
Saving Subjective Natural Rights From Subjectivism

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Subjectivity: Ancient and Modern, edited by R. J. Snell and Steven F. McGuire. *Lanham, MD: Lexington, 2016. \$95 cloth.*

“Over himself, over his own body and mind, the individual is sovereign.” These modern words of John Stuart Mill loom large in the background of liberal-democratic political debates today. Such debates are often resolved by reference to “dignity” and “rights,” which confer on an individual a claim of absolute non-interference from others. After all, modern politics surely exists to protect the subject. But if pluralistic democracies endorse the concept of subjective rights, they disagree about the standard by which these rights ought to be exercised—or whether any such standard even exists. Does this turn liberty into license? Does an embrace of subjective natural rights consign us to a modern subjectivism in which rights simply referee a

more peaceful war of all against all? Or, on the other hand, do we mistakenly assume that the emphasis on the subject is uniquely modern? Is it possible that the modern focus on the subject is not a radical break with classical natural Right, but rather the fruition of its latent promise? Such a possibility is the focus of *Subjectivity: Ancient and Modern*.

In this volume, R. J. Snell and Steven F. McGuire have assembled a strong cast of contributors with diverse backgrounds and disciplinary commitments. The lineup includes experts on Voegelin, Strauss, Lonergan, and Natural Law—both traditional and “New.” The authors’ essays flow out of a conference which lent to the volume not only its title but also its format. Each of the eight chapters is followed by a response that seeks to engage, critique, and develop the chapter theme. Accord-

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ingly (and appropriately), the book does not simply read as a collection of essays exploring the topic of subjectivity but as an intersubjective conversation. We hear distinct voices and explore diverse traditions in hopes that the particularity of each will reveal something about the common humanity we share. The volume does not disappoint.

McGuire opens by exploring Aristotle through the eyes of Eric Voegelin. Voegelin famously lauded the ancients, while describing Hegel—that essential modern thinker—as a “sorcerer” who prepared the way for contemporary tyranny. Yet McGuire argues that Voegelin’s Aristotle already displays a latent (if perhaps wavering) focus on the subject. Aristotle’s virtues of justice, friendship, and prudence are not simply theoretical virtues but existential ones. For example, prudence is not simply an application of objective principles in the realm of subjective persons, but “the truth of existence in the reality of action in concrete situations” (11). McGuire also points out that prudence cannot be transmitted by information but must be grasped by insight. This coheres with Voegelin’s guiding emphasis on symbols over ideas, and his consequent belief that experiences give meaning to terms. McGuire concludes that, as subjects, we become “luminous” by participating in “a broader reality that we can neither experience nor encapsulate in thought or language” (3). Voegelin’s Aristotelian critique of ideological deformation thus in fact betrays a debt to German idealism.

In so doing, he perhaps unknowingly demonstrates the continuity between ancient and modern thought. In her response, Elizabeth Murray conducts a variation on this theme by exploring Bernard Lonergan’s critical realism. In this Lonergan’s process, the subject carries out acts of judgment for which he or she is uniquely responsible, attaining a “rational transcendence” (45). This gives substance to Lonergan’s claim that “genuine objectivity is the fruit of authentic subjectivity”—perhaps in a moment of luminosity.

The book’s next section explores how these potential harmonies of ancient and modern thought might be illuminated in a New Natural Law (NNL) perspective. NNL advocates suggest that morality can be independently grounded not in theoretical metaphysics but in the self-evident first principles of practical reason. NNL thus uses a subjective first-person methodology in order to arrive at objective third-person truths. Some critics have argued that this outlook incorporates the modern fact-value distinction, and thus cuts loose its objective foundations. Not so, argues Sherif Girgis. Each order of reality has its own objective truths, and those of the moral-practical order are independent of those in the natural order. Rejecting the theoretical principles of metaphysics when undertaking moral-practical reason does not mean rejecting objective principles of morality. Christopher Tollefsen explores in greater detail the process by which first-person experience leads to third-person truths.

