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Source: *Public Affairs Quarterly*, Apr., 2002, Vol. 16, No. 2 (Apr., 2002), pp. 99-124

Published by: University of Illinois Press on behalf of North American Philosophical Publications

Stable URL: <https://www.jstor.org/stable/40441317>

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## NATURAL RIGHTS AND HUMAN VULNERABILITY: AQUINAS, MACINTYRE, AND RAWLS

Kristin Shrader-Frechette

On Thursday, August 17, 2000, Afghanistan's then-Taliban government shut down bakeries run by widows. Citing Islamic law, the government said women were not allowed to work in the bakeries, started by the UN World Food Program. Paying the widows' salaries, the UN group had subsidized the price of the bread and sold it to the poor. Although virtually all the 750,000 residents of Kabul, Afghanistan, rely on international relief aid to survive, the 28,000 widows and their children are the poorest of the poor. They have been destitute since the early 1990's when many of the husbands were killed in a bitter war. When officials came to close one bakery, a widow wailed: "Give me poison and give my five children poison, then we will die quickly instead of a slow death from starving and shame." When it took over in 1996, the Taliban government ordered all girls' schools closed and all women out of the work force. UN representatives hoped that the female bakers, employees of relief organizations, would be an exception. They were not.<sup>1</sup>

### I. OVERVIEW

What resources can moral philosophers bring to protect vulnerable people like the Afghan widows? In his 1999 book, *Dependent Rational Animals*, Alasdair MacIntyre criticizes what he says is a flagrant deficiency of western moral philosophy: its inattention to human vulnerability. MacIntyre begins his volume by noting:

we human beings are vulnerable to many kinds of affliction. . . . How we cope is only in small part up to us. It is most often to others that we owe our survival, let alone our flourishing, as we encounter bodily illness and injury, inadequate nutrition, mental defect and disturbance, and human aggression and neglect.<sup>2</sup>

MacIntyre's words suggest that his philosophy will offer some norms to protect victims like the Afghan widows. But does it? This essay argues that, despite MacIntyre's good intentions, his ethics—like others that deny natural rights—is unlikely to help significantly protect the most vulnerable people in the world.

Although MacIntyre's 1999 book focuses on human vulnerability and the need for protection, it does not appeal to human rights, one of the traditional ways that powerless people have sought relief from oppression. And except for a brief paragraph in Amy Gutmann's remarks on *After Virtue*,<sup>3</sup> no one has evaluated any of MacIntyre's arguments against Jefferson, Rawls, and other proponents of the human-rights tradition. Continuing where Gutmann ended in 1985, this paper focuses on four tasks. (1) It summarizes MacIntyre's four main arguments against the human-rights tradition. I call these, respectively, the "Witch Argument," the "Taboo Argument," the "Commonality Argument," and the "Primacy Argument." (2) It summarizes Gutmann's criticisms of the first two arguments, which appeared in *After Virtue*, and it extends these criticisms to additional points. (3) Focusing on the two remaining arguments, formulated in 1990s papers, the essay shows that these arguments fail because they beg the question; misrepresent or ignore the work of various philosophers (like Aquinas and Rawls) who counter them; and inconsistently reject the concepts of conscience and reason that are central to MacIntyre's own espoused Thomist traditions. Finally (4) the paper argues that, contrary to his 1999 volume, MacIntyre likely is unable to provide philosophical resources to protect vulnerable people because he has no strong ethical concepts, likely to be accepted, that are able to take the place of the human rights he rejects to do the work of protecting people.

The point of this paper is neither to defend a specific theory of human rights nor to show that a rights account is superior to some other account, like that of obligations. Rather, the point is that, because MacIntyre's ethics focuses on tradition-dependent norms, because there is a 400-year-old human-rights tradition, and because that tradition appears to include MacIntyre's requisite institutions and practices, he bears the burden of proof for rejecting rights and for making good on his 1999 claim to protect vulnerable people. The point is not that an ethics of rights is the best ethics but that MacIntyre fails to undermine human rights because he gives an inadequate account of their foundations. Avoiding simplistic talk of "either virtue theory or rights theory," "either communitarianism or liberalism," the paper argues not that one ought to replace MacIntyre's account but that, because of internal flaws in his ethical theory, one also may need to modify it by including something like human rights in order to protect vulnerable people.

## II. MACINTYRE'S ACCOUNT OF HUMAN RIGHTS

MacIntyre claims that "the truth is plain: there are no such rights, and belief in them is one with belief in witches and in unicorns. . . . Natural or human rights then are fictions?"<sup>4</sup> He writes:

By "rights" I do not mean those rights conferred by positive law or custom [legal rights] on specified classes of person; I mean those rights which are alleged to belong to human beings as such and which are cited as a reason for holding that people ought not to be interfered with in their pursuit of life, liberty, and happiness. They are the rights which were spoken of in the eighteenth century as natural rights or the rights of man. . . . The expression "human rights" is now commoner than either of the eighteenth-century expressions. But whether negative or positive and however named they are supposed to attach equally to all individuals.<sup>5</sup>

Denying there are human rights, natural rights, or rights of man, in the sense of positive or negative protections, MacIntyre concludes that there are no "fundamental and inalienable" protections that belong equally to all human beings as human beings, although he says there are legal rights, "institutionalized rights whose enforcement is sanctioned by law."<sup>6</sup>

Given the moral framework he adopts in *After Virtue*, MacIntyre's rejection of human rights is a consequence of his belief that society has lost the Aristotelian and Thomistic morality of the past, the only morality that (for him) could ground rights. MacIntyre claims that when Enlightenment philosophers, such as Hume, supplanted the medieval philosophers, "the language of morality passed from a state of order to a state of disorder."<sup>7</sup> He says that once Enlightenment philosophers detached morality from "the teleological scheme of God, freedom, and happiness,"<sup>8</sup> there is no nontheological morality that is defensible: "Detach morality from that framework and you will no longer have morality." Rather, "you will have merely forms of expression for an emotivist self which lacking the guidance of the [theological] context in which they were originally at home has lost its linguistic as well as its practical way in the world."<sup>9</sup> For MacIntyre, one of the "consequences of the failure of the Enlightenment Project," and of the "specifically emotivist culture" in which he says we live, is the failure to justify any concept of natural or human rights.<sup>10</sup>

MacIntyre argues that, because four changes came about in the "older conception of 'jus,'" from Aquinas, that transformed it into the more modern, Enlightenment notion of "right" and "rights," the concept of human or natural rights is no longer valid. He claims it has lost its theological and teleological grounding, and there remains only a concept of legal rights. *First*, there was a move from a "teleological order

. . . at once created and commanded by God," to the notion of rights as justified by their being self-evident or by their arising from utilitarian or contractarian notions. *Second*, rights were taken "to attach to individuals, *qua* individuals, and not to individuals *qua* members of a particular community." *Third*, such rights defined "a standpoint held to be more fundamental than any provided by participation in or membership in social groups." *Fourth*, rights became "secular and nontheological . . . [and were said to] outweigh any claims which do appeal to theological considerations."<sup>11</sup>

