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MACINTYRE ON HUMAN RIGHTS

IN his 1999 volume, *Dependent Rational Animals*, MacIntyre claims to remedy a deficiency of most western moral philosophy, its inattention to human vulnerability. Although the book focuses on human fragility, it does not appeal to human rights, one of the ways that powerless people historically have sought protection. And except for a brief paragraph in Amy Gutmann's 1985 comments on *After Virtue*, no one has evaluated any of MacIntyre's arguments against the human-rights tradition. Summarizing his six main arguments against human rights, this paper analyses two later arguments that appear to be the foundation for the other four. Presented in articles in the 1990s, these are what I call "the Independent-Standard Argument" (ISA) and "the Historical Argument" (HA). The ISA is that, because Enlightenment philosophers rejected both medieval theology and the Church authorities who interpreted it, there is no independent standard on which to base natural or human rights. The HA is that Maritain and others err when they posit a Thomistic conception of human rights that is absent from Aquinas' thought. Although the paper attempts neither to provide a theory of human rights nor to defend them, it argues that ISA and HA fail because they beg the question of the nature of the requisite independent standard, rely on a suspect interpretation of Aquinas, appeal to a problematic ethical bifurcation of theism versus emotivism, reject the notions of reason and conscience that are essential to MacIntyre's own Thomistic tradition, and fall into inconsistency. Finally, because of theoretical deficiencies in the 1999 book, especially its account of democracy and the family, the paper argues that it cannot offset problems with ISA and HA. The paper thus concludes that the volume offers little protection to vulnerable people who, in MacIntyre's scheme, are unable to appeal to human rights for protection.

I. VULNERABLE PEOPLE AND HUMAN RIGHTS

MacIntyre begins his 1999 volume, *Dependent Rational Animals*, with the assertion that "we human beings are vulnerable to many kinds of affliction . . . It is most often to others that we owe our survival, let alone our flourishing."¹ Despite our dependence on others to protect us, MacIntyre notes that western moral philosophy makes only passing references to this fact. In his book, MacIntyre proposes to remedy this deficiency by doing moral philosophy in a way that treats "the facts of vulnerability and affliction and the related facts of dependence as central to the human condition."²

Because of MacIntyre's avowed intentions, it is surprising that *Dependent Rational Animals* contains no discussion of human rights. Indeed many leaders in MacIntyre's own neo-Thomist and Roman Catholic traditions—such as Leo XIII, John XXIII, and John Paul II—repeatedly have appealed to human rights as a way to protect vulnerable people, and even Cardinal Joseph Ratzinger affirmed recently: "I defend absolutely the existence of rights that cannot be decided by a majority of votes."³ As Will Kymlicka points out, marginalised and subordinate groups have relied on minority rights to protect them.⁴ And as Onora O'Neill notes, "the discourse of rights is an entirely legitimate descendant of older discussions of obligation and justice . . . The rhetoric of rights . . . has to be one of the main weapons of those who lack power."⁵

Apart from whether MacIntyre is able to protect vulnerable and dependent people, as he desires, does his attack on human rights succeed? Despite excellent analyses of MacIntyre's position⁶, no one has attempted to answer this question in the light of MacIntyre's arguments against human rights presented since his *After Virtue*. Most of these arguments are in his recent papers, although they are not organized in any systematic way. This analysis sets out the most central and foundational of these arguments, ISA and HA, and argues that they are questionable. A longer paper would be necessary to show that a specific version of human rights might address some of MacIntyre's ethical problems, and that it might do so in a way better than an account of obligations, for example. This paper attempts neither of these longer tasks. Its point is neither that a politics of rights is the best politics, nor that it is a needed supplement to virtue theory, but that MacIntyre does not undermine rights because he fails to give an adequate account of their foundations.⁷ Because there is a 300-year-old human-rights tradition that

¹Alasdair MacIntyre, *Dependent Rational Animals* (Chicago: Open Court, 1999), p. 1; hereafter cited as: DRA.

²MacIntyre, DRA, 4.

³Ratzinger's statement, made in a September 21, 2000 public debate with philosopher Paolo Flores d'Arcais, is quoted in John Allen, "Ratzinger Speaks Out in New Book, Debate," *National Catholic Reporter* 36, no. 43 (October 6, 2000): 16. For statements of Leo XIII and other popes on rights, see subsequent notes.

⁴Will Kymlicka, "Liberal Individualism and Liberal Neutrality," *Ethics* 99 (July 1989): 902-903.

⁵Onora O'Neill, "Children's Rights and Children's Lives," *Ethics* 98 (April 1988): 459-460; hereafter cited as: CR.

⁶See, for example, Kevin M. Staley, "Thomas Aquinas and Contemporary Ethics of

Virtue," *The Modern Schoolman* LXVI, no. 4 (May 1989): 285-300; hereafter cited as: Staley. See also Thomas S. Hibbs, "MacIntyre, Tradition, and the Christian Philosopher," *The Modern Schoolman* LXVIII, no. 3 (March 1991): 211-223; hereafter cited as: Hibbs.

⁷Amy Gutmann, "Communitarian Critics of Liberalism," *Philosophy and Public Affairs* 14 (1985): 316; hereafter cited as: AG.

⁸Alasdair MacIntyre, *After Virtue* (Notre Dame, Indiana: University of Notre Dame Press, 1984), p. 69; hereafter cited as: AV.

⁹MacIntyre, AV, 68-69.

¹⁰Alasdair MacIntyre, "Community, Law, and the Idiom and Rhetoric of Rights," *Listening* 26 (1991): 104; hereafter cited as: CLR.

¹¹MacIntyre, AV, 11, 22, 56, 54.

¹²MacIntyre, AV, 56, 60.

¹³MacIntyre, AV, 22, 62.

appears to satisfy criteria for MacIntyre's requisite institutions and practices, the paper argues that MacIntyre bears the burden of proof. He must show that human rights neither exist nor have the institutions and practices to support them.

