

# The Natural Rights Debate: A Comment on a Reply

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## I

In his "A Groundwork for Rights: Man's Natural End," Douglas Rasmussen takes issue with a paper I presented at the Fifth Annual Libertarian Scholar's Conference in which I was concerned with the difficulty of *demonstrating the validity* of natural rights doctrines in general and the libertarian natural rights doctrines in particular.<sup>1</sup> I argued that the traditional presentations of natural rights doctrines have followed one of three courses:

1. They have *asserted* that a particular goal or condition was of ultimate value and then proceeded to deduce from this goal an axiological system to govern behavior; or
2. Similarly, they have made the *assumption* that a certain norm was true and then proceeded to deduce an axiological system from this self-evident truth; or
3. They have started from an (alleged) *empirical fact* and proceeded to derive normative statements from this fact.

Aristotle is a prime example of a philosopher who falls into the first category. "The good life," he says in his *Politics*, "is the chief end, both for the community as a whole and for each of us individually." But what is the "good life"?<sup>2</sup>

In *Nichomachean Ethics* Aristotle defines the "good life" as happiness.<sup>3</sup> But, as Aristotle acknowledges, "to call happiness the highest good is a little trite." "As far as its name is concerned, most people would probably agree. . . . But when it comes to defining what happiness is, they disagree."<sup>4</sup> There are, he continues, three kinds of lifestyles that commonly pass for good or happiness: (a) the pursuit of pleasure in its "most vulgar" sense, (b) the political life, and (c) the contemplative life. The first two are dismissed as superficial. Aristotle then attempts to prove that a life of contemplation is a life of true or complete happiness. His reasoning on this point is well-known. Since, Aristotle says, "the goodness and proper performance of man would seem to reside in whatever is his proper function," a "clearer account" of true happiness can be obtained by "ascertaining the proper function of man." And "what can this function be?" he asks.

Simply living? He shares that even with plants, but we are looking now for something peculiar to man. Accordingly, the life of nutrition and growth must be excluded. Next in line there is the life of sense perception. But this, too, man has in common with the horse, ox, and every animal. There remains then the active life of the rational element.<sup>5</sup>

Since the rational element is unique to man it is man's nature to be reasonable and the development of reason is thus man's proper end: "The proper function of man . . . consists in an activity of the soul in conformity with a rational principle."<sup>6</sup> In brief, the development of man's reason, the life of contemplation, is man's "natural end"; it is the life man ought to pursue.

Aristotle's argument contains several difficulties. In so far as the "good life" or "happiness" is determined by the goals individuals *actually do pursue* or the lifestyles individuals *actually do adopt*, then the ethical prescription that the individual ought to pursue the good life becomes tautological, for the good life is whatever lifestyle the individual pursues. To overcome this tautology, to provide any guidance for real behavior, Aristotle recognizes that "the good life" must be infused with *substance*. He then maintains that only a *particular kind of life*, that of contemplation, is in conformity with happiness or the good life.<sup>7</sup> Thus, to escape his empty tautology Aristotle ends up positing a "natural end" for man which is quite *independent* of the ends men actually prefer. But as Felix Oppenheim has observed, "'Man as such' does not have purposes independent of those he happens to choose."<sup>8</sup> To term as happy or good a lifestyle which some, perhaps many, would consider one of agony is to engage in nothing more than verbal gymnastics. Finally Aristotle's argument becomes impaled by the "is-ought dichotomy": the fact that *X is* in no way demonstrates that *X ought* to be. Even if it can be shown that contemplation is, indeed, "man's natural end," Aristotle still has not *demonstrated* why this end is *intrinsically desirable* and *ought* to be pursued. It is quite conceivable that an individual could reject the pursuit of this "natural end" for that of some "unnatural end" which he regards as preferable, and Aristotle has provided no reason why such ends ought not to be pursued.

Thus, Aristotle's belief that man's chief end is the development of "the rational element" is, ironically, a mere assertion, unaccompanied by any convincing, rational demonstration.

