

The Incoherence of Libertarianism

Richard Oxenberg

I. Introduction

The purpose of my essay is to argue that the ethical and political position known as libertarianism is logically incoherent and, as such, cannot serve as a viable basis for either political theory or public policy. Given that the libertarian position is frequently used to provide the rationale for many of the economic (if not the social) policies of the right, a recognition of this incoherence is of especial relevance to us today.

Our first task must be to find an account of this position that we can examine. John Hospers, in his article ‘What Libertarianism Is,’ provides one: “The political philosophy that is called libertarianism (from the Latin *libertas*, liberty) is the doctrine that every person is the owner of his own life, and that no one is the owner of anyone else’s life; and that consequently every human being has a right to act in accordance with his own choices, unless those actions infringe on the equal liberty of other human beings to act in accordance with their choices.” From this it follows, according to Hospers, that “no one should be forced to help others, not even to tell them the time of day if requested, and certainly not to give them a portion of one’s weekly paycheck.”¹ A Government that collects taxes from some to aid others, thus, is violating the rights of its citizens.

At the core of this doctrine is the inference that, since a person ‘owns’ her own life, she therefore has the right to dispose of it as she would. On the face of it, this inference seems natural enough, but the moment we seek to penetrate its surface we become aware that it presupposes a concept of ‘ownership’ that has not been examined. The concept of

'ownership' is already a legal concept and presupposes a legal framework. To understand it we must understand the framework it rests upon.

Hospers' argument presupposes that the owner of a thing has an absolute right to do as she will with it. One might well conclude from this that a person, 'owning her own life,' would have the right to do anything at all, or, at least, anything within her power. But Hospers makes it clear that this is not the case. One does not have the right to "infringe on the equal liberty" of others. But why not? It is perfectly consistent with my acting in accordance with my own 'self-ownership' to oppose your doing the same. Perhaps I choose to enslave you or steal from you or kill you. To say that I do not have the right to do so is to say that, as a matter of fact, I *do not* always have the right to do exactly as I choose, regardless of my self-ownership. 'Ownership,' thus, cannot simply mean 'the right to do as one pleases with that which is owned.' Ownership, even of self, carries with it certain constraints. Without these constraints we would not have libertarianism but the law of the jungle. But where do these constraints come from? What rule or law mandates these constraints and what are its implications? The libertarian position is only coherent to the extent that it can answer this question. What obligates me to respect *another's* rights?

To understand this we must enter into a deeper analysis of the concept of 'right' itself. It is a commonplace of the libertarian view to declare that all human beings have the 'right' to 'life, liberty and property.' But what does the word 'right' mean in this context? If human beings have the 'right' to life does this mean that everyone who has died--the whole mass of humanity prior to those presently living-- has had their rights violated? Obviously not. Nor does it mean that one has the 'right' not to be killed by a tornado, or

in a car crash, or by a sudden heart attack. The word 'right' simply does not apply in these contexts. The word 'right' only has meaning within the context of *human* relations.

To assert a 'right' is to make a demand upon other human beings. What one is saying when one says that one has the 'right' to life is that one has the right *not* to have one's life arbitrarily destroyed or harmed *by another human being*. In other words, to assert a right is, at the same time, to assert that others have an *obligation*. Rights and obligations are mutually implicit concepts such that it is meaningless to speak of the former without, explicitly or implicitly, speaking of the latter. One only has the right to life to the extent that others have the obligation to respect one's life. This is a truth that frequently gets neglected when too much emphasis is placed on the idea of *individual* rights, as if rights are properties of individuals as such. But rights do not properly belong to individuals as such but to individuals *in relation*. The idea of 'rights' expresses something about the way in which relationships *between* human beings should be ordered. It is only in the context of the proper ordering of human relations that the idea of 'rights' has any meaning at all. This is why 'right' is, at its base, a *legal* concept. It is the function of law, understood broadly, to specify the proper order of human relations.