The first-person agential standpoint acknowledges that subjective desires may be described as social facts. Yet those third-person facts alone cannot bring the moral force needed to choose one course of action and thus to defeat the force of another. A first-person perspective is necessary in order to motivate and compel.

Tollefsen then illustrates the implications of a first-person perspective for politics. Such a perspective takes as primary the persons who seek to flourish through attaining basic goods. Only subsequently does it justify the state as instrumental to those goods. This contrasts with a third-person perspective that sees individuals as parts of a greater political whole, which might suggest the instrumentality of the person to the state and thus justify a practice such as capital punishment. Tollefsen buttresses his case for a first-person perspective by reference to eschatology. He argues that the Kingdom of Heaven is better portrayed as a state of first-person community than as Aquinas' third-person beatific vision. This position seems to imply that earthly politics is instrumental but heavenly politics is final.

In a first response to the NNL perspective, Amy Gilbert Richards suggests that practical reason is better understood not from the first-person perspective but from the second-person standpoint. She charges that the NNL production of "propositionally specifiable states of affairs" is somewhat removed from the actual inter-personal motives of particular situations, betraying an incomplete

philosophical anthropology. In a second response, Mark Shiffman deepens this critique by arguing that the Ockhamist NNL concept of nature is divorced from goodness. Natural law must thus be reducible to a mere exercise in logic. Yet NNL advocates have already claimed that logical reasoning and moral-practical reason are independent and non-competing realms, which leads to an internal inconsistency. Shiffman also argues—in appropriately spirited language—that these abstract NNL principles lack a thumotic element truly competent to motivate and compel the reader.

Ralph Hancock injects into the conversation a surprising twist. He opens his piece by observing the ambiguity of the term "subject." On one hand, to be *a* subject is to claim self-possession. On the other hand, to *be* subject (i.e., to another) is to surrender human agency. These radical opposites must be refereed by a politics that mediates between protecting the self-possession of the soul on one hand, and mandating a surrender to the (political) whole on the other. In this quest Hancock identifies Alexis de Tocqueville as the best guide. Tocqueville recognizes that the pure self or soul, shorn of ties of particularity, will seek to conquer nature—and will thus collapse into the despotism (democratic or otherwise) of Universal Man. Yet Tocqueville's corrective to this tendency, that of surrender to aristocratic mores, is never a complete surrender that would claim to make humans perfectly at home in the political whole. One might add

that Tocqueville's emphasis on intermediary institutions emphasizes the voluntary choice to commit to a broader (but not universal) whole.

In the penultimate chapter, V. Brad Lewis injects into the NNL debate a gentle Thomist rejoinder by exploring the positions of neo-Thomist Charles de Koninck and personalist Jacques Maritain. Lewis carefully exegetes the vigorous de Koninck-Maritain debate, and draws out some surprising commonalities between the two. Nonetheless, he concludes that Maritain's stance may unintentionally open the door to a decadent and subjectivistic personalism that licenses man to impose meaning on the world. He also observes the position of Maritain (and, it appears, of Tollefsen) that the individual good is prior to the common good and thus at least potentially competing with it. He then notes de Koninck's rejoinder that the rebellious angels proudly reject God as a common good, seeing Him as a rival to their individual good. (Tollefsen, for his part, emphasizes the Kingdom of Heaven as a state of community, which suggests that the true individual good is harmonious with that of others.) In conclusion, Lewis endorses the "thoroughly honourable attempt" of personalists to distance themselves from authoritarian politics, but wonders if their emphasis on individual rights has unintentionally opened the door to Nietzsche. In response, Daniel Mark asks us not to throw out the personalist baby with the Nietzschean bathwater. Subjective personalism can retain an

objective element if its Aristotelian teleology is guided in the direction of an objective Thomist basis for human dignity, rather than in a Nietzschean direction that posits a subject without an object.