An example of a philosopher falling into the second category—the positing of norms for behavior—is Thomas Aquinas. The first principle of morality, according to Aquinas, is the injunction that one should do good and avoid evil. "All other precepts of natural law are based on this."<sup>9</sup>

Since good is, by definition, what one should do, until it is infused with some content, this too is tautological. As one writer has commented:

It does not even enjoin anyone to do this or forbid him to do that, it provides no guidance whatsoever of what ought to be done in any specific situation. If the gas chambers are good, then the Nazis "did good." It is not even possible to conceive of an action which would violate the "command" that good ought to be done, for the very reason that it is self-evident, logically necessary—and vacuous.<sup>10</sup>

Later Aquinas informs the reader that the moral precept "one must not kill" is "derived as a conclusion from the principle that one should do harm to no man," which, in turn, is derived from the principle do good and avoid evil. But once again the "is-ought problem" rears its head. Aquinas tacitly *assumes* that to harm another is to commit evil. This may be true, but Aquinas has not demonstrated it. The *fact* that A harms B does not, *in itself*, demonstrate that A has committed evil. In fact, as Oppenheim has pointed out, "harming or even killing certain kinds of people—enemies, Jews, slaves, deformed infants, old persons—has been considered good and right in many ethical systems."<sup>11</sup>

Finally, Herbert Spencer may be considered an example of one who attempts to derive normative propositions from (presumed) statements of fact (the third category). "Let men learn that a legislature is *not* 'our God upon earth.'" Only those human laws are valid, Spencer says, that are consistent with the "laws of nature." And what laws are consistent with "the laws of nature"? The basic fundamental moral law of nature is The Law of Equal Freedom: every man has freedom to do all that he wills provided he infringes not on the equal freedom of other men. This Law, Spencer thinks, provides the rationale for extreme *laissez faire*.

Insofar as an individual respects the rights of others "his position is a passive one; and whilst passive he cannot become an aggressor." But since individuals are willing to violate the rights of others, a coercive institution—a government—is necessary to protect rights and punish aggression. Now, "government being simply an agent employed in common by a number of individuals it can have no more rights" than those possessed by these individuals. Since individuals are morally obliged to respect the Law of Equal Liberty, the sole legitimate function of government is to protect and enforce this Law. As soon as it exceeds this function it no longer protects but aggresses against natural rights. Consequently, since any legislation intended to subsidize the poor, educate children, regulate working conditions, provide for sanitation, etc., imposes positive, as opposed to negative or passive, obligations on individuals, it exceeds the bounds of the Law of Equal Liberty and is therefore immoral.<sup>12</sup>

But what justification does Spencer provide for viewing the Law of Equal Liberty as the basic moral norm? "My ultimate purpose, lying behind all proximate purposes," says Spencer in his *Data of Ethics*, "has been that of finding for the principles of right and wrong, in conduct at large, a scientific basis."<sup>13</sup> And, he goes on to say, he has discovered the scientific basis of morals in the theory of evolution. In fact, proclaims Spencer, the culmination of the evolutionary process—which he terms a "beneficent necessity"—is human and social perfection. Peace and prosperity will replace war and poverty; kindness and altruism will take the place of cruelty and selfishness; and competition will be replaced by cooperation.<sup>14</sup> In such a condition, there would be no reason for the state, and it would wither away. "It is a mistake to assume that government must necessarily last forever. The institution marks a certain stage of civilization and it is natural to a particular phase of human development. It is not essential, but incidental. . . . Thus, as civilization advances, does government decay."<sup>15</sup>

In order for this condition to be reached all obstacles that might impede the operation of the mechanism of evolution—the survival of the fittest—must be removed. The weak must be permitted to be weeded out. Although this may sound cruel, in fact, it is quite beneficial. “Pervading all nature,” Spencer says in his *Social Statics*,

we may see at work a stern discipline, which is a little cruel that it may be very kind. . . . The poverty of the incapable, the distresses that come upon the imprudent, the starvation of the idle . . . are the decrees of a large, far seeing benevolence.<sup>16</sup>

The basic difficulty with Spencer’s metaethical position is that if the evolution toward perfection is necessary and inevitable, as he sometimes argues, it is meaningless to maintain that it is immoral to place obstacles in the path of this process. If it is truly inevitable, no obstacles can stop it. Only if man *is* capable of impeding this process does moral choice present itself. But if man can choose, this means that he can decide on one of two options: to be cruel now for the sake of greater happiness for the future survivors, or to be kind now at the cost of decreased future enjoyment. Spencer *believes* that the latter is the better of the two but is unable to demonstrate why this is so. Thus his attempt to move from an observed fact (evolution) to a normative conclusion (evolution is good) ultimately fails.

