Can Eudaimonism Serve as a Framework for a Theory of Rights?

Gåvertsson, Frits

2015

Can Eudaimonism Serve as a Framework for a Theory of Rights?[*]

FRITS GÅVERTSSON[†]

ABSTRACT: In this paper I consider whether eudamonism—*i.e.* the thesis that the ultimate aim of human life and conduct is the attainment of happiness and that the achievement of this goal is closely linked to the acquisition and exercise of moral virtue and tranquillity of the soul—could serve as a framework for a theory of rights. I argue that the eudaimonist's chances to ground a theory of rights from within her chosen framework is greatly increased if we take the order of explanation to go from duty to right rather than the other way around. This is problematic since it is arguably so that a central component of our notion of human rights is that they are such that we have them *because* of some fact about every human person. After arguing that there are at least some considerations in favour of loosening the requirement that rights somehow ground duties rather than the other way around I go on to note some interesting implications that adopting a eudaemonist framework would have for the issue of how claim-rights and directed duties are to be analysed. We have reason to suppose that proponents of the different classical eudaimonistic schools of the Hellenistic era would radically diverge on this issue.

KEYWORDS: eudaimonism; human rights; virtue; ethics; rights

It is a common, although by no means unproblematic, strategy for differentiating philosophical fields of inquiry as well as research programms within these is by reference to some question (or task) that is considered basic, which in turn generates or suggests a methodological stance. EXAMPLE: ontology, so construed concerns the nature of being and the Quineian question "what things are there?" suggests the method of extracting existence commitments from our best theory, whereas the "Aristotelian" question "what grounds what?" suggests a method for determining what is fundamental and to provide an account of grounding.

In the case of ethical theory we could do the same and distinguish between:

> *Narrow conception:* the task of moral theory is the formulation of a criterion of rightness partitioning the moral realm coupled with a decision procedure or other means of action guidance in particular situations that need not, but could, be fully codified and algorithmic.
>
> *Broad conception of morality:* the task of moral theory is the formulation of a conception of the good life coupled with a general recipe for its attainment—that need not, indeed perhaps should not, supply a set of (fully codified) principles governing conduct.

While the distinction between broad and narrow senses of morality is not exclusive—it is perfectly possible (perhaps even advisable) to demand that a satisfactory moral theory should provide an account of both—the usefulness of the narrow account would appear to diminish in proportion to one's stressing of the fact that part of being virtuous is figuring out for ourselves how we are to lead our lives. Given that the above holds we are faced with the following question*: "What role, if any, can we envisage rules or principles having when we adopt a broad conception of morality?"*

In a broad conception rules can function as a set of constrains providing a frame (such as *e.g.* a system of rights, circumstantial obligations, or a provisional moral code) for the agent while she struggles with coming to terms with her conception of the good life and goes about attaining it.

It would arguably be desirable if the constraints in question were such that they are not "merely provisional" but retain their force once we have attained the status of a fully virtuous agent (although complying with these constraints would presumably not be construed by the agent as a sacrifice nor indeed as an effort under such conditions).

In what follows I should like to consider the question whether eudaimonism—*i.e.* the thesis that the ultimate aim of human life and conduct is the attainment of happiness and that the achievement of this goal is closely linked to the acquisition and exercise of moral virtue and tranquillity of the soul—could serve as a framework for a theory of (human, moral or natural) rights.

---

[*] *Draft to be presented at the Swedish Philosophy Conference*, Linköping University 2015-06-12-14.

[†] Frits Gåvertsson, Department of Philosophy, Lund University, Box 192, 221 00 Lund, Sweden.
E-Mail: frits.gavertsson@fil.lu.se.

QUESTION I.

Can Eudaimonism Serve as a Framework for a Theory of Rights?

Article I. *What if the ancients did not have the concept of rights?*

THE FIRST POINT: I. It might be true—barring some kind of conceptual nihilism—that the existence of a word guaranties a concept connected to it but the reverse is not true. This issue obviously comes down to the nature of concepts and what it is to have them, but it would seem that *it does not follow from any linguistic considerations alone that the ancients lacked the concept of rights*.

II. Clearly the Ancients had the "objective sense", *i.e.* that something (*e.g.* an act, a distribution, a social order) is "just", or "fair". [1]

III. The issue of whether eudaimonism is incompatible with a theory of rights is unaffected by concerns of this kind. It seems possible for the eudaemonist to agree that the relevant concept—*i.e.* in this case the subjective sense of right—is found lacking in the ancients but go on to argue that the subjective sense of 'a right' can, now that we have it, be incorporated into eudamonism.