Despite his denial of human rights, nevertheless MacIntyre maintains that theology provides grounds for condemning practices such as slavery:

the only adequate ground for a secular non-theological condemnation of slavery as such would be an appeal to natural rights and since we have the best of reasons for believing that there are no natural rights, then either the condemnation of slavery as such can be justified theologically or it cannot be justified.<sup>12</sup>

MacIntyre believes that because the concept of human rights has lost the theistic institutions and community in which it was defined, *only* theology is now able to justify the protections that alleged rights might offer. As he puts it, "My negative attitude towards defenses of natural rights stems not only from the fact that the arguments advanced so far are all unsound but also from the fact that they provide very bad and too often ineffective reasons for reforming laws in order to extend the institutionalized protection of rights."<sup>13</sup> Let us examine MacIntyre's four, more specific, arguments against human rights and attempt to assess them. I call them "the Witch Argument," "the Taboo Argument," "the Commonality Argument," and "the Primacy Argument."

### III. MACINTYRE'S WITCH AND TABOO ARGUMENTS

Because Gutmann discussed briefly the Witch and Taboo Arguments, although she did not use the labels employed here, and because philosophers have been discussing *After Virtue*, in which they appeared, for the last sixteen years, there is no need to treat them in detail. As it appeared in *After Virtue*, MacIntyre formulated the Witch Argument as follows:

The best reason for asserting so bluntly that there are no such [human] rights is indeed of precisely the same type as the best reason which we possess for asserting that there are no witches and the best reason which we possess for asserting that there are no unicorns: every attempt to give good reasons for believing that there are such rights has failed.<sup>14</sup>

Gutmann notes that this argument relies on a false analogy: although “witch” explanations competed with physics explanations and lost out in the competition, rights explanations do not compete, in any sense, with physics explanations or proposed laws of nature.<sup>15</sup> Thus, if Gutmann is right, when MacIntyre alleges that reasons for rejecting rights are “of precisely the same type” as those for rejecting witches, he uses an argument based on a category mistake.

Another difficulty with the Witch Argument, not mentioned by Gutmann, is that MacIntyre claims neither rights nor witches exist because “every attempt to give good reasons for [them] has failed.”<sup>16</sup> By virtue of this claim, MacIntyre falls victim to an appeals to ignorance, alleging that failure to prove something is sufficient to disprove it. Just as one would not have said in 1900 that there are no neutrinos, because every attempt to give good reasons for them had failed, so also it is not sufficient for MacIntyre to claim that there are no rights because every attempt to give good reasons for them has failed. Not only does this response discount future attempts, but also it presupposes that MacIntyre has evaluated all the most relevant attempts in the past. Because he has not, MacIntyre has yet to deliver on his very large promissory note. For example, he needs to show why Rawls’s attempts to give good reasons for human rights have failed and not discuss only the easier cases, such as that of Nozick. Moreover, because MacIntyre claims that Leo XIII’s papal encyclical *Aeterni Patris* is the “seminal text” on which his own version of Thomism is based,<sup>17</sup> he also needs to show why neo-Thomistic and papal accounts of human rights, accounts within MacIntyre’s own tradition, have failed. (See the later discussion of the Commonality Argument.) He needs to explain, for example, why he thinks Leo XIII is wrong in arguing that human rights are especially needed to defend the poor and badly off and why John Paul II is wrong to say both that accepting human rights is necessary to the common good and that denying them would impoverish our conception of the human person.<sup>18</sup>

MacIntyre’s second or Taboo Argument also appears in *After Virtue*.<sup>19</sup> In it MacIntyre alleges there are no human rights because there are no established rules or practices governing them. MacIntyre repeats his earlier claim that “natural or human rights then are fictions,”<sup>20</sup> and he suggests that natural rights do not exist because, like the Polynesians who used the word “taboo” to mean “prohibited,” without understanding anything else about it, we use the word “right” to mean “moral trump,” but without understanding anything else about it. He says that because we have lost the history and social context—the rules and practice—for both words, “taboo” and “human right,” they are unintelligible fictions.<sup>21</sup>

But have we lost the history and social context, the rules and practices, associated with the word “rights”? As Gutmann points out, our societal practices—of striving for equality of educational opportunity, for careers open to talent, and for punishment conditional on intent—show both our commitment to defending human rights and that we have practices to support them. Moreover, as Gutmann notes, on MacIntyre’s contextualist view, there is more reason historically to believe in a liberal politics of rights than in an Aristotelian politics of the common good. One reason is that the Aristotelian method of discovering the good by inquiring into the social meaning of roles is of little help in today’s society where most roles are not attached to a single good.<sup>23</sup> Instead she says it is more reasonable to say that many different social practices support moral beliefs in rights.

Continuing Gutmann’s line of reasoning, one also might argue that people know the historic rights struggles of blacks, women, gays, and children. They know what it was to pass the 1964 Civil Rights Act and the nineteenth amendment giving women the right to vote. Another point, not mentioned by Gutmann, is that historical traditions, institutions, and practices also reveal several things about rights. These traditions have established, for instance, that there are different types of rights, for example, positive/negative, weak/strong, *prima facie/ultima facie*, and so on. And according to the human-rights tradition, the justificatory burden of proof is on the potential rights violator. Various institutions also operationalize rights through specific procedural or legal constraints. Tradition has shown that these constraints have a practical value, for all people, as a warning to potential violators: “don’t tread on me.” But if some or all of these institutional practices and rules are part of the human-rights tradition, then we do understand something about human rights, contrary to MacIntyre’s claim. And if so, then the Taboo Argument is questionable, on MacIntyre’s own terms, because he takes no account of these practice-based foundations for rights claims.

#### IV. THE COMMONALITY ARGUMENT

Underlying both the 1984 Witch and Taboo Arguments is one that, so far, has not been discussed by MacIntyre’s commentators. It appears in his 1991 and later articles on rights. I call it “the Commonality Argument.” It consists of four steps: (A) “Rational debate over the application of moral . . . concepts, requires that there be some standard, independent of the desires, preferences, and will of the contending parties, to which appeal can be made.”<sup>23</sup> But, says MacIntyre, (B) “in the absence of such a standard, [there is] . . . no way of evaluating as better or worse reasons for judging and acting [and no way] . . . to function as a genuinely ratio-

nal agent.”<sup>24</sup> Yet, MacIntyre continues, (C) human rights cannot provide part of such a shared rational standard because rights proponents have been unable to refute their rivals. He says they have been unable to justify rights on grounds of self evidence, utility, or contractarianism.<sup>25</sup> Moreover, says MacIntyre, because there is no commonality among rights claims, (D) because there is “an absence of any shared criterion for identifying what particular rights there are and what the content of each particular right is,”<sup>26</sup> there are no natural or human rights.

