

LIBERTARIANISM AND LIBERTINISM

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There is perhaps no greater confusion in all of political economy than that between libertarianism and libertinism. That they are commonly taken for one another is an understatement of the highest order. For several reasons, it is difficult to compare and contrast libertarianism and libertinism. First and most important, on some issues the two views do closely resemble one another, at least superficially. Second—perhaps purely by accident, perhaps due to etymological considerations—the two words not only sound alike, but are spelled almost identically. It is all the more important, then, to distinguish between the very different concepts these words represent.

I. LIBERTARIANISM

Libertarianism is a political philosophy. It concerned *solely* with the proper use of force. Its core premise is that it should be illegal to threaten or initiate violence against a person or his property without his permission; force is justified only in defense or retaliation. That is it, in a nutshell. The rest is mere explanation, elaboration, and qualification—and answering misconceived objections.¹

¹ For further explication, see Rothbard, 1970, 1973, and 1982; Hoppe, 1989, 1990, and 1992; and Nozick, 1974.

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Libertarianism is a theory about what should be illegal, not what is currently proscribed by law. In some jurisdictions, for example, charging in excess of stipulated rent levels is prohibited. These enactments do not refute the libertarian code since they are concerned with what the law is, not with what it should be. Nor does this freedom philosophy technically *forbid* anything; even, strictly speaking, aggression against person or property. It merely states that it is just to use force to punish those who have transgressed its strictures by engaging in such acts. Suppose that all-powerful but evil Martians threatened to pulverize the entire earth and kill everyone on it unless someone murdered the innocent Joe Bloggs. The person who did this might be considered to have acted properly, in that he saved the whole world from perishing. But according to the doctrine of libertarianism he should still be guilty of a crime, and thus justly punishable for it. Look at it from the point of view of the bodyguard hired by Bloggs. Surely, he would have been justified in stopping the murder of his client.²

Note that the libertarian legal code speaks in terms of the initiation of violence. It does not mention hurting or injuring or damaging. This is because there are so many ways of harming others that should be legal. For example, opening up a tailor shop across the street from one already in business, and competing away its customers, surely offends the latter firm; but this does not violate its rights. Similarly, if John wanted to marry Jane, but she agreed instead to marry George, then once again a person, John, is harmed; but he should have no remedy at law against the perpetrator, George. Another way to put this is that only rights violations should be illegal. Since in this view people only have a right to be free of invasions, or interferences with their persons or property, the law should do no more than enforce contracts, and safeguard personal and private property rights.

Then there is the phrase, "against a person or his property." This, too, must be explicated, for if libertarianism is predicated on punishing uninvited border crossings or invasions, then it is crucial to know where your fist ends and where my chin begins. Suppose we see A reach his hand into B's pocket, pull a wallet out of it, and run off. Is the pickpocket guilty of a crime? Only if the previous possessor of the wallet were the legitimate owner. If not, if A were the rightful owner merely repossessing his own

² For this example, as for so much else, I am indebted to Murray N. Rothbard.

property, then a crime has not been committed. Rather, it occurred yesterday, when B grabbed A's wallet, which he is now repossessing.

In the case of the human body, the analysis is usually straightforward. It is the enslaver, the kidnapper, the rapist, the assaulter, or the murderer who is guilty of criminal behavior, because the victim is the rightful owner of the body being brutalized or confined.³ Physical objects, of course, present more of a problem; things don't come in nature labelled "mine" and "thine." Here the advocate of laissez-faire capitalism relies on Lockean homesteading theory to determine border lines. He who "mixes his labor" with previously unowned parts of nature becomes their legitimate owner. Justice in property is traced back to such claims, plus all other non-invasive methods of title transfer (trade, gifts, and so on).

"Uninvited," and "without permission" are also important phrases in this philosophy. To the outside observer, aided voluntary euthanasia may be indistinguishable from murder; voluntary sexual intercourse may physically resemble rape; a boxing match may be kinesiologyically identical to a street mugging. Nevertheless there are crucial differences between each of these acts: The first in each pair is, or at least can be, mutually consensual and therefore legitimate; the latter cannot.