II. MacINTYRE'S ACCOUNT OF HUMAN RIGHTS

What is MacIntyre denying when he claims "natural or human rights then are fictions"?⁸ MacIntyre answers his own question:

By 'rights' I do not mean those rights conferred by positive law or custom [legal rights] on specified classes of persons; 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 . . . But whether negative or positive and however named they are supposed to attach equally to all individuals.⁹

MacIntyre concludes that there are no "fundamental and inalienable" protections that belong equally to all human beings as human beings.¹⁰

Given the moral framework he adopts in *After Virtue*, MacIntyre's rejection of human rights is a consequence of his belief 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"; although this "lost [Aristotelian and Thomistic] morality of the past" might have been able to sustain a theologically-based concept of rights, based on human nature and natural law, MacIntyre argues that disordered Enlightenment morality could not do so because it was detached from "the teleological scheme of God, freedom, and happiness."¹¹ As a result, MacIntyre claims there is no nontheological morality that is defensible: instead, "[moral] sentences become available as 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."¹² Hence, MacIntyre maintains, 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.¹³

On what is this claim based? MacIntyre says that four changes in Aquinas' "older conception of 'jus'" transformed it into the modern, Enlightenment notion of "right" and "rights," destroying its theological and teleological grounding. *First*, there was a move from a "teleological order . . . at once created and com-

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manded by God,” to the notion of rights justified as self evident or as 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.”¹⁴

In the absence of human rights, MacIntyre maintains that theology alone 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.¹⁵

To support his position, MacIntyre offers at least six specific arguments against human rights. I call these, respectively, “the Witch Argument,” “the Taboo Argument,” “the Commonality Argument,” “the Primacy Argument,” “the Historical Argument,” and “the Independent-Standard Argument.” The first two of these arguments appear in *After Virtue*. In brief, the Witch Argument is that “the best reason for asserting . . . there are no such rights is . . . the best reason . . . for asserting that there are no witches . . . every attempt to give good reasons for believing that there are such rights has failed.”¹⁶ MacIntyre’s Taboo Argument is that, 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. Because we have lost the history and social context—the rules and practices—for both words, MacIntyre says they are unintelligible fictions.¹⁷ In her brief remarks on *After Virtue* (see note 7), Amy Gutmann did not use these labels, but she criticized the Witch Argument for failing to give an adequate account of various arguments for human rights, and she faulted the Taboo Argument for ignoring the rules and practices associated with the 400-year-old human-rights tradition.

MacIntyre’s third or Commonality Argument is that there are no natural or human rights because there is “an absence of any shared criterion for identifying

¹⁴MacIntyre, CLR, 103-105.

¹⁵A. MacIntyre, *Are There Any Natural Rights?* (Brunswick, Maine: Bowdoin College, 1983); hereafter cited as: NR.

¹⁶MacIntyre, AV, 69.

¹⁷MacIntyre, AV, 111-113.

¹⁸MacIntyre, CLR, 104.

¹⁹A. MacIntyre, “Justice: New Theory and Some Old Questions,” in *Boston University Law Review* 52 (1972): 330-334; hereafter

cited as: RR; MacIntyre, NR, 9-10.

²⁰MacIntyre, TRV, 76.

²¹MacIntyre, CLR, 97; see also 96-110; MacIntyre, NR.

²²MacIntyre, CLR, 106, 101; NR, 3.

²³MacIntyre, NR, 4.

²⁴MacIntyre, NR, 3, 21; CLR, 96.

²⁵MacIntyre, NR, 15, 21; CLR, 106-107.

²⁶MacIntyre, CLR, 96.

what particular rights there are and what the content of each particular right is.”¹⁸ The Primacy Argument is that there are no good reasons for believing that justice and human rights ought to have primacy over the good.¹⁹

Underlying these four arguments just summarized, are perhaps the most basic of MacIntyre’s objections to natural or human rights. These are the Independent-Standard Argument (ISA) and the Historical Argument (HA). In a nutshell, the ISA is that because Enlightenment philosophers rejected medieval theological standards, as well as the Church authorities who interpreted them, there is no contemporary basis for affirming natural or human rights. The HA is that Jacques Maritain errs in positing a Thomistic conception of rights alien to and absent from Aquinas’ thought.²⁰ Let us consider each of these arguments in order.

III. MacINTYRE’S INDEPENDENT-STANDARD ARGUMENT (ISA)

The Independent-Standard Argument is stated most precisely in two of MacIntyre’s articles on human rights. Set out in a systematic way, it has five distinct steps that I call, respectively, (A) the “independent-standard claim,” (B) the “either-theology-or-rights claim,” (C) the “no-rights claim,” (D) the “theology-or-nothing claim,” and (E) the “theological imperative.” The argument is as follows. **(A) the independent-standard claim:** To resolve rational debate over the application of moral concepts, there must be a standard “independent of the desires, preferences, and wills of the contending parties,”²¹ **(B) the either-theology-or-rights claim:** But such an independent standard requires beliefs and commitments grounded either on “a theologically-based natural law” or on natural/human rights;²² for example, “there are indeed only two forms of prohibition available to us which provide that absolute condemnation of slavery which so many of us share. One is a prohibition whose ground is revealed divine law . . . the other is a prohibition which appeals to the possession of a natural right.”²³ **(C) the no-rights claim:** However, “no such claim [about natural rights] can be shown to be well-founded,” because “we have the best of reasons for believing that there are no natural rights,” and to “employ them is already to have entangled oneself in error.”²⁴ **(D) the theology-or-nothing claim:** Consequently either “revealed divine law” provides “an independent standard” for absolute moral prohibitions, or there is no such standard; because God provides the “only possibility of derivation” of rights claims, “either the condemnation of slavery as such can be justified theologically or it cannot be justified.”²⁵ **(E) the theological imperative:** Therefore one ought “to replace the rhetoric and idiom of rights” by an ethics “ordered teleologically to a substantive [theological] conception of the ultimate

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human good.”²⁶

Step (A), the “independent-standard claim,” seems reasonable provided one takes it to mean that moral reasoning ought not rely merely on the desires, wills, and preferences of contending parties in a moral debate.

