

# The Encyclopedia of LIBERTARIANISM

Editor-in-Chief

Ronald Hamowy

*Professor Emeritus of History, University of Alberta*

Assistant Editors

Jason Kuznicki

*Research Fellow, Cato Institute*

Aaron Steelman

*Director of Research Publications, Federal Reserve Bank of Richmond*

Consulting Editor

Deirdre McCloskey

*Professor of Economics, University of Illinois, Chicago*

Founding and Consulting Editor

Jeffrey D. Schultz

*A project of the Cato Institute*



Los Angeles • London • New Delhi • Singapore

---

A SAGE Reference Publication

# General Introduction

---

Libertarianism is a major feature of intellectual and political life as we enter the first years of the new century. It is at one and the same time a movement in politics, a recognized philosophy, and a set of distinctive policy prescriptions. As such, libertarianism, and the individuals who espouse it, play a prominent role in intellectual and political arguments in several countries. In disciplines such as philosophy, political science, jurisprudence, and economics, there is a recognized and substantial libertarian position and body of literature. All of that is in marked contrast to the situation that prevailed 30 or 40 years ago. At that time, libertarian ideas and analyses had little public visibility. This recent growth might lead one to conclude that libertarian ideas and politics are a phenomenon of the late 20th and early 21st centuries and should be placed in some kind of post or late modern category.

In fact, that is untrue. Contemporary libertarianism is only the latest manifestation of an intellectual, cultural, and political phenomenon that is as old as modernity, if not older. It is the movement earlier described as liberalism. The great problem with contemporary usage of the term *liberal*, at least in the Anglo-Saxon world, is that in the United States (and to a lesser extent in the British Commonwealth), it has come to refer to a body of ideas known in the rest of the world as social democracy or even simply as socialism. It is this shift in terminology that has led to the term *libertarianism* being used in English-speaking countries for what elsewhere is still called *liberalism*. The important thing to realize, however, is that contemporary libertarianism, in the United States and elsewhere, is only the most recent chapter in a long story that, in the Anglo-Saxon world, traces itself back to classical liberalism.

In what does libertarianism consist? This question is more difficult and profound than one might at first suppose. It is easy to think of political philosophies as

concrete, reified entities handed on from one generation to another like the baton in a relay race. The reality is more complex. The major ideologies of modernity—the most prominent of which are liberalism, socialism, conservatism, and nationalism—can be thought of differently, and each can be analyzed in distinct ways. One approach might look at the various political movements that share similar goals or have some other form of affinity, which would involve focusing on the history of political parties, on pressure groups, and on political biography. A second approach might concentrate on the development of philosophical concepts and abstract ideas. A third approach might center on the exploration of distinctive vocabularies or languages in which public affairs are discussed and debated. Yet another might examine the texts central to the specific ideology and try both to unearth the original meaning or intention of the authors and to relate them to their social and political contexts. Finally, one can explore the distinctive cultural content and consciousness, or *mentalité*, associated with a particular political label.

The intention of all such approaches is to construct a cogent analysis that explains how ideas, movements, and philosophical systems that exist in the present have come about and how they have changed over time. These analyses trace the origins of ideas, movements, and philosophical systems and relate them to other historical phenomena that they have influenced and by which they have been shaped. The aim is to avoid the problem of anachronism, of reading the present into the past and so misunderstanding both past and present. We should be careful to avoid the Whig form of intellectual history, which interprets past ideas only in terms of their connection to the present. What emerges, with libertarianism as much as any other system of thought, is a narrative in which we discover neither a timeless, ahistorical object, nor a

progressive discovery of truth, but the slow growth and unfolding of a particular way of thinking. We also discover, in the case of libertarianism/liberalism, a pattern of elaboration in which these ideas flourished, followed by a period in which they were disregarded, only to revive again more recently.

The word *liberalism* refers to a distinctive set of beliefs and an associated political movement that appeared in the early 19th century. The first recorded occurrence of the term was in Spain in 1823 when the term *liberales*, or freedom lovers, was used to describe supporters of the constitutional regime established after the Napoleonic wars. (The liberals' opponents, supporters of the absolute rule of the Bourbons, were known as the *serviles*, or servile ones.) In France, the economist Jean-Baptiste Say and his followers began to use the adjective *liberal* to mean "in favor of freedom" following the Restoration of the Bourbons in 1815. In England, the word entered popular discourse at about the same time; one prominent early example was the name given to the journal *The Liberal*, published by Leigh Hunt and Lord Byron. The term *liberal* was well known in the 18th century, but was generally associated with its older meaning of "generous, open hearted" and so referred only to qualities of character. However, to adapt an expression of Byron's, although the word had not yet taken on its later meaning, the thing it came to describe had already come into existence.

