

Moral Relativism as a Foundation for Natural Rights

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The theory of natural rights is often put forward as competition of moral relativism, most recently in an article in this journal by Loren Lomasky.¹ I want to suggest, on the contrary, that the two positions are compatible and, indeed, that moral relativism provides the only plausible foundation for a theory of natural rights.

Natural rights are rights people have simply by virtue of being people, for example the right not to be harmed by others; and to say that people have the right not to be harmed is to say more than that it is bad to harm them or that one ought not to harm them. People have the right not to be harmed even if this will prevent more harm to others. A doctor may not kill one patient and distribute his healthy organs among his other patients even if the result is to save five people who would otherwise have died, because that would violate the murdered patient's right not to be killed. Rights are also stronger than oughts. One ought to be charitable, but it is doubtful anyone has a right to one's charity.

A foundation for the theory of natural rights must explain why there should be a strong duty not to harm others but not an equally strong symmetrical duty to help others avoid harm. If there were an equally strong symmetrical duty to help others, people would not have the natural right not to be harmed, since they could be and indeed should be harmed in order to prevent more harm to others. The doctor could kill and cut up one patient and then distribute his organs to the others.

Why is there a strong duty not to harm others but not an equally strong symmetrical duty to prevent harm to others? The answer, I suggest, is that morality is the result of implicit bargaining and adjustments among people of varying powers and resources and, although it is in everyone's interest that there should be a strong duty not to harm others, it is not in everyone's interest that there should be an equally strong symmetrical duty to help others avoid harm. A duty to prevent harm to others favors the interests of the poorer and weaker members of society over the richer and more powerful members. The richer and more powerful members of society have less need of outside help in order to avoid being harmed than the poorer and

would end up doing most of the helping, given a strong symmetrical duty to help people avoid harm. The rich and powerful would do best with a strong duty not to harm others and no duty to help others. The poor and weak would do best with equally strong duties of both sorts. Implicit bargaining should therefore yield as a compromise a strong duty not to harm others and a weaker duty to help others avoid harm; it should in other words yield a natural right not to be harmed, which is what we have.

It might be objected that such a sociological explanation cannot account for the right not to be harmed but can account only for our beliefs that there is such a right. Indeed, it might be thought that such a sociological explanation of our belief in this right casts doubt on the truth of the belief, since the explanation appears to show we would have the belief whether or not it were true. But that would be to assume moral relativism is false. If moral relativism is true and morality has its source in convention, then a sociological account of our moral conventions can explain why we have the rights we have. That is why I suggest moral relativism provides a more adequate foundation for natural rights, such as the right not to be harmed, than moral absolutism does.

Of course, moral relativism needs to be formulated carefully. To say that morality has its source in convention is not to say that what is right is what people say is right or that the moral conventions of a group are beyond criticism. A set of conventions is subject to internal criticism if some of the conventions do not cohere well with others given the facts. And one group's moral conventions might be evaluated in the light of another group's values.²

In his article,³ Lomasky raises several questions about the sociological explanation of the right not to be harmed and then offers a nonrelativistic explanation instead. I will say something about his own account in a moment. First let me take up the objection he raises to the claim that a strong duty not to harm others and a weaker duty to help others arises from a compromise between the richer and stronger on the one hand and the poorer and weaker on the other hand.

He begins by asking why the richer stronger people should agree to any duty to help others at all, given that such a duty is not in their interest. The answer, of course, is that they have to agree for the sake of social stability, so that the poorer and weaker people will accept the duty not to harm others. Otherwise there is the threat of a breakdown in law and order, even revolution.

Next, he commends Christopher New's observation⁴ that the sociological explanation talks only about people who are richer and stronger or poorer and weaker, ignoring people who are richer but weaker or stronger but poorer. The reason for this is that the richer tend to be the stronger and the poorer tend to be the weaker. The strong can take from the weak. The rich can afford armies.

Lomasky goes on to note Robert Coburn's suggestion⁵ that there might be an evolutionary explanation of why we acknowledge a stronger duty not to harm others and only a weaker duty to help them avoid harm. That would indeed undermine the sociological explanation, but (as Lomasky acknowledges) neither Coburn nor anyone else has offered a plausible evolutionary explanation of this sort.