David Walsh might argue that we need not fear a Nietzschean Aristotle. Together with other German idealists, Nietzsche lays bare the emptiness of Aristotelians who have shoehorned his original symbols into a system of dogma that stifles the person. Indeed, Walsh argues that the Greek discovery of the soul in *nous* in fact *is* the discovery of the subject. The person is the home of the transcendent encounter in which "being becomes transparent to itself" (156). For this reason, the experience cannot be defined: "[Socrates] could exemplify but not explain what this meant" (151). Unfortunately, Socrates' followers reduced *nous* to *doxa*, taking the revelatory events in which the person is opened to a "gift of self" and assimilating them "to an orthodoxy of content" (150). What, then, is the way back? "We must be prepared to abandon the primacy of substance to put in its place the other term that at the beginning it had displaced. That is, the notion of the person" (157). The person is prior to being, because the true question is not the content of the Platonic Forms but rather "the question of [the person's] access to them" (151). This implies a pre-reflective relationality or "mutual openness" in which knowledge of another is not propositional but personal—after all, even God is most fully himself in giving himself away.

Such a quest for openness is the fumbling journey of the best guides of our time. Travelers on this road include not only “orthodox” thinkers such as Voegelin and Strauss, but even Kant, Heidegger, Foucault, and Derrida (the latter two earning a deeper treatment in Lee Trepanier’s response to McGuire). Their “turn to the subject was not mistaken in the intuition that here we would find the point of access to the transcendent. It was only mistaken in holding it to be an event *within* the subject” (161). All of them have some notion that when being becomes transparent to itself, the glimpse is no longer internal to the subject but is actually beyond knowledge.

In sum, Daniel Mark accurately identifies the challenge of this book: to ensure that the person who is the “locus of value” is not also “its arbiter and its source” (201). Is subjectivity possible without subjectivism? The devil, as he acknowledges, is in the details. What is the relation between an individual subject and a truth that is objective (or at least subject-independent)? Further study of at least two figures might help to explore the question beyond what this fine collection has space to do. The first is Aquinas. Aquinas is a touchstone for many of the contributors, but his legacy is up for grabs. James Greenaway, for instance, sees in Aquinas’ theory of law a participation in the Divine life to which all law is ordered. This seems fairly uncontroversial—and yet it is curious that Aquinas should term this Divine life a “law” (even if Eternal),

which implies a rather static formulation. Indeed, while several of the authors debate Aquinas’ legacy as belonging to natural law old or new, protagonists of *both* sides retain his terminology of law. Is natural law perhaps inherent in the inheritance of Rome? If formulations of law can be copied in stone and applied to one person as to another, are they yet another Roman copy of Greek civilization that keeps alive the memory of the original but never quite recaptures its initial power? If an encounter with independent truth (or transcendence) happens in the soul, are formulations ever adequate to it? Might we be better served by speaking not of natural law but of natural Right?

This might call for a further exploration of a second thinker: Plotinus, father of Neoplatonism. Indeed, James Greenaway begins to explore the medieval elaboration of Neoplatonism in John Scotus Eriugena, and finds there a God who transcends metaphysics. This God holds the subject in belonging through a participatory and amatory relationship, rather than a legal or dogmatic code. However, as Greenaway and Phillip Cary both acknowledge, Neoplatonism struggles to account for humans as creatures with bodies—bodies that, in the Christian tradition, will be resurrected. How do we participate in the divine life without being divine? One might extend the question even more broadly: how do we participate in transcendence without losing our individual personhood?

These are difficult questions, and

this volume's ability to arouse them in their depths is much to its credit. Indeed, the very plurality of perspectives here on display ensures that the book's message is not a polemic with answers but a dialogue with questions. Like a Socratic discourse, the voice of each person comes through,

and yet they all participate in a shared reality. For this reason among others, the book is a worthy testament to natural Right. One hopes that the following volumes in Snell and McGuire's Lexington series will shine similarly luminous.