Beginning with the later 17th century, the West has witnessed the gradual appearance of a way of thinking about the world and human society that has provided a perspective radically different from the providential approach that preceded it. This change grew partly out of intense political conflict and generated a particular political program. All of those developments came together in the later 18th century and the early part of the 19th century. Conservatism was to appear at the same time, as a reaction to the emerging liberal worldview, whereas socialism, both the word and the phenomenon, appeared only later.

The origins of classical liberalism lie in the great turmoil and upheaval of the period 1549 to 1688. In that terrible century and a half, Europe was torn by a series of wars larger and more devastating than anything experienced since the 14th century. Two forces had worked to produce that state of affairs. The first was the clash of Reformation and Counter Reformation, which had a profoundly destabilizing effect on the politics of every European state. The second was the "military

revolution," a transformation in the nature and scope of war that took place in the first part of the 16th century, which made war vastly more expensive and damaging than it had ever been in the Middle Ages. The result of both developments was the rise of absolutism, both as it was explicated in the philosophies of authors such as Jean Bodin and Thomas Hobbes and in the practice of government. During this period, a weakening of representative institutions and the growth of central power occurred, not least in the area of taxation. This growth of centralized power did not happen without resistance. Throughout Europe, scholars defended the older ideas of mixed or limited government, and rebels took up arms to uphold established constitutional settlements against the innovations of reforming monarchs and their ministers. The military power of the new monarchies was such, however, that any opposition to the growing power of strong central governments was defeated throughout Europe, with two exceptions: the Dutch Republic and Britain. There, constitutional government survived and became the established form of government. In Britain, the climactic event was the Glorious Revolution of 1688–1689.

The clash of ideas in those years led to a change in the arguments used to defend limited government against absolutism. As a consequence, new ideas emerged and were vigorously articulated. These ideas were then advanced in new ways by some authors to yield surprising conclusions. Two issues had emerged as central by the later 17th century: (1) constitutional versus absolute government, and (2) religious toleration, or freedom of conscience, versus the confessional state. Originally, the case for constitutionalism and (relative) toleration had been made on the basis of tradition and conservative, or historical, arguments. Those arguments proved inadequate, and there was a gradual shift toward arguments based on autonomy and ideas of natural right. Such new formulations were expressed in England during the Civil War, between 1637 and 1653. A political faction known as the Levellers emerged in London and became a significant minority in the New Model Army. In a series of essays, manifestos, petitions, and other documents, the Levellers argued the case for a constitutional government with strictly limited powers and complete religious toleration. The argument used to support their program was partly historical, but rested in the main on the connected ideas of property in one's own person (or self-ownership) and natural rights. Individuals, they argued, were sovereign, and government derived

its powers by delegation from the individuals over whom it ruled—hence, a strict limitation on its powers. Those ideas did not disappear with the restoration of the monarchy in 1660, but remained alive—among exile circles on the Continent, particularly in the Netherlands, and in underground groups in London.

The unresolved political crisis in Britain came to a head in the later 1680s and led to the creation of a political settlement usually known by the name contemporaries gave it—the Glorious Revolution. This settlement involved the creation of a consensus between the two main political factions of the time, Whigs and Tories, so as to avoid the prospect of a second Civil War. The outcome was a limited constitutional government and a limited (and contested) degree of religious toleration, supported by a mixture of arguments, some of which incorporated both progressive and more conservative and retrospective elements. The more radical ideas that had appeared in the 1640s had not disappeared, however, and found expression in what was to become one of the key texts of liberal thought, *Two Treatises of Government* by John Locke. In that and other works, especially *Letter on Toleration* and *On the Reasonableness of Christianity*, Locke put forward an argument for a system of government withdrawn from most religious matters and dedicated to the protection of individual rights, or *property*—a term that then had a different and wider meaning (“Lives, Liberties, and Estates, which I call by the general Name, Property”) than it has today.