II. Natural Rights--Natural Law

This becomes even more evident when we look at the evolution of the idea of natural rights. Historically, the notion of natural rights emerged as an implication of the prior and more fundamental notion of *natural law*. Within the context of natural law, which was said to provide normative rules for human society as such, individual human beings were

said to have certain natural rights. To properly understand the idea of natural rights, then, it is necessary to consider the concept of natural law.

Natural law theory asserts that there are certain norms or rules of conduct inherent to nature itself, discoverable by reason, to which all human beings are bound by a natural obligation. *Prior* to any assertion that human beings have natural rights, then, is the assertion that they have certain natural obligations. It is simply meaningless to speak of 'rights' without at the same time speaking of obligations. What determines these obligations? Different natural law theories will provide different answers. The two most prominent answers are: a) Natural obligations proceed from the dictates of God, and b) natural obligations proceed from the inherent worth of those things to which one has such obligations. In the works of Thomas Aquinas these two ideas are conjoined, the former understood as an implication of the latter: God is the supreme law-giver *because* God's being, and conformity with it, is of supreme worth. To follow the law of God, thus, is to follow one's own, and others', supreme good.

If we wish to assert a theory of natural law that makes no reference to religious concepts, (as, presumably, the libertarian does) we must base it on the idea of inherent worth. We must conclude, then, that human beings are obliged to respect one another's rights out of a prior obligation to recognize and respect one another's inherent worth.

To summarize: the doctrine of natural rights is an implication of the doctrine of natural law which is itself an implication of the doctrine of the natural, or inherent, worth of every human being. This means that if we were to abandon the doctrine of human inherent worth we would, as well, have to abandon the idea that human beings have

'rights.' Without some belief in the inherent worth of every human being it is meaningless to speak of, or insist upon, the rights of human beings.

But it is not enough simply to declare that every human being has inherent worth. Given that a right implies an obligation, it must be asserted that every human being has a natural obligation to *respect* the inherent worth of every other. There can be no doctrine of natural rights without this doctrine of natural obligation.

The libertarian asserts that human natural obligations extend only as far as respect for others' natural rights. But this not only sets an arbitrary limit on human natural obligations, it is inconsistent with the very imperative that demands respect for natural rights; the imperative to respect the fundamental worth of every human being. In order for human worth to receive its due human beings require *more* from one another than the bare minimum of respect for their natural rights; they require concern for their well-being.

And this is just what libertarianism denies: it insists on the *right* to be respected in one's 'life, liberty and property' while denying the *duty* to concern oneself with the welfare of others. This is what I am calling the incoherence of libertarianism. To make it more clear we will need to examine more closely the relationship of rights to obligations.

III. Rights and Obligations

One cannot have a 'right' where another does not have an obligation. It does not follow from this that one cannot have an obligation where another does not have a right. The domain of obligation may, and I believe does, extend beyond the domain of right. We have rights with respect to those things we have (or should have) command over. For

instance, we have rights over our property, over the uses of our bodies, etc. We have obligations with respect to those things we have responsibility to or for. For instance, we have an obligation to care for our children, etc. Obligations do not derive from rights. Rather, both rights and obligations are expressions of our responsibility to respect the worth of that which has worth; in particular, the inherent worth of human beings. But there is far more required for the satisfaction of human worth than that human beings be respected in their basic rights. To respect the inherent worth of human beings requires that we care about their potential for living meaningful and satisfying lives. To care about this is the more fundamental responsibility out of which the more superficial responsibility to respect others' rights arises.

It is fundamentally disrespectful of the worth of human beings to allow them to wallow in poverty, illness, and/or misery, when one has the means with which to help them. Desperate poverty, disabling misery, debilitating diseases are such as to make human life, in the fullest sense, unlivable. These afflictions offend against the fundamental worth of human beings, and, therefore, all who would respect that fundamental worth have a responsibility to do what they can to eliminate them. A society that allowed its citizens to suffer in this way when it had the means to help would be one that showed a supreme disregard for human worth. Since respect for the rights of others is predicated on respect for the worth of others, such a society will inevitably become one in which the rights of its citizens are not respected as well. The libertarian position, which demands that society respect the *rights* of its citizens while allowing (even mandating) that it disregard the worth of many of its citizens, thus, is incoherent. This incoherence is not only morally unsound, but has deeply disturbing practical implications, even with

respect to those values the libertarian wishes to maintain. When you remove the foundation of a building, you undermine the rest of the building as well. The basis for the respect accorded human rights is the respect accorded human worth. Remove respect for human worth and respect for human rights will soon disappear as well.