Let us consider each step of MacIntyre’s Commonality Argument: (A) the standard claim, (B) the evaluation claim, (C) the refutation claim, and (D) the content claim. His first premises, (A) and (B), about the need for an independent standard and the dependence of evaluation on such a standard, seem arguably correct. What about premise (C), that human-rights proponents have not been able to refute their rivals and to show that such rights are based on self-evidence, utility, or contractarian considerations? Even if MacIntyre is correct about rights proponents, premise (C) falls victim to the logical fallacy of appeal to ignorance, assuming that human rights do not exist if rights proponents have not been able to refute their opponents. Even if MacIntyre is correct about rights proponents’ failures, it would establish, at best, that the status of rights is uncertain.

But are human-rights proponents unable to refute their opponents? To answer this question, consider three cases, all of which MacIntyre discusses in his work: that of Thomists who follow Aquinas, that of John Rawls, and that of Thomas Jefferson. Evaluation of these three cases seems to suggest that MacIntyre is wrong in (C), in asserting rights proponents cannot defend their positions. The case of Aquinas and his followers is especially important because MacIntyre claims to be a Thomist who follows papal teachings on ethics and theology;<sup>27</sup> because MacIntyre defends his own ethics in terms of Thomist traditions, rules, and practices;<sup>28</sup> and because MacIntyre asserts that only religious authority can ground ethics.<sup>29</sup> For all these reasons, MacIntyre is committed to a Thomistic account of ethics. But can a Thomist defend human or natural rights? According to Aquinas, “the precepts of natural law are . . . self-evident. . . . All the inclinations of any parts whatsoever of human nature . . . in so far as they are ruled by reason, belong to the natural law.”<sup>30</sup> Note that although Aquinas says the precepts of natural law are self-evident, MacIntyre not only denies that human rights are self evident but, contrary to Aquinas, claims that “statements of moral truth . . . are never . . . self evident.”<sup>31</sup> MacIntyre likewise contradicts other spokespersons for human rights who are members of his own avowed Thomistic tradition. Pope Leo XIII, on whom MacIntyre said



he based his account of Thomism,<sup>32</sup> argues that human nature endows people with liberty, that liberty confers human dignity, and that this dignity confers natural or human rights.<sup>33</sup> Various popes (Leo XIII, John Paul II, and John XXIII) also claim that human rights follow from the dignity and equality of humans.<sup>34</sup> They say human rights are essential to, and the test of, the common good.<sup>35</sup> Thus, either the rights claims of these Thomistic authorities are correct, in which case MacIntyre errs in asserting premise (C). Or the rights claims (of the Thomistic ethical and religious authorities MacIntyre accepts) are incorrect in which case premise (C) may be correct, but it is unclear whether MacIntyre's ethics is genuinely Thomist. In either case, MacIntyre's theory is in trouble. Both his premise (C) and his avowed Thomist authorities cannot be correct. Moreover, if MacIntyre believes that human-rights proponent Leo XIII cannot answer his opponents, then why does MacIntyre claim (note 18 earlier) that Leo XIII's articulation of Thomist is the basis for MacIntyre's own philosophy? MacIntyre addresses none of these issues.

What about rights proponent John Rawls? Does MacIntyre show that premise (C) is correct, in part, because Rawls is unable to answer his opponents? If one returns to several earlier articles of MacIntyre, in which he discusses John Rawls, it does not seem that MacIntyre adequately defends his premise (C) with respect to Rawls. Consider first MacIntyre's claims about Rawls's contractarian account of rights and justice:

Let us concede that behind such a veil of ignorance it would indeed be rational to adopt just such principles as Rawls formulated. The question still remains: when the veil of ignorance is removed and I know what the relevant social and psychological facts are, what rational grounds do I have for continuing to give my allegiance to those principles, more especially to the principle that enjoins equality in basic liberties? . . . We need therefore some other kind of reason for taking Rawls's first principle of justice to override, and to continue to override, any calculations of utility or assessments of good. . . . I can see no basis from which such an overriding character could be derived short of some full-fledged theory of natural rights.<sup>36</sup>

In dismissing Rawls's contractarian account, MacIntyre ignores the specifics of Rawls's theory and instead asks the rhetorical question: "when the veil of ignorance is removed . . . what rational grounds do I have?"<sup>37</sup> Rawls's answer is that although he abstracts from particular humans' characteristics, behind the veil of ignorance, he does not abstract from humans' shared characteristics. As a result, he uses humans' shared characteristics to reason to principles that "accommodate our firmest convictions,"<sup>38</sup> for example, about the freedom to choose a good life. Using detailed deductive arguments, Rawls also spends much of part 2 of *A Theory of Justice* showing that his two principles are consistent

with “our considered judgments of justice.”<sup>39</sup> Yet MacIntyre’s rhetorical question ignores both these Rawlsian lines of justification. Rawls has a moral-constructivist position according to which reasonable people, following his carefully-argued, step-by-step moves from the original position, might find grounds for assenting to his two principles of justice. Rawls does not deduce natural rights from a few particular principles, as MacIntyre seems to suggest, but instead shows how many considerations reveal the coherence of his view.<sup>40</sup> Moreover, in lengthy and carefully-argued sections in Chapter Three of his *Theory of Justice*, Rawls shows both why utilitarian considerations cannot override his first principle, and how he moves from a thin theory of the good, to the two principles of justice, to a thick theory of the good.<sup>41</sup> Instead of carefully addressing any of these Rawlsian analyses, point by point, MacIntyre merely says: “I can see no basis from which such an overriding character could be derived short of some fully-fledged theory of natural rights.”<sup>42</sup> After ignoring the specific steps of Rawls’s moral constructivism, MacIntyre seems to beg the question against him.

MacIntyre’s question-begging attack on Rawls is disconcerting for at least two reasons. One reason is that MacIntyre alleges that only natural or human rights could ground Rawls’s theory. This assumption is problematic because MacIntyre does not argue why alternatives to rights, such as obligations, are unable to provide such a grounding. MacIntyre’s attack on Rawls also is troubling because he presupposes that only an external religious authority could provide an adequate foundation for the categorical character of moral claims, like those of rights. MacIntyre asserts, for example, when someone says “I have a right so to act,” he can only respond: “I do not know how to make what he or she has just said intelligible, if there is no appeal to some institutionally established rules,”<sup>43</sup> a rule that is categorical only insofar as it reports “the contents of the universal law commanded by God.”<sup>44</sup> MacIntyre thus believes that only the “external authority of traditional [medieval, theistic] morality” provides authoritative ethical precepts,<sup>45</sup> because judgments not reporting “the contents of the universal law commanded by God” are merely “forms of expression of an emotivist self,” judgments lacking any “undebatable meaning.”<sup>46</sup> Not only does MacIntyre give no reason that theology provides the only authoritative, non-emotive grounding for ethical precepts, like those of rights, but also he begs the question that grounding ethics requires an *external* authority, God, rather than the *internal* authority of one’s own rational deliberations, for example, through Rawlsian moral constructivism. In begging this internal-external question, MacIntyre again seems to beg the question against Rawls and thus fails to show Rawls’s case for human rights errs.