For about 100 years, Locke’s ideas remained somewhat marginal. They were taken up and developed by the so-called true Whigs or Commonwealthmen, including such figures as John Trenchard and Thomas Gordon, who jointly published a series of essays under the pseudonym Cato, which were to have a great impact on the thinking of colonial America. The Commonwealthmen constructed a critique of the emerging modern state as it appeared under Walpole and the Old Corps Whigs. Walpole, the British prime minister from 1721 to 1742 and the first holder of that office, was responsible for several of the institutions of the modern state, particularly the cabinet government and modern public finance. His followers, the Old Corps Whigs, remained in office after he fell from power.

The arguments put forward by the Commonwealthmen also drew heavily on the ideas and language of civic humanism, or classical republicanism, which were a central medium of public argument at that time. Early American thought also drew on ideas

circulating on the Continent. The author who played the greatest part in transmitting those ideas over the Atlantic was the Swiss writer Jean-Jacques Burlamaqui, now almost forgotten, but at one time a best-selling author.

In retrospect, the 18th century can be seen as the formative period of liberalism. Although a self-conscious movement and associated set of ideas did not yet exist, a number of intellectual developments took place that, when combined with the ideas that had come out of the earlier period in Britain, produced a distinctive style of reasoning. That, in turn, led to the appearance of an intellectual and, increasingly, political movement for reform of existing institutions in a number of countries. Two important sets of ideas took shape that played a central part in the gradual emergence of the liberal worldview. The first centered on the critical rationalism that grew out of both the Newtonian revolution in science and the skeptical reaction against religious enthusiasm of the 17th century. This way of thinking found expression in deism, Unitarianism, and even atheism, all of which were commonly, although not invariably, associated with the earlier ideas of a limited contractual state and freedom of opinion and expression. When critical reason was applied to existing institutions and beliefs, many—among them slavery, an established church, and the existing systems of law and government—were subjected to radical criticism and analysis (in today’s language, deconstructed). The second was the gradual emergence of a new way of thinking about wealth, production, and exchange, which came to be called *political economy*. It involved a more abstract way of thinking about economic relations, rather than limiting itself to the more concrete and specific notions of trade and manufacture. It led to an emphasis on the beneficial effects of trade and commerce and stressed the connection between them and a civilized way of life. This view of commerce was in sharp contrast to the republican notion that luxury led to a corruption of the manly qualities and a degradation of manners. Political economy also produced, in the writings of Adam Smith and others, the belief that it was possible to expand wealth and output almost indefinitely, thus undermining the traditional view of economic life as a zero-sum game in which the greed of the few was the cause of the poverty of the many.

As the 18th century progressed, the British constitution became an object of admiration and envy for the



growing critical philosophical movement on the continent. The government and politics of Britain were increasingly used as a point of contrast with the defects of the systems found elsewhere in Europe. After Britain's decisive victory over the French, ratified by the Peace of Paris in 1763, continental observers increasingly saw Britain as more advanced than her rivals. The irony, of course, was that the British constitution was more medieval (i.e., limited) than those on the Continent. By being more old-fashioned, the British were more modern. Not everyone saw emulation of British models as the way forward, however. A rival strategy focused on the way an enlightened ruler could reform and modernize the state. By the late 18th century, European thinking had been overtaken by the ideal of improvement, not quite the same thing as the later belief in progress but a related notion, deriving from the belief that it was possible to both discover what was best for human beings and bring about beneficial change by conscious action.

The apparently stable world of the *ancien régime* was torn apart in the great crisis of what the historian R. R. Palmer has called *the age of the democratic revolution*. The central events in this process were the two contrasting revolutions of France and America. For some, the events of 1776–1783 were not a revolution at all, but the secession of 13 self-governing colonies from the British Empire and their combining together to establish a common government with delegated powers. Others see the same events differently, as a Lockean revolution in which the political bonds of obligation were severed and a new contract and government established. This division of views was present from the beginning, as the near-contemporaneous historiography of the event reveals. In either case, however, the American Revolution did not seek to reshape the entire social, legal, and political order. Rather, the participants aimed to protect an established order and traditional liberties from the innovations of a British government facing a fiscal crisis as a result of the Seven Years' War. One result was to give fresh expression to the more radical individualist ideas of the Levellers, Locke, and the Commonwealthmen both in the writings and publications of the time, such as Paine's *Common Sense*, and in the principles articulated in the Declaration of Independence and, more debatably, the Constitution. There was no question, however, of overturning the entire social order partly because many of the institutions of the European *ancien régime* did not exist in the American colonies.