Having laid the groundwork, let us now relate libertarianism to the issues of prostitution, pimping, and drugging. As a political philosophy, libertarianism says nothing about culture, mores, morality, or ethics. To repeat: It asks only one question, and gives only one answer. It asks, "Does the act necessarily involve initiatory invasive violence?" If so, it is justified to use (legal) force to stop it or punish the act; if not, this is improper. Since none of the aforementioned activities involves "border crossings," they may not be legally proscribed. And, as a practical matter, as I maintain in *Defending the Undefendable*, these prohibitions have all sorts of deleterious effects.

What is the view of libertarianism toward these activities, which I shall label "perverse"? Apart from advocating their legalization, the libertarian,

³ In the religious perspective, none of us "owns" his own body. Rather, we are the stewards of them, and God is the ultimate "owner" of each of us. But this concerns only the relation between man and Deity. As far as the relationship between man and man, however, the secular statement that we own our own bodies has an entirely different meaning. It refers to the claim that we each have free will; that no one person may take it upon himself to enslave another, even for the latter's "own good."

qua libertarian, has absolutely no view of them at all. To the extent that he takes a position on them, he does so as a non-libertarian.

In order to make this point perfectly clear, let us consider an analogy. The germ theory of disease maintains that it is not "demons," or "spirits," or the disfavor of the gods that causes sickness, but rather germs. What, then, is the view of this theory of disease on the propriety of quarantining an infected individual? On the electron theory of chemistry, or of astronomy? How does it weigh in on the abortion issue? What position do germ theoreticians take on the Balkan War? On deviant sexual practices? None whatsoever, of course. It is not that those who believe germs cause disease are inclined, however, slightly, toward one side or the other in these disputes. Nor is the germ theorist necessarily indifferent to these disputes. On the contrary, the germ-ists, *qua* germ-ists, take no position at all on these important issues of the day. The point is, the germ theory is completely and totally *irrelevant* to these other issues, no matter how important they may be.

In like manner, the libertarian view takes absolutely no moral or evaluative position on the perverse actions under discussion. The only concern is whether the actions constitute uninvited initiatory aggression. If they do, the libertarian position advocates the use of force to stop them; not because of their depravity, but because they have violated the one and only libertarian axiom: non-aggression against non-aggressors. If they do not involve coercive force, the libertarian philosophy denies the claim that violence may properly be used to oppose them, no matter how weird, exotic, or despicable they may be.

II. CULTURAL CONSERVATISM

So much for the libertarian analysis of perversity. Let us now look at these acts from a completely different point of view: the moral, cultural, aesthetic, ethical, or pragmatic. Here, there is of course no question of legally prohibiting these actions; as we are evaluating them according to a very different standard.

But still, it is of great interest how we view them. Just because a libertarian may refuse to incarcerate perverts, it does not mean he must remain morally neutral about such behavior. So, do we favor or oppose? Support or resist? Root for or against? In this dimension, I am a cultural conservative. This means that I abhor homosexuality, bestiality, and sado-masochism, as well as pimping, prostituting, drugging, and other such

egenerate behavior. As I stated in Part I of my three-part interview in *Laissez Faire Books* (November 1991):

The basic theme . . . of libertarianism (is that) all non-aggressive behavior should be legal; people and their legitimately held private property should be sacrosanct. This does not mean that non-aggressive acts such as drug selling, prostitution, etc., are good, nice or moral activities. In my view, they are not. It means only that the forces of law and order should not incarcerate people from indulging in them.

And again, as I stated in Part III of the same interview (February 1992):

I don't see libertarianism as an attack on custom and morality. I think the paleolibertarians have made an important point: just because we don't want to put the pornographer in jail doesn't mean that we have to like what he does. On the contrary, it is perfectly coherent to defend his right to engage in that profession and still detest him and his actions.

In order to better pinpoint this concept, let us inquire as to the relationship between a libertarian and a libertine. We have already defined the former term. For our purposes here, the latter may be defined as a person who loves, exults in, participates in, and/or advocates the morality of all sorts of perverse acts, but who at the same time eschews all acts of invasive violence. The libertine, then, will champion prostitution, drug addiction, sado-masochism, and the like, and maybe even indulge in these practices, but will not force anyone else to participate.