The foregoing by no means covers the natural rights waterfront. No mention has been made of “traditionalists” like John Locke or Thomas Hobbes, or of “moderns” such as Reinhold Neibuhr or H. L. A. Hart. But it does, I believe, illustrate the approaches that natural rights theorists have taken, and those not discussed can be placed in one of these categories.

The problem is that all three approaches fail for the same basic reason: their inability to demonstrate the validity of their first principles, i.e., the value they hold as ultimate or the norm they hold as most basic. For example, the assertion that “life is good” does not demonstrate that it is so, just as the fact that life exists does not prove that it ought to exist. They have been unable to demonstrate the validity of their first principles because, I submit, they are, by their nature, *undemonstrable*. That is to say, the moment we attempt to advance reasons why value (norm) X is ultimate (most basic) we no longer view X as an ultimate end (basic norm) but as a means to a still higher end (more basic norm), such as Y. Thus, one may demonstrate that X is of value *because* it is a prerequisite to attainment of Y. And one may then demonstrate that Y is valuable because it is necessary for attainment of Z. But if Z is truly a first principle one cannot say that “Z is valuable because . . . .” One can only assert that “Z is valuable.” Thus truly first principles can only be asserted or affirmed, not objectively demonstrated. This impossibility of moving *logically* from an *is* to an *ought* poses a serious problem, for if B rejects or denies a particular value or norm asserted by A to be fundamental, the result is a moral impasse. It is this logical dead-end that has plagued traditional presentations of natural rights theory.

Please note, however: in stating that an ultimate end or fundamental norm is

not demonstrable, I am not saying that such values or norms do not exist. My personal *belief*—which I thought I had made clear in my original paper—is that they do exist. The distinction I am making, therefore, is between what I *believe* to be the case and what I can, at least in principle, *demonstrate* to be the case.

## II

If the argument in Part I is correct, the central problem of natural rights theory has been that *even if the theory is correct*, demonstrating its correctness would be a *logical impossibility*, for such a proof would be contingent upon moving from an is to an ought. I certainly do not view recognition of this problem as a call to abandon the natural rights ship, for while Humean skepticism has successfully challenged *one* method of presenting and defending natural rights, perhaps others can be found. The eminent political philosopher, Arnold Brecht, and others, as well, have noted that while there are no logical links between the is and the ought there might be *empirical* links between the two.<sup>17</sup> In investigating this as a possible method of *defending* natural rights, I have concluded that there *are* empirical links. Furthermore, being empirically grounded and thus more capable of objective demonstration, this method has offered the possibility of overcoming the moral impasse—moral assertion versus moral counterassertion—that has hindered progress in debate on ethical issues in the past. My original argument addressed this issue and, to facilitate my response to Rasmussen's criticisms, I would like to take the liberty of presenting the relevant portions of my original paper.<sup>18</sup>

Although one cannot *logically* derive an ought from an is, it is still hasty to conclude, as does Felix Oppenheim, that any natural law doctrine is, *ipso facto*, invalid. The validity of a set of axiological rules can be demonstrated as valid if (1) the rules are correctly deduced from higher values *and* if (2) those higher values are themselves not in question. The values are not in question when they are *either* (a) *proven* as intrinsically valuable, *or* (b) *accepted* as valuable by *all* concerned. Since it is impossible to demonstrate intrinsic value, method (a) is automatically eliminated. But since method (b) remains, it is at least theoretically possible to construct a set of axiological rules that is binding on everyone by empirically demonstrating universal agreement on a particular value or set of values. In short, while there are no logically necessary links between is and ought, there may be factual links.<sup>19</sup>