Step (B), the “either-theology-or-rights claim,” is doubtful because MacIntyre nowhere argues that the *only* independent standard for ethics is either the ultimate good (known through revealed divine law), or human rights. He begs the question and says merely that the theological conception of the ultimate good has been “eroded” because “the appeal to such [divinely revealed] norms” was “transformed into a [rights] claim.”²⁷ As evidence of this transformation, MacIntyre gives the example of the term “jus,” which moved from something commanded by God to protection that a person, as a person, possessed.²⁸

Even if one grants that the term “jus” has changed in meaning and that a theologically-based medieval morality gave way to a rights-based morality, as MacIntyre argues, it is not clear that only either divinely revealed law or human rights are capable of providing an independent standard for ethics. If philosophers such as Onora O’Neill are correct,²⁹ then ethical obligations, for example, also might provide such a standard. Moreover it is not clear that most members of MacIntyre’s own espoused Thomist traditions would accept the notion that, for Thomists, one must choose only between “a theologically-based natural law” or human rights as the required “independent” standard necessary to resolve moral debate. For one thing, as later sections of this paper argue, it is not obvious that appeals to theologically-based natural law and to human rights are mutually exclusive; there need be no “either . . . or,” but instead a “both . . . and.” A second and more serious problem with claim (B) is that it appears to be at odds both with the position of Thomists who believe a Christian philosophy is possible and with the position of Thomists who believe a Christian philosophy is not possible. In the latter camp, Émile Bréhier, Fr. F. Van Steenberghe, and members of the Louvain school tend to agree that a Christian philosophy is a contradiction and that, for a philosopher, there need be no appeal to theology or revelation in justifying natural law.³⁰ And if not, then MacIntyre’s claim (B) errs, in part, because it appears to require natural law to be known through theology or revelation and not also

²⁷MacIntyre, CLR, 100-101.

²⁸MacIntyre, CLR, 102-106.

²⁹See O. O’Neill, “Virtuous Lives and Just Societies,” *Journal of Social Philosophy* 20 (1989): 25-30; hereafter cited as: ON-25; O. O’Neill, “Kant After Virtue,” *Inquiry* 26 (1984): 387-405; hereafter cited as: ON-84; O. O’Neill, “Children’s Rights and Children’s Lives,” *Ethics* 98 (1989): 445-463; hereafter cited as: ON-89.

³⁰See J. L. West, “Thomism and Christian Philosophy,” *The Modern Schoolman* LXXVII,

no. 1 (November 1999): 49-51; hereafter cited as: West.

³¹West, 60-61.

³²West, 61-72.

³³MacIntyre, NR, 13-15.

³⁴Thomas Aquinas, *Summa Theologiae*, trans. English Dominican Province, <http://www.newadvent.org/summary/305812.htm> (New York, New York: Benzinger Brothers, 1996), Ia IIae, q. 94, art. 2; hereafter cited as: ST.

through reason. Even many Thomists who believe that a Christian philosophy is possible—such as Maritain, Blondel, and Garrigou-Lagrange—likely would not agree with MacIntyre’s claim (B) since they were careful to keep the integrity of philosophy formally distinct from revelation. That is why Gilson, for example, distinguished faith from reason and disallowed any appeal to revelation to establish a philosophical point; Gilson, Maritain, Owens, and others argued that, for Thomists, philosophical principles could be known through natural reason.³¹ Indeed, even for Thomists who believe that a genuinely Christian philosophy is possible, typically they make (unlike MacIntyre) no appeal to revelation or to theology to establish a philosophical point. Instead they argue that a philosophy is Christian by virtue of its end or goal, human beatitude (and not merely knowledge), and by virtue of the dispositions of the philosophers who practice it.³² If they are right about the role of theology and revelation, even in Christian Thomistic philosophies, then there are grounds for doubting MacIntyre’s either-theology-or-rights claim (B).

Admittedly later steps of MacIntyre’s argument provide some very general reasons that he believes step (B) is correct, and we shall examine them later. When he offers claim (B), however, MacIntyre neither gives specific arguments against those who argue that natural law is knowable through natural reason nor offers specific arguments against the most prominent of the other “candidate” independent standards. Nowhere does he have arguments that his theology-or-human-rights dichotomy is either mutually exclusive or exhaustive. Let us continue with the steps of his argument to see if later analyses support his claim (B). Consider his more general argument for step (C), the no-rights claim. Does it help to provide a rationale for step (B)?

MacIntyre’s main reason for (C), for rejecting natural or human rights, is that they are not part of any institutional framework. When someone says “I have a right so to act,” MacIntyre says 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 rule . . . Statements of moral truth . . . are never . . . self evident.”³³ But there are at least two problems with MacIntyre’s appeal to institutions to defend (C). One problem is that MacIntyre claims to accept the ethical standards of Thomistic institutions, yet it is not clear that Aquinas believed that institutionally established rules were necessary to understand ethical precepts. Instead, as later discussions will make clearer, Aquinas says that “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.”³⁴ Contrary to MacIntyre, Aquinas seems to say that reason alone, not an institution-

al criterion, is necessary to understand ethical precepts.

