

the Catholic Church's long ecclesiastical memory. The authors deftly avoid controversies that presently divide Christians into different communions. As a biblicist, I would have preferred more attention to scriptural teaching. At times, I also wished for specific guidance on issues such as how a person could determine whether the moral evil of "affluenza" had afflicted him or her. I found it strange that in these times of fear over the future of our environment, the book lacked a chapter on that topic. These weaknesses aside, the authors are to be commended for their lucid call for theologians to engage in the complex world of money and markets.

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**Rethinking Rights: Historical, Political,
and Philosophical Perspectives**
Bruce P. Frohnen and Kenneth L. Grasso (Editors)
Columbia: University of Missouri Press, 2009 (271 pages)

One of the most oft-heard and powerful criticisms of modern liberalism is that it is unable to foster the stability and longevity of communities. Priding itself on the protection of rights, the modern liberal regime fails to understand that the individual can only flourish within a supportive and nourishing community. Thus, so the criticism goes, "rights talk" must be replaced by, or at least supplemented with, the language of duty, virtue, and community. The authors of *Rethinking Rights* are sympathetic to such concerns, yet they reject not rights in and of themselves but modern liberalism's hegemonic control over the usage of the term. Rights must be central in any regime, yet respecting them requires "grounding [them] properly in a full view of the person's inherently social nature and proper goals" (4). *Rethinking Rights* is a bold and largely successful attempt to understand the context in which rights have taken a central role in modern politics (part 1), and to provide a robust metaphysic that will allow rights to serve as a support to human flourishing (part 2).

In "Historical Roots of Modern Rights: Before and After Locke," Brian Tierney challenges the view (targeting Straussians) that Locke is the father of individualism. On Tierney's reading, Locke rejects Hobbes's view that individuals have rights but no attendant duties, and reasserts the late medieval teaching "that the political community was a corporate association and that individuals had rights within it" (39). Locke's concern with individual consent to government harkened back to Giles of Rome, Scotus, and Suarez *inter alia*; Locke's focus on self-mastery was not a rejection of God's dominion over man but a formulation of the traditional view that all men are equal before and *under* God; and, finally, Locke's emphasis on natural rights was a continuation of a movement dating back at least to the twelfth century, which developed a legitimate space for free actions within the broad boundaries of natural law.

Gary D. Glenn's chapter, "Natural Rights and Social Contract in Burke and Bellarmine," picks up on Tierney's theme of returning to late medieval theory to understand more fully the nature of modernity. Bellarmine presents a contract binding people and government "grounded in the naturalness of both society and civil society" (77). If we read Burke through this lens, we can find a modern theory that does not rely upon a false concept of male, adult, rational individuals in a state of nature, and that does present an organic society designed to curb political willfulness as well as to bind society's members inter-generationally.

Attempting to trace the consensual understanding of the Declaration of Independence during the revolutionary period, George W. Carey ("Natural Law, Natural Rights, and the Declaration of Independence") shows how the prevalence of social-contract theory provided a framework for the natural rights claims the document would advance. Relying on the work of Ronald Peters and Philip A. Hamburger, Carey shows that the colonists were less concerned with individual rights than with the right of the community to govern itself in accordance with natural law and for the common good. Thus, contra the reigning modernist interpretation that would expand rights to the point of destroying the community, the Declaration was an attempt to limit government by asserting the preeminence of natural law.

Bruce P. Frohnen's chapter, "Individual and Group Rights: Self-Government and Claims of Right in Historical Practice," traces the history of group and individual rights from the Continent to nineteenth-century America, finding that these two types of rights stand and fall together. The erosion of group rights has led to the loss of "those individual rights aimed at meaningful participation in social, political, and economic life" (106). In America, the role of public, nongovernmental agencies was distorted by judges and legislators who "could not or would not understand and accept their mixing of economic, social, and political functions" (121), and who thus wrote a blank check for the government to reduce all public agencies to administrative units over which communities have little control.

Kenneth L. Schmitz's chapter, "The Ontology of Rights," provides an appropriate beginning to the second part of this volume. It is concerned with the metaphysical underpinnings of the rights bearer. Schmitz ably develops for a nonspecialist audience an ontology of the human person as relational and as oriented toward spiritual, transcendent union with all that is true, beautiful, and good. He concludes that the "authentic rights are concordant not simply with the agreement of human wills, nor do they rest upon human nature alone, but they are more deeply in tune with a universe that, in its most intimate depths and on it [*sic*] most exalted heights, is not indifferent to human persons and their aspirations" (15).