It is generally thought, however, that, since natural law prescribes moral rules derived from some ultimate end or absolute value, the attempt to prove that any axiological deduction is morally binding is dependent upon the ability to empirically demonstrate universal agreement on the *intrinsic* or absolute value of some particular end. But I think that this overstates what is required. For if it can be empirically demonstrated that everyone adheres to one of several *distinct* ends,  $E_1$ ,  $E_2$ , . . . ,  $E_n$ , and if it can also be shown that means  $m$  is a *necessary condition* for the attainment of any of these ends, it is therefore possible to demonstrate the validity of an axiological rule on the following basis:

1. Ultimate ends  $E_1, E_2, \dots, E_n$  can be attained *only* through means  $m$ .
2. Everyone desires or values ultimate ends  $E_1, E_2, \dots, E_n$ .
3. Hence, everyone ought to adopt means  $m$ .

While the syllogism itself is formally correct it is important to note that the deduction is based not on the empirical demonstration of a universally held absolute value, but on the empirico-logical demonstration that the attainment of any of the ultimate ends or values that people do hold is predicated upon the observance of a particular means. That means therefore becomes a *universal instrumental value*. If the foregoing is correct then, it might be possible to formulate a natural rights ethic so that the minor premise becomes a factual statement that can be empirically tested instead of a proclaimed norm.

However, verification of any minor premise constructed along these lines might, at first glance, be regarded as impossible since it would seem that the only way to determine what values everyone in the world does hold would be to send out an army of interviewers to ask everyone what values they, in fact, do hold. All the answers would have to be sorted out and every distinct end would then have to be examined to ascertain whether means  $m$  was actually a necessary condition for its attainment. But even if it were discovered that  $m$  was a necessary condition for the attainment of all of the ends recorded in the study, this would still not be sufficient to conclude that "everyone ought to adopt  $m$ ," for some may have deliberately lied, misunderstood the questions, or subsequently changed their values. Hence, empirical verification would seem to require the impossible task of perpetually interviewing everyone in the entire world, thereby precluding the possibility of deducing a universally binding axiological rule from an empirically demonstrated, universally held value. While this strikes me as a cogent refutation of all other moral doctrines, I do not think it holds for the natural law-natural rights ethic of the type advanced by Murray Rothbard.

The substantive aspect of Rothbard's natural rights libertarianism is based on the dual Lockean postulates of self-ownership and property ownership. Since Rothbard argues that these two premises are prerequisite not only to man's fulfillment of his nature, but to life itself, the Rothbardian natural rights ethic can be formulated as follows:

1. Self-ownership and property ownership are necessary means to sustain life.
2. Everyone values life more highly than death.
3. Hence, everyone ought to adopt the principles of self-ownership and property ownership.

Since the major premise is a factual statement asserting an indispensable or necessary causal connection between a particular goal, *viz.*, life, and a particular set of means, *viz.*, self-ownership and property ownership, the causal connection can be objectively examined and the truth of the claim ascertained. The thrust of Rothbard's analysis lies in establishing the *logical* relationship between life and property rights, and in depicting the inevitable consequences of the violation of those rights. Briefly,

Rothbard has pointed out that if one denies the premise of man's self-ownership then one must conclude that either "(1) a certain class of people, A, have the right to own another class, B; or (2) everyone has a right to his equal quotal share of everyone else." The first proposition is correctly dismissed since it violates the rules of formal logic. Since both group A and group B belong to the same class, "human beings," they must possess the same essential characteristics of that class. Thus A cannot own both himself and B for that would negate B's right of ownership. This means that one must either grant every individual's right of self-ownership or adopt the second proposition that everyone has a right to an equal quotal share of everyone else. But the second proposition, as Rothbard notes, means that no one in the world could "take any action whatever without prior approval or indeed command by everyone else in society. It should be clear," he continues, "that in that sort of 'communist' world, no one would be able to do anything, and the human race would quickly perish."<sup>20</sup> And not only does Rothbard cogently establish this logical relationship, but there is considerable empirical support for it as well. The only concerted effort within a large society to abandon the principle of private ownership was in the "War Communism" period in the Soviet Union immediately following the Bolshevik Revolution. This effort was short-lived and was abandoned in early-1921 after the entire society had been brought to the verge of collapse and an estimated six million had died of starvation.<sup>21</sup> The major premise appears, therefore, to have been satisfactorily established.