Are libertarians libertines? Some clearly are. If a libertarian were a member of the North American Man-Boy Love Association, he would qualify.⁴ Are all libertarians libertines? Certainly not. Most libertarians

⁴ The issue of children is a daunting and perplexing one for all political philosophies, not just libertarianism. But this particular case is rather straightforward: Any adult homosexual caught in bed with an underage male (who by definition cannot give consent) should be guilty of statutory rape; any parent who permits such a "relationship" should be deemed guilty of child abuse. This applies not only to homosexual congress with children, but also in the case of heterosexuals. There may be an issue with regard to whether the best way to demarcate children from adults is with an arbitrary age cut-off point, but given such a law, statutory rape should certainly be illegal. And this goes, as well, for child abuse, even though there are continuum problems here as well.

recoil in horror from such goings on. What then is the precise relationship between the libertarian, *qua* libertarian, and the libertine? It is simply this. The libertarian is someone who thinks that the libertine should not be incarcerated. He may bitterly oppose libertinism, he can speak out against it, he can organize boycotts to reduce the incidence of such acts. There is only one thing he cannot do, and still remain a libertarian: He cannot advocate, or participate in, the use of force against these people. Why? Because whatever one thinks of their actions, they do not initiate physical force. Since none of these actions necessarily does so,⁵ the libertarian must, in some cases reluctantly, refrain from demanding the use of physical force against those who engage in perversions among consenting adults.⁶

The libertarian may hate and despise the libertine, or he may not. He is not committed one way or the other by his libertarianism, any more than is the holder of the germ theory of disease required to hold any view on libertinism. As a libertarian, he is only obligated not to demand a jail sentence for the libertine. That is, he must not demand incarceration for the non-aggressing, non-child molesting libertine, the one who limits himself to consensual adult behavior. But the libertarian is totally free as a person, as a citizen, as a moralist, as a commentator on current events, as a cultural conservative, to think of libertinism as perverted, and to do what he can to stop it—short of using force. It is into this latter category that I place myself.

Why, then, as a cultural conservative, do I oppose libertinism? First and foremost, because it is immoral: Nothing could be more clear than that these perversions are inimicable to the interest and betterment of mankind. Since that is my criterion for morality, it follows that I would find these activities immoral. Furthermore, however, libertines flaunt the “virtue” of their practices and are self-congratulatory about them. If a “low rung in hell” is reserved for those who are too weak to resist engaging in immoral activities, a lower one still must be held for those who not only practice them but brag about them, and actively encourage others to follow suit.

⁵ Of course, as a matter of fact, many if not all pimps, for example, do initiate unjustified violence. But they *need not do so*, and therefore pimping *per se* is not a violation of rights.

⁶ I owe this latter point to Menlo Smith.

Other reasons could be given as well. Consider tradition. At one time I would have scoffed at the idea of doing something merely because it was traditional, and refraining because it was not. My every instinct would have been to do precisely the opposite of the dictates of tradition.

But that was before I fully appreciated the thought of F. A. Hayek. From reading his many works (for example, Hayek, 1973), I came to realize that traditions which are disruptive and harmful tend to disappear, whether through voluntary change, or more tragically, by the disappearance of societies that act in accordance with them. Presumably, then, if a tradition has survived, it has some positive value, even if we cannot see it. It is a "fatal conceit" (Hayek, 1989) to call into question everything for which good and sufficient reason cannot be immediately given. How else can we justify the "blindly obedient" practice of wearing ties and collars, for example?

Tradition, however, is just a presumption, not a god to be worshipped. It is still reasonable to alter and abolish those traditions which do not work. But this is best done with an attitude of respect, not hostility, for that which has worked for many years.

Religious belief furnishes another reason to oppose libertinism: Few sectors of society have been as strong in their condemnation of perversity. For me in the early 1970s, however, religion was the embodiment of war, killing, and injustice. It was an "unholy alliance" of the Crusades, the Inquisition, religious wars, virgin sacrifice, and the burning at the stake of "witches," astronomers, non-believers, free thinkers, and other inconvenient people. At present, I view this matter very differently. Yes, these things occurred, and self-styled religious people were indeed responsible. But surely there is some sort of historical statute of limitations, at least given that present religious practitioners can in no way properly be held responsible for the acts of their forebears. Religion now seems to me one of the last best hopes for society, as it is one of the main institutions still competing valiantly with an excessive and overblown government.⁷

⁷ It cannot be denied that the economic statements representing many religions are hardly ringing endorsements of economic freedom and free enterprise (see Block, 1986 and 1988). This would include pastoral letters from the U.S. Catholic Bishops, the Canadian Conference of Catholic Bishops, the Papal Encyclicals and the numerous statements on such matters from the Reformed Jewish and many Protestant denominations. Nonetheless religious organizations, along with the institution of the family, are still the main bulwark against ever-encroaching state power. They play this role, in some cases, if only by constituting a social arrangement alternative to that provided by government.