A second problem with (C) is that MacIntyre presupposes that only theological or religious institutions are capable of anchoring ethics. MacIntyre defends (C), the no-rights claim, on the grounds that moral 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.”³⁵ He says the arguments of Enlightenment philosophers “fail because of certain shared characteristics deriving from their highly specific shared historical background” that is detached from “the teleological scheme of God, freedom, and happiness” and therefore unable to ground morality: “Detach morality from that framework and you will no longer have morality.”³⁶ For MacIntyre, only theology or revelation makes moral judgments

at once hypothetical and categorical in form. They were hypothetical insofar as they expressed a judgment as to what conduct would be teleologically appropriate for a human being . . . They were categorical insofar as they reported the contents of the universal law commanded by God . . . But take away from them that in virtue of which they were hypothetical and that in virtue of which they were categorical and . . . Moral judgments lose any clear status . . . and any undebatable meaning.³⁷

Is MacIntyre right? He says (claim B) that the only possible independent ethical standard must be either divinely revealed law or human rights. But then he says (claim C) that only divinely revealed law is acceptable because it is the only way to ground hypothetical and categorical claims institutionally and avoid merely emotive expressions. Here MacIntyre begs the question. For one thing, MacIntyre has not examined all Enlightenment and post-Enlightenment moral philosophies to show why they end in emotivism. Rawls, for example, posits human rights and yet is not an emotivist. Moreover, theism appears to have no “corner on the market” of hypothetical and categorical statements. One could employ the hypothetical claim, for example, “if you want to pursue human dignity and equality, then do action x . . .” One also could employ categorical moral judgments, based not merely on God’s law, but also on principles such as universalizability. One might say, “you ought to do x, because x is morally defensible,” or “you ought to do y

³⁵MacIntyre, AV, 60.

³⁶MacIntyre, AV, 51, 56.

³⁷MacIntyre, AV, 60.

³⁸Aquinas, ST, Ia IIae, q. 94, art. 2.

³⁹MacIntyre, TRV, 2.

⁴⁰Leo XIII, Pius X, Benedict XV, and Pius XI, *The Pope and the People* (London: Catholic Truth Society, 1950), 70; hereafter cited as: PL. See discussion in section IV of paper.

⁴¹Leo XIII, Pius X, Benedict XV, and Pius XI, PL, 70; John Paul II, *On Social Concern*

(Washington, DC: US Catholic Conferences, 1987), 43; hereafter cited as: JP-87; John XXIII, *On Recent Developments of the Social Question in the Light of Christian Teaching* [Mater et Magistra], (Vatican City, Tipografia Poliglota, 1961), 48; hereafter cited as: MM. See discussion in section IV of paper.

⁴²MacIntyre, CLR, 102-108.

⁴³John Paul II, JP-79, 63.

⁴⁴MacIntyre, AV, 68.

⁴⁵See note 37.

because y is universalizable.”

MacIntyre’s rejection of human rights, indeed his rejection of all nontheistic ethical claims as emotivist, also does not seem consistent with the account of those to whose moral authority he appeals. As already mentioned, Aquinas says the precepts of natural law are self evident and that, through reason, humans naturally apprehend things as good or evil for them,³⁸ but neither apprehension is merely emotive. Pope Leo XIII, on whom MacIntyre claims to have based his account of Thomism,³⁹ argues that human nature endows humans with liberty, that liberty confers human dignity, and that this dignity confers human or natural rights.⁴⁰ Other popes (such as John Paul II and John XXIII) claim that human rights follow from the dignity and equality of people.⁴¹ None of them accepts MacIntyre’s view that natural or human rights are mere emotion or rhetoric.⁴² Indeed, they say human rights are essential to, and the test of, the common good.⁴³ For all these reasons, MacIntyre’s rejection of human rights seems at odds with parts of his own avowed tradition.

How might MacIntyre respond to these criticisms of his (C), the no-rights claim? He seems to say that nontheistic appeals to hypothetical and categorical moral judgments fail to provide independent standards for ethics because they are open to dispute, because only the “external authority of traditional morality” provides authoritative content in ethics.⁴⁴ If this is his response, however, it is questionable on at least two grounds. *First*, much of ethics is open to dispute, but that does not mean there are no correct ethical claims. Some people have reasonable grounds for their disputes, while others do not. *Second*, if being open to dispute is grounds for rejecting human rights, as MacIntyre suggests, then according to this criterion, MacIntyre ought to reject theism. Theism is hardly undisputed. Moreover, in presupposing that the no-rights claim (C) holds for any secular morality, simply because it does not depend on theological or revealed truth for justification, MacIntyre again appears to be begging the question. Not only has he given no reason that theology provides the only non-emotive grounding for ethics, but also he has begged the question that grounding ethics actually requires some *external* authority, rather than the authority of one’s own rational deliberations. If many authorities of MacIntyre’s own Thomist tradition are right, no such external authority appears necessary because the precepts of natural law, as “inclinations of . . . human nature . . . ruled by reason,” are self evident.⁴⁵ And if so, then Aquinas arguably could claim that MacIntyre has his causal chain backwards: Instead of claiming that ethics is rational if it is tied to the external authority of divine revelation, as MacIntyre does, one could just as well argue the reverse: if

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ethics is rational, then it is tied to the external authority of divine revelation. In short, Aquinas might more likely claim that reason is a test of reliable revelation rather than, as MacIntyre suggests, that revelation is a test of reliable reason (see note 47).

Given the preceding steps (A)-(C) of his ISA argument, MacIntyre is logically compelled to accept the theology-or-nothing claim (D). But MacIntyre's rejecting non-theological rights claims is philosophically questionable. It is questionable because it also appears to contradict some of the theological authorities MacIntyre claims to accept. 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." It is not clear how MacIntyre can accept the "moral authority" of these medieval philosophers,⁴⁶ who believed ethics could be rationally defensible, and yet assert that ethics is only theologically defensible. MacIntyre's belief (D) also seems to contradict Aquinas' argument, mentioned earlier, that the ethical precepts of natural law are discoverable through reason. Aquinas argues, for example, that a human has inclinations "according to the nature of his reason, which nature is proper to him . . . and . . . whatever pertains to this inclination belongs to the natural law." Aquinas also points out that whatever is in the Law and the Gospel [theology] is not in natural law, "since they contain many things that are above nature," but that whatever is in natural law is in the Law and Gospel.⁴⁷ Aquinas thus posits a causal chain that is the reverse of that of MacIntyre (see previous paragraph). Aquinas differentiates what is theologically, versus rationally, binding, but MacIntyre ignores this distinction in his theology-or-nothing claim (D). Instead MacIntyre conflates philosophy and theology, then insists that only theology can ground ethics. In so doing, MacIntyre neglects the role of reason and conscience and appears to undercut his own Aristotelian account of reason and inquiry.⁴⁸ He also runs counter to Aquinas, who argues that conscience, or synderesis, is "the law of our mind . . . containing . . . the first principles of human actions."⁴⁹ And, as already mentioned earlier in this section, just as Aquinas said that "universal freedom" is "of the natural law," and that human nature endows humans with liberty, so also Leo XIII and other popes argued that this liberty confers human dignity, and therefore human or natural rights.⁵⁰ Thus, for leaders in MacIntyre's own tradition, although God gives rights, humans can know and ground these rights through reason, conscience and human nature. And

⁴⁶MacIntyre, AV, 53; NR, 16.