How, however, can the minor premise that "everyone values life" be demonstrated without recourse to the impossible task of perpetual interviewing referred to above? Values are accurately revealed only through what economists term "demonstrated preference." An individual's values are made known to himself and others through his actual choices.<sup>22</sup> And since anyone can end his life at any time he chooses, this means that we have incontrovertible empirical verification that everyone in the world today does actually value life more highly than death.

It is important here to point out what is *not* being claimed. It is not being claimed that life is a universally held absolute or intrinsic value. It is clear, I think, that at least some, and probably many, do not regard it so. Nor is it even being claimed that life is a necessary condition for the attainment of all possible ends. It is being claimed, rather, that life is seen either as an end-in-itself, i.e., an intrinsic value, or as a necessary condition for the attainment of any end that people in the world *actually do hold*. This is so since, as the doctrine of demonstrated preference tells us, the moment continued life is seen as impeding or preventing the attainment of any individually held end, the individual will forego his life for the attainment of that value. A despondent individual may, for example, decide to end his misery-on-earth by taking his own life. In such a case, not only would life no longer have any value for that individual, it would actually impede the attainment of a higher value: the termination of his living hell. We can see this similarly with Ludwig von Mises' Buddhist (for whom adherence to his religious practices was more important than life itself), with Max Weber's syndicalist (for whom adherence to his politico-economic doctrines was of greater importance than life), and with the

Shakers (a religious group whose prohibition of sexual intercourse on religious grounds resulted in their extinction in the early part of the twentieth century). But the important point here is that in taking his life the individual also takes himself out of the picture. Hence, everyone in the world empirically demonstrates by the simple fact of his continued existence that he values life more highly than death.

It is also important to note that it is irrelevant whether life is considered to be of intrinsic or merely instrumental value. This can be demonstrated by the following two deductions. For those who value life as an end-in-itself, the formulation would be:

1. Self-ownership and property ownership are necessary means to sustain life.
2. Some desire life as an end-in-itself.
3. Hence, they ought to adopt the principles of self-ownership and property ownership.

But for the others who desire life for the attainment of some other, higher ends, the formulation would be:

1. Some want to attain ultimate ends  $E_1, E_2, \dots, E_n$ .
2. These ends can be attained only when life is secure.
3. Life can be secured only by respecting the principles of self-ownership and property ownership.
4. Hence, they ought to respect the principles of self-ownership and property ownership.

Thus, it is clearly irrelevant whether one holds life as an intrinsic or a necessary instrumental value. And the minor premise that "everyone wants to live" would seem to have been empirically verified.

If both the major and minor premises have been verified, then the conclusion that "everyone ought to adopt the principles of self-ownership and property ownership" must, *ipso facto*, follow as well.

Whether or not I succeeded may be questionable, but my goal was to defend natural rights. I therefore found Rasmussen's comment that "we shall ignore Osterfeld's interesting attempt to slip natural law in the back door by a different name" quite baffling. Aside from implying an intellectual sleight of hand on my part, this sentence makes sense only on the premise that in *attempting* to refute the natural rights ethics I was forced to rely on the very concept I was refuting. But if this is what the sentence means it is indicative of a complete misunderstanding of my paper. To reiterate, my goal was, and is, not to refute but to defend natural rights. Far from "slipping natural rights in the back door," I thought I was going in the front door accompanied by a brass band.

### III

Rasmussen is quite critical of my position. "It is only dogma," he says "that first principles qua first principles cannot be defended."<sup>23</sup> Rasmussen bases his rebuttal on Aristotle's Principle of Non-Contradiction, or PNC, as he terms it. According

to this principle, X can be shown to be a first principle if it can be demonstrated that X is "necessary for the very possibility of the subject matter under question . . . . The PNC is defended by showing it to be necessary not only for the very possibility of its being denied, but even for the denier's thought, speech and action." Rasmussen then acknowledges that "if it is not clear that Y exists, then the argument for the truth of X will be weak, because Y's existence is the argument's premise."<sup>24</sup> "Is there" then, he asks,

some initial condition, some premise or starting point that everyone concerned with ethics must accept, that requires the truth of some ultimate value, let us say X? In particular is there some initial condition that someone like Osterfeld accepts that requires that he also accept the ultimate value of a living thing acting in accord with its nature; and, even more importantly, would this initial condition require the acceptance of a human being acting and living in accord with his nature as the ultimate *moral* value?