MacIntyre also attempts to defend premise (C) of his Commonality Argument by responding to Thomas Jefferson's claim that "anyone has a natural right to do that which no one else has a right to prevent him from doing or to interfere with his doing."<sup>47</sup> In arguing against Jefferson, MacIntyre has two lines of attack. *First*, he says that Jefferson's argument

presupposes the applicability of the idiom of natural rights, and hence cannot be used to establish it. If it is once conceded that his idiom does indeed have application, then this is in particular cases a powerful form of argument. But whether or not that idiom has application is just what is at issue.<sup>48</sup>

This first counterargument of MacIntyre's seems questionable because Jefferson does not presuppose, but defends, the applicability of the idiom of natural rights by appealing to human nature, natural law, God, and reason. In a variety of works, Jefferson argues that by birth and by nature, humans have rights such as liberty. As Jefferson wrote (letter to John Eppes, September 11, 1813), "Our children are born free. . . . That freedom is the gift of nature. . . . As he [the child] was never the property of his father, so when adult he is, *sui generis*, entitled himself to the use of his own limbs and the fruits of his own exertions."<sup>49</sup> Jefferson's reasoning appears to be that, because children are born free and cannot be the property of someone, therefore they have the rights to do whatever no one has rights to prevent. Similarly Jefferson says, in the "Purpose and Academic Program for the University of Virginia" (1818), that people are naturally free from "all arbitrary and unnecessary restraint" and therefore are "free to do whatever does not violate the equal rights of another."<sup>50</sup> Inalienable human rights to life, liberty, and the pursuit of happiness are not only evident through common sense and the laws of nature, says Jefferson, but also "endowed by their Creator," as he says in "The Declaration of Independence" (1776).<sup>51</sup> Nevertheless, Jefferson does not make either theism, or recognition that these human rights come from God, a necessary condition for their possession. Instead he says that human rights are found in the laws of nature, "engraved on our hearts" (Jefferson's letter to John Cartwright, June 5, 1824); that human rights such as liberty are "our birthright" ("Declaration of Taking Up Arms," July 6, 1775); that because these rights are ours by nature, "inherent," they also are "unalienable" (Jefferson's letter to John Cartwright, June 5, 1824), rights which God and our own natures "have given equally and independently to all" ("A Summary View of the Rights of British America," 1774).<sup>52</sup> When Jefferson asserts, repeatedly, that we are "a free people," he makes clear he is "asserting the rights of human nature," not what is a "gift" of a magistrate. He makes clear that these rights and their accompanying

principles of right and wrong “are legible to every reader” (“A Summary View of the Rights of British America,” 1774), precisely because they not only come from the Creator but also are “principles of humanity” known through reason and “dictates of common sense” (“Declaration of Taking Up Arms,” July 6, 1775).<sup>53</sup> Indeed, Jefferson even speaks of the “aboriginal inhabitants of these countries” [the United States] as possessing “the faculties and the rights of men,” including “liberty and independence” (Second Inaugural Address, March 4, 1805). He notes that a ploughman as well as a professor, indeed “all human beings,” because of their reason, consciences, and birthrights, are adept at moral judgment (Jefferson’s letter to Peter Carr, August 10, 1787).<sup>54</sup> For all these reasons, human rights are not something Jefferson presupposes, as MacIntyre suggests. And if not, then MacIntyre’s first counterargument against Jefferson fails because he has not addressed Jefferson’s specific arguments.

MacIntyre’s *second* attack on Jeffersonian natural rights is that Jefferson’s “argument requires, as the theory of natural rights must require if its conclusion is to have practical content, that natural rights have a certain unspecified overriding character. But nothing in the negative argument goes any way towards establishing this overriding character.”<sup>55</sup> MacIntyre’s second argument also seems questionable, both because it ignores some of Jefferson’s own claims and because it confuses *prima facie* and *ultima facie* rights. As just discussed, Jefferson believed that human rights were overriding, in the sense of inalienable, precisely because they derive from human nature and all humans are born with them. They cannot be overridden, in the sense of being taken away, because one cannot override what one has by virtue of one’s nature, and Jefferson’s words make this point quite clear.

Jeffersonian natural-rights claims also override moral assertions in a second sense: they ought not be ignored. People must take them into account. Because Jefferson argues natural rights are not a gift, no one can ignore them or choose whether to consider them. Hence Jefferson’s natural-rights claims override, both in the sense of being inalienable because they derive from nature, and in the sense of not being able to be ignored because they are not a gift or mere convention.

There is a sense in which some natural rights do *not* override, of course, and this is the sense in which, because everyone has *prima facie* rights claims that may conflict, someone’s *ultima facie* rights claims may need to take precedence. But which *ultima facie* rights claims override is a matter of situation-specific analysis and not something that can always be decided ahead of time by algorithm or fiat. Because it cannot always be decided ahead of time, by algorithm or fiat, MacIntyre errs if he faults Jefferson for failing to establish the *ultima facie* overriding

character of human-rights claims, because this cannot be established independent of a specific situation. Hence MacIntyre may be asking Jefferson to do the impossible in defending his rights claims. Instead, Jefferson can only say that everyone has *prima facie* rights to life, for example. In the wartime situation in which British soldiers attempted to enforce England's denial of many human rights of colonists, Jefferson admitted that the colonists had rights to kill the British soldiers, and thus that their *ultima facie* rights claims overrode those of the British soldiers. In some specific cases of conflict one person's *ultima facie* natural rights might have to take precedence, but this cannot be determined ahead of time, independent of the specifics of the situation, as MacIntyre seems to require. Nor does it establish, as MacIntyre appears to believe, that there are no *prima facie* natural rights, which is presumably MacIntyre's position. Instead, the required situation-specific analysis merely illustrates that *prima facie* natural rights are not the same as *ultima facie* natural rights. As Aquinas noted, "as to the proper conclusions of the practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all. . . . It may happen in a particular case . . . for instance [that moral principles] . . . will be found to fail the more, according as we descend further into detail."<sup>56</sup> It appears that MacIntyre has not shown that Jeffersonian natural rights do not exist but only that if one confuses *prima facie* and *ultima facie* rights claims, then this confusion presents an obstacle for understanding natural rights.

Although there is no time to discuss the arguments of other rights theorists, the preceding discussion of the rights claims of Thomists, of John Rawls, and of Thomas Jefferson suggests that MacIntyre has not obviously shown that human rights proponents err. And if not, then MacIntyre's premise (C), that human rights proponents have not been able to defend their claims, also is doubtful.