What did emerge in the writings of both the Federalists and Anti-Federalists was a much more elaborate version of the older ideas, of a constitutional regime with a government having limited and enumerated powers. The controversy over ratification of the new Constitution also led directly to a specific enumeration and protection of rights held by individuals in a free state, in the first eight amendments to the Constitution, whereas the 9th Amendment made explicit the doctrine of unenumerated rights—"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people"—and the 10th Amendment unequivocally expressed the doctrine of enumerated powers—"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Events took a different course in France. An attempt to reform and restructure the government of the kingdom led to a sudden unraveling of the entire political fabric and a political and social revolution of a kind the modern world had not previously seen. Even now, more than 200 years later, there is a good deal of controversy regarding why the French Revolution developed as it did. The view that commands increasing acceptance is that it sprang from a combination of fortuitous circumstances, the influence of particular ideas, and the impact of war on internal French politics. Among the most significant events were two decisions taken by the Constituent Assembly—to nationalize the property of the Church as a solution to public debt, followed by the rapid printing of new money. The acute political crisis of 1791–1792 witnessed the appearance of a new political phenomenon, the attempt to sweep away all of the existing social and political institutions and replace them with something fundamentally different from what had gone before. Even more significant for the future history of Europe was the appearance of the modern nation-state, single and indivisible, along with its ideological offspring, the mass army. The period also saw the terror and, in the shape of the Napoleonic regime, the first modern despotism.

If the period before 1789 was a formative one in the history of liberalism, the mid-19th century was its classical period. During this period, most of the political vocabulary we now use came into being, with new terms created and the meanings of older ones altered. It was then that liberal ideas were fully worked out and a consistent set of ideas were created.

Much of this work was in response to the intellectual and political challenge posed by the events of 1789–1815. For those who neither supported the reactionary or conservative policies of Metternich and the Holy Alliance nor espoused the revolutionary ideals of Jacobinism, it was necessary to work out a more explicit understanding of what it was they believed and sought to achieve. By that time, it also had become apparent that a process of profound social change was underway in Britain, and by 1830, that process had already started to spread outside its country of origin. These events were later to be misleadingly referred to as the Industrial Revolution.

Its central phenomenon was the appearance of sustained, long-term economic growth and a rapid rise in the total amount of wealth and the living standards of the great mass of the people. This material progress was accompanied by rapid and widespread urbanization that brought about an alteration in the nature of society that still continues and is more profound in its nature than anything since the rise of agriculture in the later Neolithic period. The great intellectual challenge for 19th-century thought was to explain and understand this revolutionary process. Classical liberalism came about by building on the ideas already developed in the 18th century, which provided the language to both give an account of what was happening and to advocate a specific kind of society, government, and public policy.

By the 1830s, there were recognizable liberal political movements in every European state except Russia, and the term had widely entered the political discourse of the great European languages. In the United States, in reaction to the Federalist period, we can discern a series of movements that pushed for greater liberty: Jeffersonian Republicanism, the Jacksonian movement of the 1820s and 1830s, and the growing abolitionist and “free soil” movements after 1840. In Britain, the 1820s saw the appearance of a new generation of reformers, men such as Henry Brougham, Sydney Smith, James Mill, Jeremy Bentham, and the Philosophic Radicals. Richard Cobden and John Bright, the great figures of a growing liberal movement, became prominent in the 1830s, and in 1846, liberalism gained perhaps its greatest triumph with the repeal of the Corn Laws and the conversion of the British state to a policy of free trade. A recognizable British Liberal party came into being in 1857, which included among its ranks the man who was to be the dominant figure of 19th-century British liberalism,

William Ewart Gladstone. In France, there were politicians such as François Guizot and the “Doctrinaires” and intellectual figures such as Antoine Louis Claude Destutt de Tracy, Benjamin Constant, and Madame Germaine de Staël. Germany had perhaps the most active and successful liberal movement outside Britain, including individuals such as Karl von Rotteck, Karl Welker, and Friedrich Dahlman. Much of that movement was influenced by such great figures of the Enlightenment as Immanuel Kant and Wilhelm von Humboldt. Italy, Spain, Hungary, and the Netherlands each had its own leading figures and movements. This proliferation was not a matter of separate, distinct, national movements. Rather, there was a genuinely transnational movement with a flourishing exchange of ideas among writers in the three major linguistic cultures, English, French, and German. The existence of a “transatlantic persuasion” in Britain, the United States, and Canada is well known, but many of its ideas and arguments came from France or Germany via multilingual scholars such as J. S. Mill and Lord Acton. British liberalism, in turn, had a powerful effect on continental Europe.