His answer is that

there certainly does seem to be an initial condition that Osterfeld and indeed all concerned with ethics would seem to accept—the existence of end-oriented behavior, that is, action done for the sake of something. Regardless of what the "something" may be, . . . the matter of concern is the same: some agent acting for some end.<sup>25</sup>

Now, "the very existence of ends—that for the sake of which an action is done—does require the existence of something whose very being not only makes the existence of ends possible but indeed necessitates the existence of ends." That something is life: "it is the difference between a living being existing and not existing that creates all the other alternatives a living being faces, and it is because life is something that must be maintained that there are goals in the first place." And again: "life is the ultimate or final goal of all goal-directed behavior." And finally: "life is a value in itself."<sup>26</sup>

Rasmussen sums up his argument in the following way:

1. Y is an object of choice.
2. X is necessary for the existence of Y as a value. X makes Y's existence as a value possible.
3. If P chooses (values) Y, P must choose (value) what is necessary for P's valuation of Y.
4. P chooses (values) Y.
5. Thus, P chooses (values) X.
6. X is man's life qua man, man's natural end.
7. Thus, P chooses (values) man's life qua man in choosing (valuing) Y.<sup>27</sup>

Thus, "Osterfeld would be obliged to act in accord with his nature by virtue of his own act of choice, his valuing Y, which in his case was the wanting of an answer to his question."<sup>28</sup>

#### IV

While Rasmussen's argument is interesting, it in no way affects the validity of my

position. He latches on to a syllogism presented early in the discussion to illustrate the *strictly logical* difficulty encountered in the traditional presentation of natural rights theory:

1. The behavior or movement of any living entity having a nature ought to be in accordance with its nature.
2. Man has a nature.
3. Hence, man ought to act in accordance with his nature.

Rasmussen is correct in pointing out that I maintained that, while formally valid, the argument could not be sustained because the first premise could not be shown to be true from a *strictly logical point of view*. It was, apparently, this syllogism with which Rasmussen takes issue, and he endeavors to demonstrate, if I understand his position correctly, that from a *strictly logical point of view*, first principles *can* be demonstrated.

In response, I will argue two points. First, Professor Rasmussen mistakes a particular point in the development of my argument for a statement of my actual position. As a result, the position that he imputes to me—that man does not have to act in accord with his nature—is *not* the position I take. Secondly, *his* defense of one's obligation to act in accord with one's nature is *not*, Rasmussen's protestations to the contrary notwithstanding, based on *logical* connections between the is and the ought, but on *factual* connections and, as such, his argument closely resembles the argument I developed in my original paper—i.e., he ends up adopting the very position he set out to refute.

In regard to the first point, I again want to point out the distinction between what I *believe* and what I can *demonstrate*. While I believe that one ought to act in accord with one's nature, the problem that concerned me was how to demonstrate this belief to someone who might claim to reject it. My argument proceeded by demonstrating the consequences of action contrary to one's nature, which ultimately were death. Thus, I argued, if one wants to live, then one must choose the appropriate means: in choosing life, one is also choosing to live in accord with one's nature. This is the thrust of my argument, and in regard to the second point, unless I am misreading Rasmussen's criticism of me, this is all his PNC really boils down to: ends and means must be compatible; in choosing life one is also choosing to live in accord with one's nature.

However, our positions are by no means identical. My criticism of the traditional formulation of natural rights ethics was that the validity of the initial premise could not be *logically demonstrated*. Rasmussen's critique of me proves this very point.

When Rasmussen states that man is obliged to act in accord with his nature because "life is the ultimate or final goal of all goal-directed behavior," his meaning is not clear. Is this a normative proposition that *life is valuable* and, thus, everyone ought to act to preserve his life, or is it a statement of fact, that *everyone's final goal is the preservation of his life*?