To analyze in brief our present plight: We suffer from far too much state interference. One remedy is to apply moral measurement to government. Another is to place greater reliance on "mediating" institutions, such as the firm, the market, the family, and the social club, particularly organized religion. These organizations—predicated upon a moral vision and spiritual values—can far better provide for mankind's needs than political regimes.

Another reason why I oppose libertinism is more personal. I have come to believe that each of us has a soul, or inner nature, or animating spirit, or personhood, or purity, or self respect, or decency, call it what you will. It is my opinion that some acts—the very ones under discussion, as it happens—deprecate this inner entity. They are a way of committing mental and spiritual destruction. And the practical result of these acts, for those able to feel such things, is emptiness and anomie. They may ultimately lead to physical suicide. And this destruction of individual character has grave repercussions for all of society.

III. EXAMPLES: PROSTITUTION AND DRUGS

As an example of this destruction of the individual, consider prostitution. The sinfulness of this act—for both buyer and seller—is that it is an attack upon the soul. In this it resembles certain other forms of conduct: engaging in sex without love or even respect, fornication, adultery, and promiscuity. Prostitution is singled out not because it is unique in this regard, but because it is the most extreme behavior of this type. True, prohibition drives this "profession" underground, with even more deleterious results. True, if the prostitute is a self-owner (that is, she is not enslaved), she has a right to use her body in any non-invasive manner she sees fit.⁸ These may be good and sufficient reasons for legalization. However, just because I oppose prohibition does not mean I must value the thing itself. It would be a far, far better world if no one engaged in prostitution, not because there were legal sanctions imposed against it, but because people did not wish to so debase themselves.

At the opposite end of the scale, in a moral sense, is marriage, certainly an institution under seige. The traditional nuclear family is now seen by the liberal cultural elite as a patriarchal, exploitative evil. Yet

⁸ A legal right, but not a moral right.

it is no accident that the children raised on this model don't go out on murderous rages. Of course, I am not saying that sex outside of the bounds of matrimony should be outlawed. As a libertarian, I cannot, since this is a victimless "crime." As a cultural conservative, however, I most certainly can note that the institution of marriage is under attack as never before, and that its resulting weakness has boded ill for society. I can vociferously maintain that imperfect as real-world marriages are, they are usually vastly superior to the other possible alternatives for taking care of children: the tender mercies of the state, single parents, orphanages, and so on.⁹

For another example, consider drug taking. In my view, addictive drugs are no less a moral abomination than prostitution. They are soul destroyers. They are a slow, and sometimes a not so slow, form of suicide. Even while alive, the addict is not really living; he has traded in a moment's "ecstasy" for focused awareness and competence. These drugs are an attack on the body, mind, and spirit. The user becomes enslaved to the drug, and is no longer master of his own life. In some regards, this is actually worse than outright slavery. At least during the heyday of this "curious institution" during the nineteenth century and before, its victims could still plan for escape. They could certainly imagine themselves free. When enslaved by addictive drugs, though, all too often the very intention of freedom becomes atrophied.

I am not discussing the plight of the addict under the present prohibition. His situation now is indeed pitiful, but this is in large part because of drug criminalization. The user cannot avail himself of medical advice; the drug itself is often impure, and very expensive, which encourages crime, which completes the vicious cycle, and so on. I am addressing instead the circumstances of the user under ideal (legalized) conditions, where the substance is cheap, pure, and readily available, where there is no need of shared needles, and medical advice on "proper" usage and "safe" dosage is readily forthcoming.

There are certain exceptions, of course, to this rather harsh characterization. Marijuana may have some ameliorative effects for glaucoma sufferers. Morphine is medically indicated as a pain reliever in operations. Psychiatric drugs may properly be used to combat depression. But apart

⁹ For an analysis of the government's attack on marriage and the family, see Carlson, 1988, and Murray, 1984.

from such cases, the moral, mental, and physical harm of heroin, cocaine, LSD, and their ilk are overwhelming and disastrous.