What set of beliefs and arguments united those individuals and movements? Some authors, examining the robust arguments among liberals over issues such as land ownership, the franchise, intellectual property, and education, have argued that there was no coherent liberal political movement, nor a systematic set of beliefs and arguments. Liberalism, in their view, amounted to little more than a style of argument or vocabulary, which could be used to advocate a bewildering variety of ends. Undoubtedly, there was great diversity, but this point should not be overstated: The ideas of classical liberalism were not so diverse as to be incoherent. In fact, despite much variation (such as the importance of utilitarianism for British liberals and romanticism for Germans), there was a marked degree of agreement regarding a number of common themes, even when those were given a distinctively American, French, or German accent. Many of these ideas figure prominently in contemporary libertarian thought; others, although still of marginal concern, have faded in importance.

In the first, although not always the most important, place are a set of ideas about economic life and public policies conducive to prosperity and harmony. The conventional intellectual genealogy of those ideas regards them as having been originally formulated by Adam Smith and developed by classical economists

such as David Ricardo, Thomas Malthus, and J. S. Mill. In fact, in much popular and public argument, a second line of descent from Smith was equally important, including such figures as Jean-Baptiste Say. The underlying idea was that the economic life of the community is a dynamic yet self-regulating system that, given the correct framework of laws and then left to itself, will produce wealth and convert the pursuit of individual, self-regarding ends into public benefits. A number of principles for public policy followed, notably a general principle of noninterference by the state in the outcome of private decisions (*laissez-faire*), the abandonment of protectionism and other restraints on trade, and support for free trade, low taxation, and government frugality, hard money, and freedom of contract. All of those principles are interconnected and were often summarized under the general heading of *free exchange*. It is significant that, although these are economic arguments, they were not generally advocated solely or even primarily on the grounds of economic efficiency. The usual arguments were moralistic and emphasized such themes as autonomy, personal responsibility, and the connection between free exchange—particularly free trade across national borders—and peace.

Another significant point is that these ideas were not in any sense conservative. Instead, they were profoundly radical and had implications reaching far beyond the straightforwardly economic, including implications for the relation between the sexes and the status of different races and ethnic groups. In particular, they combined with, and led to, a sharp attack on state-sanctioned privilege, social inequality, and unjust class divisions.

An almost forgotten element of classical liberalism is its theory of class and social divisions. Nowadays, this kind of analysis is associated primarily with Marxism, but it actually originated in the writings of liberal thinkers—something that Marx freely acknowledged. Classical liberal class theory was, however, different from that put forward by Marx and his epigones. Its fundamental premise is that there are only two ways to obtain wealth: either through production and exchange or by plunder (i.e., by using force). It followed that the basic division in society is that between the industrious or productive classes, on the one side, and the parasitic or exploitative classes, on the other. Classes are defined by their relation to the coercive institutions of political power, rather than productive or exchange relations. The exploitative ruling classes

are those who use their access to political power and force to enrich themselves at the expense of the industrious classes who create wealth. The former group includes, according to most liberal accounts, aristocrats, the clergy of established churches, state bondholders and rentiers, slaveholders, and also able-bodied paupers who are on relief. The exploited class includes peasants, artisans, proletarians, merchants, middlemen of all sorts, and entrepreneurs. Liberal class theory originated in Scotland, in the writings of authors such as James Millar, but it found its fullest expression in France, where it was developed and refined by Charles Comte, Charles Dunoyer, and Augustin Thierry. Their analysis involved a theoretical account of the origins and nature of the state and political power leading to the formulation of a historical sociology. Their analysis also was intimately connected with a distinctive theory of historical development, which originated in the writings of the Scottish Enlightenment authors, among them Adam Smith, but which was more fully elaborated by Comte and Dunoyer. According to this theory, history consisted of a succession of stages or levels of economic and social development, culminating in the final stage of commercial or industrial society. Each stage was marked by distinctive kinds of social and political relationships. The English liberal Herbert Spencer elaborated this historical account as the movement from militant societies, dominated by relations based on force, exploitation of the productive classes, and hierarchy, to industrial society, marked by voluntary, contractual relations. This evolution was described by another classical liberal, Sir Henry Sumner Maine, as the movement in social relations and law “from status to contract.” All these thinkers agreed that as society progressed, the sphere of compulsion, and hence of the state and power, would shrink, just as the area of voluntary cooperation expanded. The end result would be a minimal state or even, according to some radical thinkers such as the economist Gustave de Molinari and the young Herbert Spencer, no state at all.