⁴⁷Aquinas, ST, Ia IIae, q. 94, art. 2, art. 4.

⁴⁸See Hibbs.

⁴⁹Aquinas, ST, Ia IIae, q. 94, art. 1.

⁵⁰Aquinas, ST, Ia IIae, q. 94, art. 5; Leo XIII, Pius X, Benedict XV, and Pius XI, PL, 70.

⁵¹MacIntyre, NR, 20.

⁵²MacIntyre, NR, 19.

⁵³MacIntyre, NR, 20-21.

⁵⁴Jürgen Habermas, "Remarks on Legitimation Through Human Rights," *The Modern Schoolman* LXXV, no. 2 (January 1998): 100; hereafter cited as: Habermas.

⁵⁵Habermas, 97-100.

if so, then provided one believes in human nature or even in human liberty or dignity, it seems possible to ground human-rights claims in a nontheistic way, contrary to MacIntyre's claim (D). Indeed, MacIntyre's own tradition suggests that the very essence of human nature is to reason, to follow one's conscience, not merely to appeal to divine "moral authority,"⁵¹ as MacIntyre does.

Not only does MacIntyre seem at odds, in part, with the Thomistic and Roman Catholic traditions he claims to accept, but also he says that any nontheological invocation of rights "is always going to be as a matter of fact selective and *ad hoc*."⁵² But why are *nontheological* appeals to human *rights*, grounded in 300 years of practices, more *ad hoc* and selective than *theological* appeals themselves? MacIntyre calls rights "fictions," if they are not tied to divine revelation, while he appears unaware that many people believe God is no less fictional than human rights. He asserts that "room for just this kind of appeal to authority [theology or revelation] is . . . precisely what would render respect for . . . divine law . . . rationally defensible."⁵³ MacIntyre's appeal to authority, is questionable because it relies on a stipulative definition of "rationally defensible," and it begs the questions of claims (C) and (D). His appeal also fails to explain why selective or *ad hoc* invocations of rights thereby jeopardize the very concept of human rights. Instead, if Jürgen Habermas is right, the meaning of human rights is not exhausted by their misuse,⁵⁴ in part because positing human rights is necessary to establish the "symmetry relations" among people, relations that must exist in order for mutual understanding and community to take place.⁵⁵

In arguing for human rights as a precondition for mutual understanding and community, Habermas seems to be making a point similar to that of the popes, noted earlier, who claimed that human dignity grounded claims of human rights. That is, mutual acknowledgment of human dignity could establish human rights or "symmetry relations" that, in turn, could provide necessary conditions for mutual understanding and for community. But why does MacIntyre not acknowledge such foundations for human rights, even within his own Thomist and Roman Catholic traditions?

IV. THE HISTORICAL ARGUMENT (HA)

One reason may be that MacIntyre uses a particular interpretation of the Thomist tradition when he rejects human rights. He justifies this interpretation in the historical argument (HA). According to the HA, defenders of human rights, like Maritain, misinterpret their common Thomist traditions. MacIntyre thus formulates the HA:

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What Maritain wished to affirm was a modern version of Aquinas's thesis that every human being has within him or herself a natural knowledge of divine law and hence of what every human being owes to every other human being. The plain prephilosophical person is always a person of sufficient moral capacities. But what Maritain failed to reckon with adequately was the fact that in many cultures and notably in that of modernity plain persons are misled into giving moral expression to those capacities through assent to false philosophical theories. So it has been since the eighteenth century with assent to a conception of rights alien to and absent from Aquinas' thought. For on Aquinas's view, the rights which are normative for human relationships are derived from and warranted only by divine law, apprehended by those without the resources afforded by God's self-revelation as the natural law. Law is primary, rights are secondary. But for Enlightenment and post-Enlightenment modernity, human rights provide a standard prior to all law."⁵⁶

The HA, as just stated, seems problematic for at least four reasons. *First*, if the brief discussion of progressive-Thomistic and papal claims (given in earlier analyses of MacIntyre's ISA) is correct, then the relationship between law and rights is more complicated than the simple "either-or" formula used in the above quotation by MacIntyre. MacIntyre's formula is that "law is primary, rights are secondary" for Aquinas; for later philosophers, "human rights provide a standard prior to all law." Aquinas, however, clearly says that right is comprised of natural law, civil law, and the law of nations; he says law is "an expression of right."⁵⁷ Because Aquinas does not employ the simple priority formula that MacIntyre uses, there is little reason for MacIntyre to argue, as he does above, that Aquinas' asserting the priority of *natural* law to human rights therefore means that other philosophers ought not assert the priority of human rights to *civil* law. Indeed, Aquinas likely would agree, in part, with these other post-Enlightenment philosophers, because his priority ordering moves from divine law to natural law to human rights to civil law. Thus there need be no contradiction, as MacIntyre suggests, between Aquinas' positing natural law as prior to human rights, and Enlightenment philosophers' positing human rights as prior to civil law. Aquinas' ordering (natural law, human rights, civil law) may be what Maritain was trying to get at when he argued for a progressive Thomism that recognized the human-rights tradition.

Second, MacIntyre's historical argument fails, even on MacIntyre's own

⁵⁶MacIntyre, TRV, 76.