What about MacIntyre's premise (D), that there is no shared criterion for the content of human rights? MacIntyre defends this claim by alleging that any appeal to natural rights

is always going to be as a matter of fact selective and *ad hoc*. A certain lack of principle will appear in their use as it has from the beginning. . . . Robespierre did not invoke for the black revolutionaries of Haiti the rights of man that he invoked for Frenchmen; and so in that theatre of the absurd, the United Nations, human rights are the idiom alike of the good, the bad, and the ugly.<sup>57</sup>

Likewise MacIntyre claims "belief in natural rights has turned out to be compatible with slaving-owning, with massacring and stealing their

land from those who were settled in North America before the first Europeans settled here, and with some varieties of imperialism.”<sup>58</sup>

As formulated by MacIntyre, his premise (D) appears to be that, because people have appealed to rights in *ad hoc* ways, therefore there is no shared concept of human rights. However, MacIntyre errs in assuming that conflict or misbehavior among rights claimants means that rights have no shared content. To deny this content because of disagreement or error would be to commit the logical fallacy of appeal to the people: assuming that people’s saying a thing makes it so. And if so, then MacIntyre’s maligning UN attempts, even flawed attempts, to guarantee human rights, does not show that such rights do not exist. MacIntyre seems to have confused a concept (human rights) with its application. He also seems to have assumed that, if a concept is legitimate, then it always is correctly applied. But this assumption is obviously false. Besides, if MacIntyre believes that the concept has no non-arbitrary meaning, then one reasonable way for him to establish his claim (D) would be to evaluate critically the specific rights concept espoused by the “moral authority” that MacIntyre embraces, that of the Thomistic and Roman Catholic popes.<sup>59</sup> If MacIntyre analyzes the concept of human rights espoused by the “moral authority” he accepts and defends, as already noted in discussion of premise (C), it is not clear that he can consistently both follow this authority and assert premise (D), which denies any shared content in rights claims.

Moreover, in asserting premise (D), MacIntyre seems to forget that, if *ad hoc* and selective appeals to a moral concept, human rights, invalidate the concept, then various *ad hoc* and selective appeals to the concepts of God and natural law also could invalidate these concepts, both of which MacIntyre accepts.<sup>60</sup> If one holds MacIntyre to the methodological criterion he uses in premise (D), that *ad hoc* appeals invalidate a concept, then much of his own theory seems undercut by it. Hence either premise (D) is acceptable, in which case MacIntyre undercuts his own theoretical appeals to God and to natural law—or premise (D) is not acceptable, in which case his Commonality Argument fails.

## V. THE PRIMACY ARGUMENT

The other main argument of MacIntyre against human rights also employs some of the same claims against Rawls as the Commonality Argument. What I call MacIntyre’s “Primacy Argument” is not that there are no human rights, as such, but that there are no good reasons for believing that justice and human rights ought to have primacy over the good. This argument appears in MacIntyre’s review of Rawls’s book, *A Theory of Justice*, and in his later paper on natural rights. MacIntyre

prefaces his argument by saying that he has “four more particular doubts” about Rawls’s book that he wants to discuss:

The first of these [doubts] concerns the way in which justice seems to be assigned a certain primacy over other human goods. The agents in the initial situation are made by Rawls to accept the fact that they are to agree in their conception of justice, but to disagree in their conception of other goods. . . . But why should we accept this? Might we not rather ask first, “What is the good for man?” and only then decide what justice would be in a society where men might realize that good? Rawls simply lays it down that justice has a certain primacy.<sup>61</sup>

MacIntyre’s answer to his rhetorical question, about the primacy Rawls gives to justice, was discussed earlier, in connection with premise (C) of the Commonality Argument. MacIntyre’s response (to his rhetorical question about Rawls) fails both because it appeals to ignorance and because it ignores Rawls’s specific moral-constructivist arguments. As already discussed, MacIntyre admits that although

it would indeed be rational to adopt just such principles as Rawls formulates, if we were behind a veil of ignorance. . . . We need therefore some other kind of reason for taking Rawls’s first principle of justice to provide, and to continue to override, *any* calculations of utility or assessments of good. . . . I can see no basis from which such an overriding character could be derived short of some fully fledged theory of natural rights.<sup>62</sup>

As thus formulated, MacIntyre’s Primacy Argument has at least five questionable elements. *First*, MacIntyre questions Rawls’s grounds for giving primacy to the principles of justice when one is not behind the veil of ignorance, and he accuses Rawls merely of laying “it down that justice has a certain primacy.” Despite MacIntyre’s accusing Rawls of begging the question of this primacy, he never precisely addresses Rawls’s own rationale, as noted in the earlier discussion of the Commonality Argument. It is one thing to ignore Rawls’s arguments, but even more troubling for MacIntyre to accuse Rawls of begging the question after he ignores Rawls’s arguments.

A *second* problem in MacIntyre’s Primacy Argument is that it appears implicitly to sanction the tyranny of the majority. MacIntyre says (in the material just quoted) that only natural rights could justify allowing Rawls’s principles to override considerations of utility and the good. Yet consideration of MacIntyre’s theory makes it clear that he rejects all natural or human rights, that is, all non-theologically-grounded rights,<sup>63</sup> as suggested in earlier discussion of the Commonality Argument. Therefore, for those without a theistic framework, it logically follows that MacIntyre believes considerations of utility or the good

override justice. But such overrides could lead to the tyranny of the majority and to great wrongs against vulnerable minorities. MacIntyre neither addresses these possible negative consequences of his views nor does he explain why he believes only theistic ethics could provide the justice-override.

A *third* problem with MacIntyre's Primacy Argument also arises from his admission that, without an appeal to theologically grounded natural or human rights, considerations of the good or utility could override justice and rights. Given this admission, MacIntyre owes the reader a justification for why he thinks only theistic ethics successfully prohibits either injustice or using humans as means to some end. As noted earlier, even the medieval authorities, accepted by MacIntyre, did not think theism was necessary to derive or to know natural law. Even MacIntyre admits that "most medieval proponents of this [divinely revealed, teleological ethics] scheme did of course believe that it was itself part of God's revelation, but also a discovery of reason and rationally defensible."<sup>64</sup> And as noted earlier, even the popes derived natural rights from a natural human dignity. But if so, then MacIntyre needs to explain why, even for a non-theist, some utility or good can be important enough to override justice, natural law, and basic rights to life and bodily security. On none of these points does MacIntyre provide any explanation. He again appears both to beg the question and to put himself at odds with the very moral authorities whose ethics and theology he claims to accept.