Why is it moral treason to engage in such activities, or, for that matter, to pollute one's brain with overindulgence in alcohol? It is because this is a subtle form of suicide, and life is so immeasurably valuable that any retreat from it is an ethical and moral crime. Life, to be precious, must be experienced. Drugs, alcoholism, and the like are ways to drop out of life. What if using these controlled substances is seen as a way of getting "high," a state of being that is exhilarating? My response is that life itself should be a high, at least ideally, and the only way to make it so is to at least try. But it is the rare person who can do anything virtuous at all, while "under the influence."

Once again I reiterate that I am not calling for the legal abolition of drugs. Prohibition is not only a practical nightmare (it increases crime, it breeds disrespect for legitimate law, and so on) but is also ethically impermissible. Adults should have a legal (not a moral) right to pollute their bodies as they wish (Block, 1993; Thornton, 1991). To the objection that this is only a slow form of suicide, I reply that suicide itself should be legal. (However, having said this as a libertarian, I now state as a cultural conservative that suicide is a deplorable act, one not worthy of moral human beings.¹⁰)

We are thus left with the somewhat surprising conclusion that even though addictive drugs are morally problematic, they should not be banned. Similarly with immoral sexual practices. Although upon first reading this may be rather unexpected, it should occasion no great surprise. After all, there are numerous types of behavior which are legal and yet immoral or improper. Apart from the ones we have been discussing, we could include gossip, teasing the mentally handicapped to their faces and making great sport of their responses, not giving up one's seat to a pregnant woman, cheating at games which are "for fun" only, lack of etiquette, and gratuitous viciousness. These acts range widely in the

¹⁰ That is, apart from extenuating circumstances such as continuous excruciating pain, intractable psychological problems, and the like. We have said that the essence of morality is the promotion of the welfare of mankind. In instances such as these, it is conceivable that suicide may be the best way to accomplish this. In any case, the response to these unfortunate people should be to support them, not to punish them. Certainly, the imposition of the death penalty for attempted (failed) suicides—practiced in a bygone era—would be the very opposite of what is required.

seriousness with which they offend, but they are all quite despicable, each in its own way. And yet it is improper to legally proscribe them. Why not? The explanation that makes the most sense in this quarter is the libertarian one: None of them amounts to invasive violence.

IV. MEA CULPA

Previously, when I argued for the legalization of avant-garde sexual and drug practices (in the first edition of *Defending the Undefendable*), I wrote about them far more positively than I now do. In my own defense, I did conclude the introduction to the first edition with these words:

The defense of such as the prostitute, pornographer, etc., is thus a very limited one. It consists solely of the claim that they do not initiate physical violence against non-aggressors. Hence, according to libertarian principles, none should be visited upon them. This means only that these activities should not be punished by jail sentences or other forms of violence. It decidedly does *not* mean that these activities are moral, proper or good.

However, when it came to the actual chapters, I was altogether too enthusiastic about the virtues of these callings. I waxed eloquent about the "value of the services" performed. I totally dismissed the moral concerns of third parties. I showed no appreciation of the cultural conservative philosophy. Nowadays, when I reread these passages, I regret them. It seems to me that the only fitting punishment is not to delete these chapters, but to leave them in, for all the world to see.

Marriage, children, the passage of two decades, and not a little reflection have dramatically changed my views on some of the troublesome issues addressed in this book. My present view with regard to "social and sexual perversions" is that while none should be prohibited by law, I counsel strongly against engaging in any of them.

One reason I defended several of them some twenty years ago is that I was so concerned with the evils of initiatory violence that I failed to fully realize the implications of defending these other activities. I was fooled by the fact that while many of these depraved acts are indeed associated with violence, none of them are intrinsically so, in the sense that it is possible to imagine them limited to consenting adults. Attempting in the strongest possible way to make the point that initiatory violence was an evil—and indeed it is—I unfortunately lost sight of the fact that it is not

the only evil. Even though I of course knew the distinction between the legal and the moral, I believed that the *only* immoralities were acts of aggression. For years, now, however, I have been fully convinced that there are other immoralities in addition to this one.

The mistake I made in my earlier writing, it is now apparent to me, is that I am not only a libertarian but also a cultural conservative. Not only am I concerned with what the law should be, I also live in the moral, cultural, and ethical realm. I was then so astounded by the brilliance of the libertarian vision (I still am) that I overlooked the fact that I am more than only a libertarian. As both a libertarian and a cultural conservative, I see no incompatibility between beliefs which are part of these two very different universes of discourse.

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