⁵⁷Aquinas, ST, IIa IIae, q. 57, arts. 3, 1.

⁵⁸See Griffin, Leslie Griffin, "Good Catholics Should be Rawlsian Liberals," in *Law And: Southern California Interdisciplinary Law Journal* 5, no. 3 (1997): 297-373;

hereafter cited as: Griffin.

⁵⁹John Locke, *Second Treatise on Government* (Amherst, NY: Prometheus, 1986), § 6 (9), § 33 (22), § 45 (28).

⁶⁰Aquinas, ST, IIa IIae, q. 58, art. 1.

methodological criterion of looking at practices and traditions from within them. It fails because he arguably does not understand post-Enlightenment philosophers such as Rawls on their own terms. As a result, MacIntyre generalizes about their positions and then construes their views as inherently opposed to those of Aquinas. Rawls, for example, has a different project than Aquinas, but not one that is opposed, in every way, to that of Aquinas. Rawls is trying, in a pluralistic world, to find a common ground, a less metaphysically-based way, to justify claims such as those for human rights. Because many people do not believe in either God or natural law, it would be contrary to Rawls' project for him either to affirm or to deny MacIntyre's claims such as "law is primary, rights are secondary." But if so, then Rawls and Aquinas are following different, not wholly inconsistent, strategies. They are finding different ways to argue for partially similar concepts of justice. Indeed Rawls' position may be compatible, in many ways, with that of Aquinas, even as a religious philosopher.⁵⁸ And if so, then MacIntyre's generalization about post-Enlightenment philosophers is wrong. Likewise with Locke, whom MacIntyre also seems to misread. MacIntyre says that for Enlightenment and post-Enlightenment modernity, "human rights provide a standard prior to all law." Yet this claim is false when applied to Locke, a proponent of natural law. Locke did not believe that human rights were prior to the Law of Nature, ordained by God. He argued that "reason, which is that law [of nature], teaches all mankind . . . no one ought to harm another in his life, health, liberty or possessions . . . God gave the world to men in common [and] . . . labour . . . gave a right of property."⁵⁹

Third, the historical argument also seems to fail, on its own terms, because it does not take account of MacIntyre's own claim that traditions progress. And if they can progress, then it seems inadequate for MacIntyre both to presuppose a stipulative, historically-bound definition of Thomist 'tradition'. It seems wrong for MacIntyre to assert that, because Maritain's argument was different from that of the historical Thomas, therefore it was inconsistent with a progressive Thomistic and papal tradition that later appealed to human rights.

Although Aquinas himself did not recognize human rights as we know them, a progressive neo-Thomism (as suggested by Maritain and as affirmed by several popes) might admit human rights. For example, Aquinas says that "a man is said to be just because he respects the rights [jus] of others."⁶⁰ He notes that "the other virtues perfect man in those matters only which befit him in relation to himself . . . whereas the right in a work of justice, besides its relation to the agent, is set up by its relation to others" and that law is "an expression of right." He notes that "justice by its name implies equality." He also says that a thing can be right or just

in two ways: “first by its very nature . . . called ‘natural right’ . . . or by common consent . . . and this is called ‘positive right’.” These two senses of “right” arise says Aquinas, because “the human will can, by common agreement, make a thing to be just provided that it be not, of itself, contrary to natural justice.”⁶¹ When Thomas speaks of “the right” and “natural rights” he uses the same Latin word [jus], but as noted earlier, this term has changed in meaning from medieval to modern times. Nevertheless, Aquinas suggests that various kinds of “rights” comprise “the right.” He also notes that many things are done virtuously “to which nature does not incline at first, but which, through the inquiry of reason, have been found by men to be conducive to well-living.” Moreover, he argues that “by way of addition . . . nothing hinders the natural law from being changed [although it is] . . . altogether unchangeable in its first principles.”⁶² Thus the natural-law tradition may progress, although its first principles do not change. And if so, then to be true to the spirit of progressive Thomism, MacIntyre’s own avowed philosophy, it is not appropriate for him to claim that there are no (modern) human rights, merely because the historical Thomas did not recognize them.

Fourth, MacIntyre’s historical argument (HA) also fails, on its own terms, because as already noted, it aims itself to be part of the Thomistic tradition, as interpreted specifically, says MacIntyre, through the Leo XIII encyclical, *Aeterni Patris*. MacIntyre says this is the “seminal text” from which his own Thomistic account stems.⁶³ But in HA, MacIntyre rejects the Leo XIII position on human rights. As already mentioned, Leo XIII and other popes repeatedly affirmed human rights. For example, Leo XIII asserted:

when there is question of defending the rights of individuals, the poor and badly-off have a claim to especial consideration. The richer class have many ways of shielding themselves, and stand less in need of help from the state; whereas the mass of the poor have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the state.⁶⁴

Similarly, John Paul II wrote that “The denial or the limitation of human rights—as, for example, the right to . . . organize and to form unions . . . impoverish the human person as much as, if not more than, the deprivation of material goods.” “The common good . . . is brought to full realization only when all the citizens are

⁶¹Aquinas, ST, IIa IIae, q. 57, arts. 1, 2.

⁶²Aquinas, ST, IIa IIae, q. 94, arts. 3, 4, 5.

⁶³MacIntyre, TRV, 2.

⁶⁴Leo XIII, Pius X, Benedict XV, and Pius XI, PL, 153-154.

⁶⁵John Paul II, JP-87, 25, 63; John Paul II, J P-79, 63.

⁶⁶For those who criticize MacIntyre for allowing his religion to determine his philoso-

phy, see Thomas Nagel, “Agreeing in Principle,” *Times Literary Supplement* (July 8-14, 1988) and Martha Nussbaum, “Recoiling from Reason,” *NY Review of Books* (7 December 1989): 36-41.

⁶⁷MacIntyre, CLR, 96, 102-103.