A *fourth* problem with MacIntyre's Primacy Argument is that he ignores the authorities, within his own espoused Thomistic tradition, who answer his question about the primacy of good, namely, "Might we not rather ask first, 'What is the good for man?' and only then decide what justice would be in a society where men might realize that good?". What reasons are there, from MacIntyre's own Thomistic tradition, to doubt MacIntyre's suggestion that the good has primacy over justice and rights? One reason for doubt is that MacIntyre's Aristotelian and Thomistic traditions, as well as Rawls's account, do not appear to separate the good from justice (including rights), as MacIntyre does, in his either-or way. Aquinas, for example, says that "good men are so called chiefly from their justice."<sup>65</sup> He also notes that, "if we speak of legal justice, it is evident that it stands foremost among all the moral virtues, for as much as the common good transcends the individual good of one person. . . . 'The most excellent of the virtues would seem to be justice'. . . . Other virtues are commendable in respect of the sole good of the virtuous person himself, whereas justice is praiseworthy in respect of . . . the good of another person."<sup>66</sup> Thus, for Aquinas, justice is part of what makes things good. It is not something opposed to the good, as



MacIntyre seems to suggest. Also, contrary to MacIntyre's primacy talk, as Rawls recognized, one needs a theory of justice both to define part of the good and to act as a check on misconceptions of the good.

A *fifth* problem with MacIntyre's Primacy Argument is that it could be used to sanction injustices. Apart from whether MacIntyre errs in suggesting that the good has primacy over justice, his suggestion is questionable on practical ethical grounds: "the good" could be quite different if an autocrat, rather than a democrat, defined it. It also is not clear that one does not need a safety net, like that provided by natural or human rights, to help act as a check on misrepresentations of the good, like the misrepresentation discussed at the beginning of this paper. The Taliban, the former religious government of Afghanistan, in threatening the lives of widows and their children, obviously misrepresented the good. Besides, even a number of representatives of MacIntyre's own Thomistic religious and philosophical traditions sometimes erroneously have given primacy to their accounts of the good, over basic human rights to life. Some popes may have given primacy to the good of appeasing Hitler over the rights to life of Jews. Some South American bishops appear to have given primacy to the good of coexisting with dictators over the rights to life of those murdered by the dictators. Because of possible human-rights abuses, it is important to call attention to the fact that MacIntyre's emphasis on "the good" over "the right," in the Primacy Argument, seems both practically dangerous as well as inconsistent with claims by leaders in MacIntyre's own avowed traditions.

## VI. WHY A MACINTYREAN SHOULD HESITATE TO REJECT HUMAN RIGHTS

Where do MacIntyre's arguments against human rights leave him? They appear to leave him in a position in which he is less able to protect vulnerable people because he no longer has the full resources of moral philosophy to assist him. He has said that only a "rational moral theology" can support claims that protect other human beings against abuses such as slavery; that natural or human rights cannot serve this function; and that human or natural rights cannot provide rational grounds for protecting others, because they include neither the teleological notion of the ultimate human good, God, nor appeals to moral authority, as "a rational moral theology requires."<sup>67</sup> Even if this position of MacIntyre's is correct, it entails that moral *theology*, but not moral *philosophy*, currently is possible. Even if MacIntyre has proved his position, it thus appears that MacIntyre has proved too much. He appears to have rejected not only human rights but also all moral philosophy, and therefore all nontheological, philosophical arguments for protecting vulnerable people.

A second reason that MacIntyre appears unable to protect vulnerable people is that he admits that his theologically-based ethics, focusing on divine law, will appear oppressive to many people. Perhaps vulnerable people, like the Afghan widows, will find MacIntyre's ethics oppressive. After all, he warns that members of this theistic community

will have to exclude and prohibit a variety of types of activity. . . . It [the prohibition] will appear as negative and oppressive, a barrier to a variety of claims to liberty and choice. Such a conception of law . . . [has a] justification [that] can ultimately only be spelled out, as Aquinas spelled it out, in theological terms. So that not only will those who upheld the authority of the rules which this type of justice requires appear to resist the acknowledgment of what a variety of groups in contemporary society suppose to be their rights, but they will be seen to do so for theological reasons. . . . This type of justice and this type of law will once again inevitably appear to many both negative and obscurantist. . . . To replace the rhetoric and idiom of rights by one of law, justice, and a community ordered teleologically to a substantive conception of the ultimate human good will be inescapably to incur incomprehension and hostility.<sup>68</sup>

Whether MacIntyre's claims above succeed or not, they leave people with a threatening choice: accept moral theology or abandon hope of moral justification and protection. MacIntyre's words, which he admits are barriers to liberty and choice, seem to leave room for Muslim fundamentalists to stone to death women who do not wear the veil, and for Christian fundamentalists to kill abortion doctors, both acting in the name of a theologically-grounded concept of the good, and both violating human rights.

In response, MacIntyre would claim his theological ethics do not condone such acts. Indeed, he says "I am in agreement with many of the substantive moral claims by natural rights theorists, but in disagreement with their way of defending these claims. No one ought ever to be treated in a way that is inconsistent with the precepts of the natural law . . . [but] I do not think that, used in this way [in terms of natural law], the concept of 'a right' adds anything to what is being claimed."<sup>69</sup>

Although MacIntyre champions vulnerable people and wishes to protect them, his good intentions, appeals to natural law without human rights, may not be enough. One reason is that MacIntyre admits that proponents of his theory would "resist . . . rights . . . for theological reasons." Thus for MacIntyre, no rational appeal, against misguided theological ethics, seems possible. And if not, vulnerable people are likely to be hurt.

A third reason MacIntyre appears unable to protect vulnerable people, given his rejection of the human-rights tradition, is that his 1999 book,

*Dependent Rational Animals*, appears to reject the democratic state as a way to enforce protections. MacIntyre asserts that

The nation-state . . . generates totalitarian and other evils. . . . The modern nation-state, in whatever guise, is a dangerous and unmanageable institution, presenting itself, on the one hand as a bureaucratic supplier of goods and services, which is always about to, but never actually does, give its client value for money, and on the other as a repository of sacred values, which from time to time invites one to lay down one's life on its behalf. . . . It is like being asked to die for the telephone company. Sometimes of course there are evils only to be resisted by *ad hoc* participation in some particular enterprises of some nation-state: in resisting Hitler and Stalin most notably. And it is prudent to pay one's taxes.<sup>70</sup>

MacIntyre also claims that

The modern state . . . presents itself as the guardian of our values . . . but the shared public goods of the modern nation-state are not the common goods of a genuine nation-wide community, and when the nation-state masquerades as the guardian of such a common good, the outcome is bound to be either ludicrous or disastrous or both. . . . In a modern large-scale nation-state no such collectivity is possible and the pretense that it is is always an ideological disguise for sinister realities.<sup>71</sup>

If the modern democratic state is as sinister, ludicrous, or ineffective as MacIntyre says it is, then people would seem to need as much of a safety net (something like human rights) as possible. The more troubled the democratic state is, the less able it is to protect those in need. Especially because MacIntyre says members of the democratic nation-state cannot share a common conception of the good (see the preceding quotation), they would seem to have greater need for a shared conception of human rights. Otherwise, without either a shared good or shared human rights, MacIntyre seems to abandon vulnerable people to irrationality and misery. After all, in a MacIntyrean state, absent of both human rights and a shared conception of the good, a powerful group could enforce its aberrant conception of the good on the nation state, just as the German Nazis did and just as Islamic terrorists do.<sup>72</sup>

Also, if MacIntyre believes the democratic nation-state is seriously flawed, then it is not clear why he offers it as necessary to protect us against a Hitler or a Stalin, as he says in the earlier claims. How could it be effective, if he is right about its flaws? MacIntyre devastatingly criticizes, then suggests we ignore, democratic institutions, but then he seems to expect them to spring up, through some civic "Miracle Grow," when we need them.