If the statement is meant normatively, what evidence does Professor Rasmussen

offer to demonstrate that life is valuable? So far as I can find, he offers none; he assumes it. But surely, the fact that *life does exist* does not demonstrate that it *ought to exist*; nor does the observation that people *want* to live prove that life is valuable or that they ought to live. While Rasmussen *believes* that life is valuable and that life ought to be preserved—and I heartily concur in this belief—he does not advance any arguments to substantiate this belief. Thus, if taken normatively his proposition fails because it assumes the very thing it was intended to demonstrate: that life *is* valuable.

Now it is true that Rasmussen does point out the consequences—ultimately, death, or at least death sooner than it would otherwise occur—of acting in violation of one's nature. But surely it does not follow *logically* from this, as Rasmussen apparently believes it does, that man ought to act in accordance with his nature. One could have pointed out to the Irish hunger strikers that not eating is "contrary to man's nature" and would rather quickly result in death. But it is difficult to believe that this would either have come as much of a revelation to the strikers or have been regarded by them as a convincing argument for a change in their behavior since, in the absence of an alteration of British policy toward Ireland, death is precisely the goal they wanted to achieve. Thus, Rasmussen's normative proposition that one is obliged to act in accord with his nature would be binding on those who accept the belief that life is more valuable than death but is hardly binding on those who reject that belief.

It is interesting and quite significant that, despite his numerous unqualified statements that man *is* obliged to act in accord with his nature and that life *is* the ultimate end, his own schematization of his PNC belies his demonstration of moral absolutism. "Why should I live in accordance with my nature? Why is it obligatory for one to do so?"<sup>29</sup> asks Rasmussen. Because, he answers in the third sentence of his PNC, "if P chooses (values) Y, P must choose (value) what is necessary [i.e., X] for P's valuation of Y." Two things are worthy of note. First, "if" is the key word, for it clearly indicates the contingent or provisional, as opposed to the absolute, nature of values in the realm of *value demonstration*. By Rasmussen's own admission, X can be shown to be valuable to P if, but *only if*, P chooses Y. Thus, one can say that an individual ought to live in accordance with his nature (X) if he values or chooses life (Y). If, however, he rejects life for some "higher" goal—as in the case of the Irish hunger strikers—then the moral injunction to live according to one's nature would, even by Rasmussen's own PNC, no longer hold. And second, since this was precisely the position I took in my original paper (see the syllogisms presented here in Part II), Rasmussen ends up actually adopting, albeit inadvertently, the very position he set out to refute. There is, however, one important difference in our positions. It is clear that the validity of the third sentence of the PNC is an empirical, not a logical matter. While I tried to demonstrate empirically that everyone who continues to live, and so long as he continues to live, does prefer life to death, Rasmussen merely assumes that this is so.

If, on the other hand, the proposition that "life is the ultimate end" is taken as a statement of fact, it is clearly false. People do commit suicide, sacrifice

themselves for others or, with the Irish hunger strikers, for a cause. In such cases the end sought is not life, but quite its opposite, death. Moreover, many people willfully shorten their lives by ingesting harmful foods and drugs such as coffee, heroin, tobacco, etc.

Thus, if taken normatively, Rasmussen's statement that "life is the ultimate value or end" is an assertion whose validity cannot be demonstrated; if taken as a statement of fact it is clearly wrong. We have come full circle. In trying to refute my position, Rasmussen has only succeeded in highlighting the dilemma of the traditional formulations of natural rights theory as discussed in Part I.

## V

While there are several other minor points that could be mentioned, this reply is already too long. By way of conclusion let me simply reiterate that it is not the natural rights ethic, itself, that I am critical of, but the traditional defense of that ethic. While I *believe* that the libertarian ethic is correct I have tried to shift the defense of that ethic from the *assertion* that certain things are *universally valuable* to the *demonstration* that certain things are *universally valued*. I thought that this approach could be useful in breaking the moral impasse of assertion versus counterassertion and in clarifying the logical ramifications of competing moral systems. The question would then become whether the choices individuals do make are in fact consistent with the ethical systems they purport to hold. Thus, if, as Professor Rothbard has argued, private property is a requirement for life, and if an individual does prefer to sustain his life, then he must adopt an ethical system that recognizes private property, i.e., he cannot logically be a socialist. My hope was that this approach would permit the debate between competing ethical systems at least to reach first base. Whether this effort was successful only the reader can decide.