⁶⁸MacIntyre, CLR, 103, 108-109; NR, 19-20.

sure of their rights.” “The rights of power can only be understood on the basis of respect for the objective and inviolable rights of man.”⁶⁵ MacIntyre needs to address all these and other papal rights-claims, both to show why he believes they are wrong, and to explain how he can appeal to the moral authority of these popes, yet reject their views on human rights. Otherwise, his historical argument begs the question.

V. MacINTYRE’S UNRESOLVED PROBLEMS

In rejecting all human rights except those justified by revealed divine law, MacIntyre appears not only to have begged the question, but also to have attacked rights claims on terms (arbitrariness) to which his own theistic assertions appear vulnerable. And in rejecting any rights claims not justified through theology or revelation, MacIntyre has placed himself in the peculiar position of allowing religion to drive his philosophy,⁶⁶ even though the religion he invokes appears at odds, in part, with the positions of the religious authorities he claims to accept. Moreover, in rejecting human-rights claims and instead embracing an appeal to religious authority, MacIntyre has left his position philosophically vulnerable in at least seven ways.

First, apart from the questionable logical character of MacIntyre’s appeals to religious authority, if he appeals to religious authority as the court of last resort in moral disputes, then MacIntyre has no non-authoritarian, non-question-begging way of resolving either religious or ethical controversies (among Thomists or the popes, for example). Hence MacIntyre’s question-begging ethics seems either to fall victim to controversy (for which he attacks modern ethics) or to rely on some implicit, rational, nontheistic criterion (which he denies exists) for adjudicating ethical disputes. At times, MacIntyre appears to take the latter course. Despite his avowed allegiance to Thomist Catholicism, he seems to employ some nontheological rational criterion when he criticizes both the US Conference of Catholic Bishops and Pope John XXII for defending human rights.⁶⁷ The problem is not that MacIntyre uses some meta-level rational criterion to evaluate their moral judgments, because philosophers use such criteria all the time. Rather the problem is that MacIntyre rejects such nontheological criteria and denies there are any nontheological or rational ethical justifications,⁶⁸ yet appears to use them when he criticizes popes and bishops on human rights.

A *second* problem is that MacIntyre seems to ignore the fact that appeals to religious authority have been used in the past to justify acts such as conducting the Inquisition or the Crusades. Instead of evaluating the threats posed by

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appeals to religious authority, and then responding to them, MacIntyre seems to be engaged in a romantic regression to the medieval era, a regression that includes no second-order ethical analysis of his position. To paraphrase Gutmann, he wants us all to return to live in Salem but not to believe in witches.⁶⁹

Third, to the degree that MacIntyre recognizes only theological ethics, ethics based on revelation or religious authority,⁷⁰ he seems implicitly to relegate nonbelievers to the class of second-class ethical citizens and to reject human reason as a means to address ethical problems. *Fourth*, although MacIntyre rejects the human-rights tradition and embraces the authority of revealed divine law, he both admits his religious authorities err and yet has no account of their errors. For example, MacIntyre admits that he has not given a cogent explanation of the fact that theologians “did for so long fail to understand divine law as” providing prohibitions against slavery and other misdeeds.⁷¹ Similarly, MacIntyre’s own tradition arguably has been slow to recognize the equality and humanity of women and gays. Yet MacIntyre has no account of the arbitrariness in his own tradition, even though alleged arbitrariness is his reason for rejecting the human-rights tradition. Although he has said that only a “rational moral theology” can support claims that protect other human beings against abuses such as slavery, he is unable to explain why, for centuries, his own Thomistic moral tradition condoned slavery.

Fifth, even if MacIntyre’s ISA is correct, it leads to the consequence that only moral *theology*, but not moral *philosophy*, is now possible. MacIntyre thus appears to have proved too much. He has rejected not only human rights but also all moral philosophy as such.

Sixth, the main goal of MacIntyre’s project, as articulated in *After Virtue*, was to resolve ethical controversy, to do what moderns have been unable to do: bring rational closure to moral debate. However, as the Independent-Standard Argument and the Historical Argument make clear, not only has he begged key questions in the steps of the arguments, but MacIntyre has effectively tried to achieve rational closure, in the ethics debate, by an appeal to religious authority. This appeal is especially troubling because MacIntyre admits that his theological-based ethics, contrary to the goal of *After Virtue*, will appear oppressive and lead to controversy. He warns that members of his 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 uphold the authority of the rules which this type of justice requires appear to resist

⁶⁹Gutmann, AG, 319.

⁷⁰MacIntyre, CLR, 96, 101, 103, 106-9; NR, 3-4, 15, 19-21.

⁷¹MacIntyre, NR, 21.

⁷²MacIntyre, CLR, 108-109.

⁷³MacIntyre, DRA, 19, 135.

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.”⁷²

Seventh, as the preceding quotation reveals, although he does not intend it, MacIntyre’s own words also appear to pave the way for religious fanatics to deny rights claims, and on grounds that need not be rationally defensible. They 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. MacIntyre might claim his theory would not condone such acts. But his own words are disturbing: proponents of his theory would “resist . . . rights . . . for theological reasons.” If MacIntyre accepts the Thomist tradition and claims to build ethics around a chosen tradition, then he bears the burden of proof for rejecting his own progressive, Thomistic, human-rights tradition and for accepting a less-protective version of theism than that apparently espoused in his own tradition. He also bears the burden of proof in showing that, without human rights, his philosophy would truly protect the vulnerable and powerless, as he asserts in his 1999 book. Several considerations suggest that this assertion in his recent volume is mistaken.