And this, indeed, is what we increasingly see. The marketplace, the arena in which so many in our society exercise their 'right' to property, increasingly neglects the other human rights. Corporations threaten the environment that sustains life, create products that threaten health, pursue unfair advantage in the political arena and, thus, undermine political liberty. Indeed, what is actually exercised in the unbridled free-market touted by libertarians is not the human *right* to property but merely the human *interest* in property. This interest has no intrinsic moral dimension. It is entirely consistent with my interest in wealth to disregard your interest in wealth, just as it is consistent with my interest in life to disregard your interest in life. The inevitable result of such an ethos of self-interest is a society governed, not by respect for natural rights, but by the law of the jungle; where brute force, not right, prevails. But this, presumably, is the opposite of what the libertarian wishes, for in such a society only the most powerful are free, while everyone else lives only at the pleasure of whomever has the muscle to enforce his will. Such a society is one in which only a small, powerful, elite will be able to enjoy anything like 'ownership' of themselves.

The American system, predicated upon the principle of the universality of human worth (equality), must, to be true to itself, concern itself with more than bare respect for human rights. It must concern itself with human well-being. And this is what our founders clearly understood.

IV. Rights and Well-being

The preamble of the Constitution of the United States expresses the general purpose for which our nation was founded:

“**We the People** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Implicit in the mention of ‘justice’ and ‘liberty’ is a commitment to protect those fundamental rights articulated by Jefferson in the Declaration of Independence, the rights to ‘life, liberty, and the pursuit of happiness.’ But the Constitution goes beyond Jefferson in recognizing the responsibility of government to concern itself with the ‘general Welfare.’ Protection for individual rights constitutes only one aspect of the ‘perfect’ political Union. Beyond this, and even more basic, is commitment to the well-being of all; the ‘general Welfare.’ I say that this is more basic because, as discussed above, respect for human rights is, ultimately, *predicated upon* concern for human welfare. Where the latter is abandoned, the former will have no basis.

This, I would say, is what distinguishes the *liberal* position on government from the libertarian. The liberal does not divorce concern for human welfare from concern for human rights, but recognizes that the latter has its ground in the former, and that any society that disregards the former will soon find itself unable to adhere to the latter. The liberal holds together these two parts of political responsibility: respect for rights (as expressed by Jefferson), and commitment to the general Welfare (as expressed by the Constitution), and understands that these two commitments form a natural unity. This

unity cannot be torn asunder without destroying *both* sides of it, for these sides cannot, and will not, exist apart from one another.

Thus the liberal understands that the right to property exists within the bounds set by the demand for human well-being in general, and that no one has the right to the unlimited accumulation of property where such accumulation would work to the detriment of others. More positively, society has a responsibility to order itself in a manner that will best promote human flourishing for *all* its members, and to concern itself especially with those whose circumstances make them least able to enjoy the goods of life, for they are the ones whose ability to live in a manner accordant with their inherent human worth is most in jeopardy. To allow some human beings to flounder in misery while others enjoy unlimited advantages is inconsistent with a society that would concern itself with either human well-being *or* human rights.

My conclusion is that the liberal political position is the more complete, the more coherent, and, thus, the more correct, for it recognizes that respect for human rights is an implication of concern for human well-being, and that a society that neglects the latter will soon forget the former as well. It is this position to which we must commit ourselves if we wish to be true to our nation's calling.

¹ John Hospers, 'What Libertarianism Is,' in *The Libertarian Alternative*, ed. Tibor R. Machon. (Nelson-Hall, Inc. Publishers: 1974).