A fourth reason MacIntyre's theory appears unable to protect vulnerable people is that he not only denigrate the modern nation state, as a protector, but the family as well. He writes:

Neither the modern nation-state nor the modern family can supply the kind of political and social association that is needed. . . . Neither the state nor the family then is the form of association whose common good is to be both served and sustained by the virtues of acknowledged dependence. It must instead be some form of local community within which the activities of families, workplaces, schools, clinics, clubs dedicated to debate, and clubs dedicated to games and sports, and religious congregations may all find a place.<sup>73</sup>

Such criticisms of the nation and family are puzzling, given that MacIntyre is quite generous in his praise of animal-human relationships. In his 1999 book, for example, after he says nonhuman animals "share" with humans some of the same "reasons for action," he speaks sentimentally about animals and humans who form "relationships" and pursue "the same" goods.<sup>74</sup> MacIntyre claims that

what we mean by "goods" in saying this is precisely the same, whether we are speaking of human or dolphin or gorilla. . . . Members of some other species are no more merely responsive to the inputs of their senses than we are. . . . When we speak of dolphins flourishing or . . . gorillas flourishing or . . . humans flourishing . . . these are examples not of analogical, but of univocal predication.<sup>75</sup>

He also says human animals are "dependent as the infant dolphin or the infant gorilla are dependent" and that "we owe to parents, especially mothers, to aunts, grandparents . . . that care from conception through . . . childhood that dolphins also owe to elders who provide . . . care."<sup>76</sup>

It seems extravagant for MacIntyre to claim that human children are "dependent as" infant dolphins or gorillas, or that we humans owe our parents only "that care" that dolphins and some other animals owe their elders. If this is MacIntyre's conception of family life and parent-child relationships, it could explain why he believes that the modern family cannot supply the kind of association needed to sustain and transmit the virtues.<sup>77</sup> More importantly, if MacIntyre assimilates human and animal needs, such that he alleges humans owe other humans only "that care" dolphins owe other dolphins, then it seems likely that the gravest human needs might receive little attention in MacIntyre's world. He appears to have minimized what humans owe other humans, particularly what humans owe other, vulnerable humans.

Admittedly, in his latest book, MacIntyre wants to emphasize the resemblances or continuity between nonhuman and human animals, in order to develop his Aristotelian metaphysical biology. And admittedly,

the concern in this section of the paper, about MacIntyre's sentimental discussion of elephants, dolphins, dogs, cats, chimpanzees, gorillas, horses, and other nonhuman animals, is not that MacIntyre has the animal-continuity point wrong. (He may be wrong in his continuity point, because he dismisses complex arguments by Stich, Searle, Davidson, and others in only three pages, and he does so mainly with mere assertions. But that is not the issue here.) Rather, the point is that MacIntyre uses the alleged animal-human continuity in a way that suggests his affective and philosophical priorities are somewhat skewed. Hitler waxed sentimental about animals but killed Jews, gypsies, and leftists. MacIntyre spends at least half of his 1999 book giving detailed animal case studies and arguing that human forgetfulness of our animal nature is a major reason for our not acknowledging the affliction and dependence of humans. Yet nowhere in a book—alleged to discuss the causes of human vulnerability—does he give a single case study of human suffering, dependence, or deprivation. Instead, MacIntyre leaves these topics to single sentences or abstract discusses, all without either citations or specifics. Thus MacIntyre's discussion of vulnerability is remarkable for what it excludes (human case studies) as well as for what it includes (repeated, detailed case studies of nonhuman animals).

MacIntyre obviously does not mean to glorify nonhuman animal behavior and animal-human relationships, while he denigrates or ignores human relationships. After all, as noted earlier, he says he is "in agreement with many of the substantive moral claims made by natural rights theorists, but in disagreement with their way of defending these claims" (see note 70). Nevertheless, MacIntyre's virtual silence about human-caused suffering—such as war, repression, prejudice, poor medical care, and starvation—coupled with his emphasis on the animal nature of vulnerability and his denigration of the family and the nation, are worrisome. Moreover, MacIntyre's misgivings about the family and the democratic state suggest that his theories would not support protecting victims of family or state abuse, both because MacIntyre expects so little of families and democracies and because his theological appeals are unlikely to persuade those who do not share his theism. After all, MacIntyre virtually defines families and national democratic institutions in terms of their shortcomings. As a result, it appears that MacIntyre's "theologically based" natural law could lead to abuse, abuse like that practiced against the Afghan widows, even though he does not intend this consequence. At the least, many of MacIntyre's claims about democratic states, animals, the family, and so on, raise questions about his ethical priorities and beliefs. And that is the point. Human-rights violators often are unconscious of their biases. People easily can get their priorities wrong, especially in a MacIntyrean system without a

safety net like human rights. In fact, MacIntyre himself seems to get his priorities somewhat wrong when he claims, in the Primacy Argument: "But why should we accept this [primacy of justice]?" Might we not rather ask first, "What is the good for man?" and only then decide what justice would be in a society where men might realize that good?<sup>78</sup> Anyone who does not realize that justice should take priority, over theological claims about the good, arguably may have his priorities wrong. Taliban officials, who gave priority to their theological conception of good, over justice, have their priorities wrong. And MacIntyre has his priorities wrong because such appeals to religious authority, on MacIntyre's own admission, leave little room for rational human correction, as in the case of the Afghan widows. In a society with slightly skewed or only theologically-based ethical priorities, powerless and silent people might not always receive the protection they deserve. Especially when religious authorities say they have no human rights.