In "The Historical and Communal Roots of Legal Rights and the Erosion of the State," Paul Gottfried turns the reader's attention toward international relations and the post-World War II attempt in European jurisprudence to address the "relation between positive law and moral absolutes" (153). This unsettled issue was perhaps best analyzed by Carl

Schmitt, who lamented the replacement of medieval society rooted in ecclesiastical law with “hope for unity through world planning,” yet Schmitt’s “historical positivism offers no guidelines for a situation [such as ours] in which historical and institutional continuities have broken down or have been emphatically rejected” (171). While Gottfried does not explicitly provide an alternative, he hints at Aristotle’s more satisfactory approach of grounding positive law in a historical community, attempting to embody natural law given its historicity.

Kenneth L. Grasso’s chapter, “Reintegrating Rights: Catholicism, Social Ontology, and Contemporary Rights Discourse,” contrasts two ontologies of rights; namely, Enlightenment liberalism and Catholic social teaching. While both emphasize the importance of choice, the first rejects teleology and the naturalness of society, whereas the second “affirms the naturalness of political life and a thick conception of the common good” without thereby absorbing “the social into the political and . . . the individual into the social whole [as the classical model would demand]” (188). Thus, Catholic social teaching posits a legitimate pluralism that can account for the context in which choice occurs by situating it within the multiplicity of communities within which the individual can flourish.

Continuing on this pluralist theme, Jonathan Chaplin (“Toward a Social Pluralist Theory of Institutional Rights”) advances a social pluralist account of “the multiple institutions subsisting in the space between the state and the individual” (214) and occupying “jural spheres” of authority. Borrowing from Otto von Gierke’s legal history (especially association rights) and Heinrich Rommen’s attempt to ground such rights in teleology, he nonetheless seeks to move beyond both by calling for a reading of jurisprudence that will cull what has historically “worked” in the task of protecting the legal rights of institutions.

In an epilogue, remarkable for its ability to weave the various strands of thought together, Frohnen restates the essential tenets advanced by the volume’s contributors. As he more ably summarizes the volume than could I, his remarks are worth quoting in full:

Taken together, the perspectives of history, politics, and philosophy [in this volume] show rights to be integral to that which they by nature serve: social relations. Because persons are by nature social and purposive, they are born into and form purposive associations or communities. Rights are the more or less formalized means by which persons and groups negotiate the terms of their participation within larger groups. Rights change noticeably over time and with changes in circumstances because justice requires that social norms move toward approximating people’s rational expectations. But rights have an abiding character rooted in their purpose of enabling social interaction that accords dignity to the person. They are essential claims to respect” (249).

Lacking space to analyze each individual contribution to this volume, I will conclude with one global comment: The replacement of duties with rights in modern political theory seems to mark a problematic shift from virtue to self-interest as the primary category of political life. It is one thing to claim that individual rights should be balanced with community rights and quite another to claim that rights of any sort should be balanced with duties. What is necessary in (post)modern regimes to prioritize the common good

over factionalism and over individual self-interest? Far from criticizing what *Rethinking Rights* has accomplished, I hope questions such as this will goad the contributors on to continue their illuminative work.

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They Are Us: Lutherans and Immigration

Stephen Bouman and Ralston Deffenbaugh

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In *They Are Us*, Stephen Bouman and Ralston Deffenbaugh offer a perspective on immigration that focuses on stories that are part of the heritage of Lutherans in America. In the first chapter, they highlight scriptural narratives that Lutherans share with all Christians, emphasizing the biblical mandate to care for strangers and aliens. In the second chapter, they focus on stories of Lutheran immigration to America, from Swedish colonists in the 1600s to the establishment of the Lutheran Immigration and Refugee Service in 1939 to assist Lutheran refugees fleeing first the Nazis and later the turmoil following World War II. The sixth and seventh chapters recount stories of more recent ministries to immigrants by Lutheran congregations.

Bracketed by these stories are three chapters dealing with public policy toward immigration: chapter 3 provides a brief history of immigration policy in the United States, chapter 4 outlines problems with current policy, and chapter 5 suggests values to guide policy reforms.

While calling the church to a ministry of hospitality to immigrants individually, the authors do not neglect the responsibility of the church to advocate for reform of immigration policy. However, the book's advocacy of policy reform is unsatisfactory in two respects.

First, if the church is going to engage in public policy discussions with people who do not share Christian beliefs, it should not base its arguments solely on religious principles. Christians engaging in policy discussions need to make arguments that will appeal to nonbelievers. In particular, many concerns about immigration involve economics, but this book fails to discuss economics beyond noting that immigrants are often motivated by the desire to improve the economic well-being of their families. Winning the argument for immigration reform requires that American citizens understand that, although there are costs associated with immigration and these costs may fall more heavily on some than on others, the potential overall benefits to Americans from immigration outweigh those costs. As a Lutheran economist, I find that Andrew Yuengert's book that combines economic analysis with Roman Catholic teachings (*Inhabiting the Land*, 2003) provides a better basis for Christians who are engaging in the public debate over immigration policy.

Second, applying the criteria suggested in the fifth chapter for evaluating reform proposals may result in the best becoming the enemy of the good. For example, Bouman