting community in a different way. The good, according to MacIntyre, is in the end the quest for the good—seeking out traditions of theory and practice to see how they resolve their internal tensions and seeing if they do so in ways one’s own contingently-derived and

always-revisable traditions do not. In the barest sense, any liberal regime—with or without the provision of a social minimum or fair equality of opportunity or fair value of political liberties—provides a considerable degree of latitude in this pursuit or quest. But justice as fairness means to take seriously in practice, not just in principle, that the pursuit of the good involves more than the formal right to read what you like or assemble with others or join a different congregation. Primary social goods are said to be all-purpose means to the development of moral capacities, and the development of those capacities effectively is the good within justice as fairness. What the realization of those capacities looks like depends on many factors affecting the lives of individuals and communities, but the ideal at least is that the distribution of the means to them is, within limits, fair to all participants. In short, we can plausibly say that justice as fairness is intended to provide a kind of charter for what it would be like if we were to take seriously the notion that human flourishing consists largely of the development of moral powers and that justice consists of the fair distribution of the means to that development. Justice as fairness is intended to provide the all-purpose means (primary social goods) to the development of moral capacities whose actualization just is the development of the virtues required for the pursuit of justice-respecting ends.

We can put this point one final way about justice as fairness being hospitable to Macintyre’s ideal of virtue-promoting community. The well-ordered society is supposed to be what Rawls calls “social union of social unions.” He writes:

When men are secure in the enjoyment of the exercise of their own powers, they are disposed to appreciate the perfections of others, especially when their several excellences have an agreed place in the form of life the aims of which all accept. Thus we may say with Humboldt that it is through social union founded upon the needs and potentialities of its members that each person can participate in the total sum of the realized natural assets of the others. We are led to the
community…the members of which enjoy one another’s excellences and individuality elicited by free institutions.\textsuperscript{32}

This dovetails with MacIntyre’s vision in that communities are among the free institutions Rawls is referring to here. The idea is not just that one enjoys being witness to and benefitting from the development of virtues in others. It is more to the point the actuality of these other virtue-promoting practices (and thus the communities in which they take place) that makes available what MacIntyre tells us the good is: the quest for the good, with all the self-challenging demands of practical engagement and theoretical rigor. If MacIntyre’s ideal has some place in the modern nation-state, it looks something like I have sketched here: a social union of social unions which attempts to be fair to its members. To clarify: it is within the society structured by a liberal commitment to individual freedoms that persons have the legal right to be able to revise their plan of life or set of ends. And it is the further commitment to making those liberties more than merely formal or legal that distinguishes justice as fairness from laissez-faire. This is meant to be more than a guarantee of the equal liberty of rich and poor alike to sleep under bridges, as the wag puts it. Justice as fairness means to take seriously the commitment to a set of background social conditions within which an individual life can be a narrative of the formation of character and the development of virtuous excellences of character. MacIntyre’s quest for the good—neither Romanticist self-creation not Platonist ascent of the divided line—is not offered as a perfectionist justification of the liberal order that I have argued for. But within the ideal of justice as fairness, virtue-promoting communities and the individuals whose lives they help structure have as hospitable a place as can be reasonably hoped for.

Or perhaps not. Justice as fairness provides a lofty vision of what a well-ordered society would look like. It is an ideal that citizens who regard themselves as free and equal participants

\textsuperscript{32} Rawls, \textit{A Theory of Justice}, 523.
can reasonably invoke in evaluating and modifying the institutions and practices of their societies. But from MacIntyre’s point of view, many criticisms have been insufficiently addressed. First, justice as fairness seems to involve (or anyway by no means excludes) that individuals be regarded as bearers of labor-power. Second, a sufficientarian system of private property would still permit class tensions, and could perhaps exacerbate them more than other social-democratic schemes (such as Rawls’). Third, it might well co-exist with (or even be complementary with respect to) the promotion of new and potentially false needs owing to the demands of capital reinvestment. And fourth, if capital is mobile, then communities will predictably be rent asunder by the vicissitudes of the market.

In view of these concerns, what does justice as fairness offer? The hope is that it can reduce the force of class tensions, and indeed has reasons of both fairness and stability to do so. It is supposed to militate against the idea of individuals as mere possessors of labor-power, by modeling them as free and equal beings with the basic moral capacities. And it aspires to the preservation and creation of (justice-respecting) community, recognizing that many of the virtues are not achievable without them. It would involve controls on capital flight, and it would include ways of incentivizing the productive economy rather than a parasitic financial one. It would take a resolute stand against a permanent war-time military budget. And it would not ignore the insights of natural science and suppose that social science is an altogether autonomous domain or that we can undertake questions of political philosophy without knowing as much as we can about everything from behavioral genetics to developmental psychology, and from the carbon
cycle to the chemistry of the oceans.\textsuperscript{33} In those and other ways, comprehensive reflective equilibrium requires nothing less.

\textsuperscript{33} I offer these points with intellectual sincerity, and also in tribute to the founder of the university to whose faculty I submit this essay. Without the pioneering work of Roger Revelle concerning rates of CO\textsubscript{2} dissolution in the oceans, and the irreplaceable work of his Scripps Institute of Oceanography colleague Charles Keeling in establishing accurate atmospheric CO\textsubscript{2} readings since 1959, climate science would be far less advanced than it is.
REFERENCES