## VII. AN OBJECTION

What might MacIntyre respond to the previous criticisms of his theory's ability to help protect vulnerable people? Very likely he would point out that, in his 1999 book, MacIntyre explicitly says human needs should trump all other considerations. Obviously a need-based ethics would protect vulnerable people, he might say. MacIntyre says, for example, that "We can set in advance no limit to those possible needs . . . unconditional care for the human being as such, whatever the outcome . . . is the kind of care that we in turn now owe or will owe" and that "what I am called upon to give has no predetermined limits and may greatly exceed what I have received."<sup>79</sup>

Would such claims of MacIntyre help protect vulnerable people? Even if MacIntyre ideally were right in such assertions, it would be impossible to follow such a demanding moral requirement of "unconditional care." Yet obviously there ought to be limits to the legitimate need claims of others, limits set by the common good, by duties to others, by law, by more primary relationships, and so on. In not recognizing such limits, MacIntyre seems to have opened a door for abuse, for ignoring his Aristotelian "proportionality." In short, MacIntyre seems to allow need claims to trump justice. And if needs trump justice, then the justice claims of vulnerable people might not be recognized in a MacIntyrean world. Besides, MacIntyre owes us an explanation as to how he can criticize Gauthier's account of preferences or wants, for the way they run, rough-shod, over the good when, in his 1999 volume, MacIntyre himself allows his "needs" claims to run, rough shod, over both the good and rights.<sup>80</sup> Moreover, MacIntyre's position is arguably more

questionable than that of Gauthier, at least on this particular point. Whatever their faults, at least Gauthier and social-choice theorists have an account of ethics that is clear and operationalizable via preferences. MacIntyre's account, however, seems open to human-rights abuses precisely because it is not clear, precisely because of his "needs trump," because of his giving primacy to utility and good (over rights), and because of his providing no way to operationalize or test needs claims. Moreover, it is not clear how MacIntyre can argue both for the primacy of needs claims and for the primacy of the good. Satisfaction of needs claims obviously does not always lead to the good.

### VIII. CONCLUSION

What do the previous considerations suggest? Despite MacIntyre's good intentions and his stated desire to protect the vulnerable, his ethical theory appears too weak, incomplete, and question-begging to do the job he intends. *First*, although MacIntyre rejects natural or human rights, he does not give an adequate account of their foundations, even from within the Thomistic and Roman Catholic traditions he claims to accept. *Second*, although a complete evaluation—of whether MacIntyre's ethics genuinely can protect the vulnerable and the powerless—requires examining his views in more detail, MacIntyre's misgivings about the family, the nation, and democracy are troubling. They suggest that even he believes these three institutions cannot protect people who need it most, especially in the absence of a tradition of human rights. *Third*, although the paper argues that two of MacIntyre's major arguments against the human-rights tradition are flawed, this rational analysis of MacIntyre's criticisms of rights admittedly may not give adequate attention to the lived traditions and practices that he emphasizes in his philosophy. After all, it could be that the lived traditions and practices of virtuous people, within a local community, could help protect vulnerable people. But would they? To answer this question, it might be good to engage in a MacIntyrean thought experiment.

Let us begin our thought experiment by accepting, for purposes of the experiment, MacIntyre's claim that his theological tradition "survives in a much less fragmented, much less distorted form in the lives of certain communities that are tied strongly to their past, that "the older moral tradition is discernible in the United States and elsewhere among, for example, some Catholic Irish, some Orthodox Greeks and some Jews of an Orthodox persuasion, all of them communities that inherit their moral tradition not only through their religion, but also from the structure of the peasant villages and households."<sup>82</sup> If MacIntyre is correct in this claim, then people reading this essay ought to be

willing to choose—as part of the thought experiment—to live either in an Irish Catholic village or in an Orthodox Jewish household. But each participant in the experiment must accept the following stipulation. Anyone who chooses the Irish community must go to a Catholic village, as the only gay Protestant in a MacIntyrean town whose citizens deny all natural or human rights. And anyone who chooses the Orthodox Jewish household must go to a MacIntyrean society, devoid of natural or human rights, as an intellectually gifted female married to a somewhat dim man whose insecurities drive him to spouse abuse. Once everyone has lived in either thought-experiment for a year, everyone should answer a question: “Would you rather live in a traditional MacIntyrean world? Or in a MacIntyrean world that also recognized natural or human rights?” What would the Afghan widows say?

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## NOTES

Thanks to Alasdair MacIntyre for his helpful comments on an earlier draft. Thanks also to Phil Quinn, David Solomon, and Paul Weithman for discussions of previous drafts, and to Rev. David Burrell, C.S.C.; Fred Freddoso; Rev. John Jenkins, C.S.C.; and Phil Sloan for discussion of Aquinas’s arguments and previous drafts.

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4. Alasdair MacIntyre, *After Virtue* (Notre Dame, Indiana: University of Notre Dame Press, 1984), p. 69; hereafter cited as AV.

5. MacIntyre, AV, pp. 68–69.

6. A. MacIntyre, “Community, Law, and the Idiom and Rhetoric of Rights,” *Listening*, vol. 26 (1991), p. 104; hereafter cited as CLR. For MacIntyre’s acceptance of legal rights, see the quote in the previous endnote and A. MacIntyre, “Personal Communication to K. S. Shrader-Frechette, Letter of October 11, 2001,” p. 2; hereafter cited as MacIntyre, PC.

7. MacIntyre, AV, p. 11.

8. MacIntyre, AV, pp. 22, 56, 54.

9. MacIntyre, AV, pp. 56, 60.



10. MacIntyre, AV, pp. 22, 62.
11. MacIntyre, CLR, pp. 103–105.
12. A. MacIntyre, *Are There Any Natural Rights?* (Brunswick, Maine: Bowdoin College, 1983); hereafter cited as NR.
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14. MacIntyre, AV, p. 69.
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20. MacIntyre, AV, p. 69.
21. MacIntyre, AV, pp. 111–113.
22. Gutmann, AG, pp. 315–316.
23. MacIntyre, CLR, p. 97; see also pp. 96–110 and MacIntyre, NR.
24. MacIntyre, CLR, p. 97.
25. MacIntyre, CLR, pp. 103–104.
26. MacIntyre, CLR, p. 104.
27. MacIntyre, TRV, p. 2.
28. MacIntyre, TRV.
29. MacIntyre, AV, pp. 60–68. See note 62.
30. Thomas Aquinas, *Summa Theologiae*, trans. English Dominican Province, <<http://www.newadvent.org/summary/305812.htm>> (New York: Benzinger Brothers, 1996), Ia IIae, q. 94, art. 2; hereafter cited as ST.
31. MacIntyre, NR, pp. 13–15.
32. MacIntyre, TRV, p. 2.
33. Leo XIII et al., PL, pp. 70, 153–154. See also John Paul II, JP-87, pp. 25, 63.
34. Leo XIII et al., PL, p. 70; John Paul II, JP-87, p. 43; John XXIII, *On Recent Developments of the Social Question in the Light of Christian Teaching* [Mater et Magistra], (Vatican City, Tipiografia Poliglota, 1961), p. 48; hereafter cited as MM.
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40. Rawls, pp. 21, 579.
41. Rawls, pp. 395–399.
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44. MacIntyre, AV, p. 60.
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56. Aquinas, ST, Ia IIae, q. 94, art. 4.
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