ON THE OTHER HAND: This does not satisfyingly ground rights in said framework since the adopted theory of rights simply features as an unrelated add on to eudaimonism rather than being somehow derived from it.

REPLY: I. Insisting that eudaimonism somehow should be able to ground rights in the sense that a whole theory of rights should be derived from or be (strictly) implied by the framework might seem somewhat excessive.

II. It seems satisfying enough that the theory of rights accords well with, is supported by, or constitutes a natural enough extension of it (even if it is somewhat unclear how we are to understand these relations).

[1] *Cf. e.g.* Od. 13.209, Hdt. 1.96, A. *Th.* 598, Pl. *Grg.* 507b.

Article II. *Isn't the eudaemonist barred from utilizing the language of rights since the framework is entirely comprised of aretaic notions that leave no place for the deontic concepts required for a theory of rights?*[2]

THE FIRST POINT: I. It seems that (something like) deontic notions do figure in Aristotle in a way possibly central to his philosophical project in the ethical writings.[3]

II. It seems doubtful that "thick" aretaic notions are analysable without reference to "thin" deontic ones.

III. *If* aretaic notions can be unpacked without reference to deontic ones then maybe deontic notions are analysable in terms of aretaic ones. If this is true then arguably all talk of rights fundamentally dependent upon the virtues, which would make all theories of rights grounded in a virtue-ethical (albeit not necessarily eudaimonistic) approach to morality.

ON THE OTHER HAND: I. Such reductive approaches face various kinds of circularity charges.

II. Such a solution would be too trivial: it would not supply any reason, or at least no reason specific enough, to actually develop a language of rights, let alone ground rights proper from within a eudaimonistic framework.

[2] *Cf. e.g.* Schopenhauer, Arthur, *On the Basis of Morality*, Rev. edn., trans. E. F. J. Payne, Providence: Berghahn Books, [1837] 1995: 55-56; *cf.* 53-54, 56-58, 68, 103, 130, Anscombe, G. E. M., "Modern Moral Philosophy", *Philosophy* Vol. 33, No. 124 (January 1958): 1-19, and MacIntyre, Alasdair, *After Virtue*, 2nd ed., London: Gerald Duckworth & Co. Ltd, 1985 [1981], Ch. 1.

[3] See Crisp, Roger, "Does Modern Moral Philosophy Rest on a Mistake?": 75-93 in O'Hear, Anthony, (ed.) *Modern Moral Philosophy*, Royal Institute of Philosophy Supplement: 54, Cambridge University Press, 2004.

Article III. *Can eudaimonism capture the way in which the notion of constraints figure in our ordinary understanding of right conduct?*

THE FIRST POINT: I. Embracing a given end, E_1, constrain our motivational economy according to eudaimonism: the commitment to E_1 in effect constrains the pursuit of any end, E_x, that is such that it is placed beneath E_1 in the agent's hierarchy of ends since the opportunity cost of its attainment hinders the attainment of E_1.

II. This can be extended to provide an account of *absolute prohibitions* pertaining to ends that are such that the adoption of them as such renders the attainment of ends higher up in the hierarchy unrealizable.[4]

ON THE OTHER HAND: I. This response obviously leaves those that would insist on a priority of the right over the good, or a strict separation of the notions and their corresponding domains, in order for a theory of practical rationality to be adequate wanting. II. How "real" are these "second-personal reasons" really?[5]

REPLY: I. Such insistence would simply beg the question against eudaimonism.

II. It would be committed to a theoretically costly dualism of practical reason (unless it would favour a sort of reduction of the axiological or prudential to the deontic which amounts to a position behest with its own problems).

Article IV. *Did the ancients see Natural Law as going beyond social convention?*

THE FIRST POINT: I. The idea of a correlation between conventional law and a universal regulative order can be traced far back. Elements of this view are arguably traceable to Homer, Solon and Aeschylus. Aristotle distinguishes between particular (conventional) law on the one hand and universal law on the other (*Rhet*. 1373b4-13). Roman jurists—*e.g.* Gaius and Ulpian—put forward a threefold distinction between natural law, the law common to all communities, and the law specific to each community.[6]

Article V. *Arguably a central component of our notion of human rights is that they are such that we have them because of some fact about every human person and that consequently we would want the order of explanation to go from right to duty. Can eudaimonism account for this?*

THE FIRST POINT: Given a Hohfeldian analysis it matters little which notion is taken as primary since either starting-point supposedly generates equivalent explications of the same set of ethical considerations or requirements.