## NOTES

1. My paper was "Reflections on the Substantive and Epistemological Aspects of the Rothbardian Natural Rights Ethic" (presented at the Fifth Libertarian Scholars Conference, Princeton University, October 1978). Douglas Rasmussen's response was "A Groundwork for Rights: Man's Natural End," *Journal of Libertarian Studies* 4 (Winter 1980): 65-75.
2. Aristotle, *The Politics*, ed., Ernest Barker (New York: Oxford University Press, 1962), p. 111.
3. Aristotle, *Nicomachean Ethics* (Indianapolis, Ind.: Bobbs-Merrill, 1962), p. 5.
4. *Ibid.*, pp. 6, 16.
5. *Ibid.*, p. 16.
6. *Ibid.*, p. 17.
7. *Ibid.*, p. 288.
8. Felix Oppenheim, *Moral Principles in Political Philosophy* (New York: Random House, 1968), p. 117.
9. St. Thomas Aquinas, *Treatise on Law* (Chicago: Regency, 1967), p. 61.
10. *Ibid.*, p. 76.
11. Oppenheim, *Moral Principles*, p. 77.
12. Herbert Spencer, *The Right to Ignore the State* (Cupertino, Calif.: Cayman Press, 1972), pp. 5-6.
13. Quoted in Oppenheim, *Moral Principles*, p. 94.

14. See John T. Hallowell, *Main Currents in Modern Political Thought* (New York: Holt, Rinehart and Winston, 1963), pp. 307-309.
15. Spencer, *Right to Ignore the State*, p. 14.
16. Quoted in Oppenheim, *Moral Principles*, p. 96. For a fuller exposition, see Hugh Elliot, *Herbert Spencer* (Westport, Conn.: Greenwood Press, 1970), pp. 181-215.
17. See Arnold Brecht, *Political Theory* (Princeton: Princeton University Press, 1959), p. 367ff. Also see Arnold Brecht, "Political Theory: Approaches," *International Encyclopedia of the Social Sciences* (New York: Macmillan, 1968), pp. 312-13.
18. The rest of Part II is taken from my "Reflections," pp. 13-19.
19. Felix Oppenheim writes: "Value-cognitivism claims that there exist intrinsic value-judgments which are cognitively true or false, regardless of the speaker's or listener's intrinsic value-commitments. Only if value-cognitivism holds true can some particular natural law theory be correct" ("The Natural Law Thesis: Affirmation or Denial?" *American Political Science Review* [March 1957], pp. 42-43). Also see Brecht, *Political Theory*, pp. 387-88; and Arnold Brecht, "A New Science of Politics," *Social Research* (Summer 1953), pp. 230-35.
20. Murray N. Rothbard, *Egalitarianism as a Revolt Against Nature, and Other Essays* (Washington, D.C.: Libertarian Review Press, 1974), p. 59.
21. On the "War Communism" period, see Lancelot Lawton, *An Economic History of Soviet Russia* (London, 1932); and by the same author, *The Russian Revolution* (London, 1927); and Michael Farbman, *Bolshevism in Retreat* (London, 1923). It must be admitted that other factors such as the Civil War, the Allied Blockade, and the terms of the Brest-Litvosk Treaty also played their part in the economic collapse. Also, more research is needed on the relationship of the market and private property—i.e., which is more fundamental to the maintenance of social life, and whether they can even be separated.
22. See Murray N. Rothbard, *Toward a Reconstruction of Utility and Welfare Economics*, Occasional Paper Series, no. 3 (New York: Center for Libertarian Studies, 1977); Ludwig von Mises, *Human Action* (Chicago: Henry Regnery, 1966), pp. 11-29; and Lionel Robbins, *On the Nature and Significance of Economic Science* (London: Macmillan, 1962), pp. 83-94.
23. Rasmussen, "A Groundwork for Rights," p. 66.
24. *Ibid.*, pp. 67-68.
25. *Ibid.*, pp. 69-70.
26. *Ibid.*, pp. 70-73.
27. *Ibid.*, p. 74.
28. *Ibid.*
29. *Ibid.*