Lomasky ultimately opts for a different explanation of why the duty to help others is not as strong as the duty not to harm them. His own explanation is that accepting a strong duty to help others would involve taking others' ends as one's own in a way that would actually undermine the distinction between one person's goals and another's. But at best that explains why we do not have a strong duty to help others in the sense of benefiting them, of doing whatever will promote their interests. What has to be explained is why there is not a strong duty to help others in a stricter sense, to help them when they really need help to avoid harm. Such a duty would be symmetrical with the strong duty not to harm others oneself. The duty to avoid harming others is not a duty to refrain from anything that is against another person's interest. If one raises one's prices, that makes things more expensive for others without harming them in the relevant sense. Similarly, a symmetrical duty to help others would not be an all-encompassing duty to do anything and everything that would advance another person's interest. The duty to avoid harming others is a duty to avoid certain specific harms to others (where in my view exactly what counts as such a harm is itself partly determined by convention), so a symmetrical duty to help others avoid harm would be a duty to help them in situations of real need when they are threatened with the sort of harm specified by the duty not to harm others. Lomasky's account does not explain why there is no such symmetrical duty to help others.

It might be suggested that so many people are threatened with harm from disease, famine, ruffians, and bullies that a strong symmetrical duty to help others avoid harm would after all require one to spend almost all one's time helping others, with little time for projects of one's own, so that Lomasky's argument is basically correct even for such a symmetrical duty. And it is true that, as things are now, one could probably help save many people's lives if, instead of pursuing one's own narrow goals, one were to devote one's energies to famine relief or to helping people escape from totalitarian regimes. But things are as they are now because a strong duty to help others avoid harm is not widely accepted. If it were widely accepted, one could rely for the most part on others who were better placed to help out; one would be called upon oneself to help only rarely where one was in the best position to help. It would indeed be foolish or saintly to accept for oneself a strong duty to help others if no one else was going to do so, but that does not show such a duty to be unworkable. It would be similarly foolish or saintly to accept for oneself the strong duty not to harm others if

no one else accepted that duty. Either duty is acceptable only if generally accepted. In this respect then there seems no reason to prefer the duty not to harm others to the duty to help them avoid harm, so there is no explanation of the natural right to be free from harm. We are left with moral relativism as the only plausible foundation for that natural right.

I conclude with a remark about "inner judgments." A moral relativist does not suppose that there is a single set of basic moral demands which everyone accepts or has reason to accept, as demands on everyone, from which derive all moral reasons to do things. The moral relativist supposes that different people accept different moralities which can give them different moral reasons. So there can be and no doubt are people who have no reason to act in accordance with the basic principles of one's own morality. If a moral judgment based on one's own principles implies that an agent has reasons deriving from those principles to do something, then that judgment cannot be made truly about "outsiders" who do not accept the relevant principles and therefore do not have those reasons. I call such judgments "inner" since they can be truly made only about insiders who have reasons to follow the relevant principles. Judgments about what someone ought morally to do and judgments about what it would be morally wrong of someone to do are inner judgments in this sense since they imply the agent has certain reasons. Moral relativists will distinguish inner moral judgments ("it was wrong of him to do that") from other moral judgments, not implying the agent had certain moral reasons, which can be made of outsiders ("it was evil of him to do that"). Nonrelativists who think there is a single true morality that gives everyone reasons will not distinguish insiders and outsiders in this way and will not need to distinguish inner moral judgments from others. Lomasky therefore misrepresents the notion of inner judgment in saying that such judgments are "motivating" and are odd if made in certain situations or made to certain people.⁶ And the fact (if it is a fact) that *he* takes *his* principles to apply to everyone, including those who do not accept those principles, shows only that *he* is not a moral relativist. Many other people are moral relativists and clearly do restrict their inner judgments in the relevant way. And anyone who believes in natural rights had better be a moral relativist if that belief is to receive an adequate foundation.

NOTES

1. Loren E. Lomasky, "Harman's Moral Relativism," *Journal of Libertarian Studies* 3 (1979): 279-91.
2. Gilbert Harman, "Moral Relativism Defended," *Philosophical Review* 84 (1975): 3-22; "Relativistic Ethics: Morality as Politics," *Midwest Studies in Philosophy* 3 (1978): 109-21; "What is Moral Relativism?" in A. I. Goldman and J. Kim, eds., *Values and Morals* (Dordrecht, Holland; D. Reidel: 1979), pp. 143-61.
3. Lomasky, "Harman's Moral Relativism."
4. Christopher New, "Implicit Bargaining and Moral Beliefs," *Analysis* 37 (1977): 130-33.

5. Robert Coburn, "Relativism and the Basis of Morality," *Philosophical Review* 85 (1976): 87-93.
6. This misrepresentation derives from David Lyons, "Ethical Relativism and the Problem of Incoherence," *Ethics* 86 (1976): 121, cited by Lomasky.