ON THE OTHER HAND: There is a difference between a theory that takes duties as fundamental and then derive, by Hohfeldian stipulation, rights from these duties on the one hand, and a theory that takes rights as fundamental and derive duties accordingly (or one that takes them as different sides of the same coin), on the other. What is at stake is not the truth conditions of the relevant statements—which are by stipulation identical—but the point or purpose of rights-talk in the first place.

THE SECOND POINT: The central concern is the fact that I would not be a virtuous person (and by extension not flourishing or happy) unless I was just, since justice is one of the virtues necessary for living a life that is eudaimon. The ultimate reason for respecting rights is not that others would benefit from this, although they would, but because the agent herself would benefit from respecting the rights of others. The

[4] See LeBar, Mark, *The Value of Living Well,* Oxford University Press, 2013: 12-14 for an elaboration of this point.

[5] See Cokelet, Bradford, "Two-level Eudaimonism and Second-Personal Reasons", *Ethics* 122 (July 2012): 773-780.

[6] A. *Eu.* 566ff, *Antigone* 456-7, Solon *Fr.* 135 DK, D. 1.1.1.2-3 Ulp. 1 *inst. Cf.* Dodds, Eric R., *The Greeks and the Irrational*, Berkeley: University of California Press, 1962, Letsky, Albin, *Göttlishe und menchilche Motivation im homerishen Epos*. Heidelberg: Carl Winter Universitätsverlag, 1961, Gagarin, *Aeschylean Drama* University of Califirnia Press, 1976, Vlastos, Gregory, "Solonian Justice", *Classical Philology*, vol. 41, No. 2 (Apr. 1946): 65-83

ultimate reason for why we should respect (each other's) rights is that justice is an essential part of our happiness.

ON THE OTHER HAND: Eudaimonism is inadequate on the grounds of its understanding of well-being since some goods that, intuitively, we have a right to are not plausibly seen as *constitutive* of the good life nor plausibly seen as *conditions* or *means* to its attainment (*e.g.* the rights not to have your reputation ruined behind your back and the right to a polite answer from a receptionist).[7]

REPLY: It is far from obvious that it isn't the case that those goods that we do have (fundamental human) rights to are those that are preconditions of, constitutive of, or constitute the means to, us attaining the good life (*cf.* Capabilities approach).

THE THIRD POINT: Whether or not performing that action would make for greater happiness on my part is simply irrelevant to what I should do. I am to do what you have a right to my doing, period.[8]

REPLY: You ignore the fact that to treat you justly is to act in accord with virtue. Activity in accord with virtue is constitutive of the well-lived life.

HENCE: Eudaimonism does require that I treat you as you have a right to my treating you. Treating you unjustly cannot be a way of living my life better.

THE FORTH POINT: What reason does the eudaemonist have for saying that justice always takes precedence over the other virtues?

REPLY: I. Platonic ethics single out justice as a master-virtue in just the way required.

II. The commonly accepted doctrine of the unity of the virtues solves this for other approaches.

THE FIFTH POINT: Rights de-center the agent. Instead of the agent's happiness determining his action, the worth of the recipient and of those other who will be affected by the action is to determine what the agent does.

REPLY: I. This requirement rule out several other theories attempting to ground rights, *e.g.* contractarianism, since they base rights on some form of rational self-interest. Arguing that it must be the idea of a person's worth that grounds the requirement that she be treated in certain ways seems to exclude all but certain forms of axiological status-based approaches.

II. Eudaimonism is fully capable of incorporating genuine other-concern: other people, with life-plans and goals of their own, are relevantly similar to oneself and therefore objects of respect and love under pains of inconsistency stemming from the fact that if the goals I have adopted for myself are to be respected then I ought to respect those of other's as well.

III. Other people figure as finally valuable in my vision of the good life.

IV. Insistence on the primacy of rights-language over a language of obligations can be questioned on the basis of its focus on *recipience* due, among other things, to the (perceived) pacifying effect such language might have. Overly stressing the value of human persons in this regard runs the risk of pacifying rights-discourse to the point of rendering it vacuous.

V. Rights invite a problematic form of strong *metaphysical individualism* according to which *the self* is always prior to community and society. This is not the case if duties are primary.

[7] Wolterstorff, Nicholas, *Justice: Rights and Wrongs*, Princeton University Press, 2008: esp. Ch. 7.

[8] Wolterstorff, Nicholas, *Justice: Rights and Wrongs*: 176-177.