VI. VULNERABLE, POWERLESS PEOPLE WITHOUT HUMAN RIGHTS

To evaluate the ability of MacIntyre’s ethics to protect vulnerable people, given his denial of human rights, consider some of his 1999 claims about the family, the nation, and democracy. MacIntyre’s account of these three institutions (the family, the nation, and democracy) is essential to understanding whether they would be able to protect their weakest members. About the *family*, MacIntyre says:

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.⁷³

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About the *nation*, MacIntyre claims:

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 clients 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.⁷⁴ 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.⁷⁵

And about *democracy*, MacIntyre asserts:

The sometimes revolutionary struggles of the past that broke down the barriers to achieving modern citizenship—to abolish slavery, to extend the suffrage, especially to women, to secure for the labor movement defenses against capitalist exploitation and victimization—involved degrees and kinds of effective political participation that are quite as alien to the democratic forms of the politics of the contemporary state as they are to nondemocratic forms.⁷⁶

Examining MacIntyre's preceding claims about the family, the nation, and democracy suggests that he may not be able to protect dependent and vulnerable people, as he suggests in his 1999 volume. For one thing, if the modern democratic state or the modern family is as "sinister," "ludicrous," or "ineffective" as MacIntyre says it is, then vulnerable, powerless people—whether spouses needing protection from abusers or gays needing protection from bigots—can hardly expect the family or the nation to protect them. And if not, then anyone in either of these two MacIntyrean institutions may need some kind of "safety net" (something like human rights). One reason such a safety net seems more necessary in a MacIntyrean world is not only that MacIntyre's flawed families and nations seem

⁷⁴A. MacIntyre, "A Partial Response to My Critics," in *After MacIntyre*, eds. John Horton and Susan Mendus (Notre Dame, Indiana: University of Notre Dame Press, 1994), 303; hereafter cited as AM.

⁷⁵MacIntyre, DRA, 132.

⁷⁶MacIntyre, DRA, 142.

⁷⁷See note 75.

⁷⁸MacIntyre, AM, 302-303.

⁷⁹MacIntyre, DRA, 144.

less able to protect vulnerable people, if they cannot appeal to human rights, but also that MacIntyre claims members of the democratic nation-state cannot share a common conception of the good.⁷⁷ If not, it is especially important for citizens to recognize they share a conception of human rights that might provide a rationale for various legal protections. Otherwise, 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 contemporary neo-Nazis and Islamic terrorists attempt to do.⁷⁸

Also, if MacIntyre believes the democratic nation-state is seriously flawed, as he claims, 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 “nation” quotations above. How could the state 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 to fight a Hitler or Stalin. Similarly, if we ignored our families, in favor of voluntary groups or associations, as MacIntyre seems to recommend in the first or “family” quotes, then why would we expect them to rise to the occasion, miraculously, when the family faced a crisis? Instead it may be that MacIntyre’s negativism about democracies and families could become a self-fulfilling prophecy. If MacIntyre abandons these institutions, in favor of voluntary “clubs” or “local” communities, then he contributes to the demise of democracies and families. The weakened democracies or families thus could become less able to protect the vulnerable, especially in a MacIntyrean state devoid of both human rights and a common conception of the good.

Notice also that MacIntyre’s giving preeminence to voluntary associations, as he does in the “family” quotes, rather than to the family or to the nation state, seems likely to lead to circumscribing the sphere of ethical concern, privatizing it, so that only the more comfortable, less demanding, voluntary associations would become the center of virtuous activity. Yet it is not clear that voluntary groups, alone, are able to protect the vulnerable, and for two main reasons: Often only the state has the legal and economic power to protect the most vulnerable people. Also, often society’s most vulnerable members—the poor and the disabled—are outside MacIntyre’s preferred voluntary organizations, like “clubs dedicated to debate.” Vulnerable people often spend most time trying to survive, not joining debate clubs.

There also are additional problems with MacIntyre’s suggestion that voluntary communities are superior to both the family and the state. First, he says that “the politics of such [local or voluntary] communities, when they are at their best or are at least moving in the right direction, is not a politics of competing interests

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in the way in which the politics of the modern state is.⁷⁹ Such a claim is gratuitous, in part because competing interests arise in both local and national communities. Indeed, problematic “competing interests” may be more devastating to vulnerable people at the local level, precisely because it often is harder to escape from local injustice if it is in one’s own backyard. Second, notice how MacIntyre has stipulatively *defined* the local or voluntary communities as superior, rather than argued for his point: He says the politics of local communities, “when they are at their best,” are not politics of competing interests, as in the modern state. Translated, his claim is that local communities, at their best, are superior to other communities, *defined* as not at their best. MacIntyre’s alleged argument for the superiority of local communities is thus no more than a definition. A third difficulty is that, if the best local or voluntary communities, by fiat, are defined as superior within a MacIntyrean world, then it seems less likely that an outside or national group would have the moral authority to check abuses within such idealized local communities. Besides, if MacIntyre is right in his “nation” claims, that a shared conception of the good is likely to produce tyranny at the national level,⁸⁰ because it must be coercively enforced, then why wouldn’t such a shared conception of the good also be likely to produce tyranny at the local level? What could be MacIntyre’s reason for worrying about the tyranny of the nation state but not the tyranny of local or voluntary communities, especially when MacIntyre says their ethics is based on theological authority? MacIntyre seems to assume religious groups and local groups have few problems with tyranny or injustice. Yet US experience with civil rights shows his assumption is false. African Americans living in racist southern communities clearly have been victims of local communities who had shared, but aberrant, conceptions of the good.

VII. 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—on 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

⁷⁹See note 75.

⁸¹MacIntyre, AV, 252.

⁸²Thanks to Phil Quinn, David Solomon, and Paul Weithman for discussions of previous drafts, especially details of MacIntyre’s argu-

ments. Thanks to Rev. David Burrell, C.S.C., Fred Freddoso, Rev. John Jenkins, C.S.C., and Phil Sloan for discussions of previous drafts, especially details of Aquinas’ arguments.

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, if MacIntyre is right, the lived traditions and practices of virtuous people, within a local community, could help protect vulnerable people. Would these traditions and practices prevent the abuses that human rights otherwise would help address? To answer this question, it might be good to engage in a thought experiment.

Let us begin our thought experiment by accepting, for purposes of the experiment, MacIntyre's claim that Irish Catholic villages and Orthodox Jewish households are paradigms for the most desirable communities.⁸¹ 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 northern 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 situation 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?"⁸²