Classical liberals had a clear set of ideas about political arrangements. Their main goal was to reduce the scope of power and compulsion in society. Political power, they maintained, should be used only to protect and sustain individual rights. The two central political ideals of liberalism, constitutional government and the rule of law, were limited. These ideals were combined in Germany in the idea of the *Rechtsstaat* (the term *Recht* in German means both “law” and “right”), an

idea influential throughout Europe. This conception implied that the law would recognize and protect a whole range of personal rights, such as the rights of assembly, free association, contract, and conscience and belief. Perhaps most important, it implied that the state was governed by law.

A compelling reason for restraining or reducing the scope of government was the intimate connection between state power and war. A major goal of most liberal movements and politicians was the replacement of war by arbitration as a means of settling international disputes. The abolition of identification papers and restrictions on the free movement of individuals was, therefore, an important goal.

Another important idea was the privatization of religious belief, or the separation of church and state. Religious persuasion, it was argued, is a matter of private choice and of no more concern to the government than one's choice of clothes or food. Living as we do in a largely secular age, it is difficult to realize how radical this demand was and what a revolutionary change it would produce. It remains, in some parts of the world, particularly in many Islamic countries, a controversial issue. Its underlying contention, that the state has no business in promoting a particular vision of the good life, continues to find expression in a whole range of intense political debates. It is often said that anticlericalism and secularism were features of continental European or Latin American liberalism, as opposed to the Anglo-Saxon variety, but that interpretation is not sustained by a reading of the writings of both American and British authors of the 1820s and 1830s. One should not think, however, that, because these thinkers wished to separate church and state, classical liberalism was intimately linked with atheism or free thought. Although some liberals were atheists, the majority were not, and indeed the connection between organized liberalism and certain religious denominations was close in some countries.

Another complex idea, often related to particular religious beliefs, was voluntarism, which refers both to a theory of social action and an account of the ideal form of social organization. Voluntarism implied that the only appropriate form for collective action was the free association of individuals, all of whom enjoyed a right of withdrawal. In the Protestant countries of Europe and in the United States, this idea derived from the form of church governance espoused by dissenting Protestant churches: The Church was a free association of self-governing congregations, each of which was, in

turn, a free association of believers. However, the idea also was to be found in certain sections of Catholic Europe and was perhaps most fully elaborated in Spain, where its advocates looked back to the brotherhoods of medieval Spain. This way of thinking had radical implications for the political arrangements compatible with liberalism and implied a marked degree of decentralization. Its other principal application was in the area of social policy. Here it led to support for mutual aid or collective self-help as the solution to social problems, such as the need for protection against loss of income or ill health and old age. This notion found expression in a wide variety of mutual or friendly societies throughout Europe and North America, most of which have now been destroyed by the rise of the welfare state. Another application that has shown greater powers of survival was that of "people's banks," or credit unions, which were advocated by one of the great theoreticians of voluntarism, the German liberal Hermann Schulze-Delitzsch.

The last main element of classical liberalism, which in many ways united the other ones, was a particular conception of human individuality and the value and uniqueness of each human being. This individualism led to great emphasis on a particular kind of culture and human character compatible with one's full humanity. The idea of character was in fact central for most 19th-century liberals; Acton's famous remark about the corrupting effect of power referred to its impact on the character of those who held it. Although this notion played a central role in liberal thought throughout Europe and North America, as an element of liberal discourse it came in the first instance from Germany and the idea of *Bildung*, variously translatable as *formation*, *development*, *cultivation*, or *self-realization*. It led to strongly libertarian conclusions about the impropriety of restricting individual choice by coercion or even through social pressure. The two classic works in this area are Wilhelm von Humboldt's *The Limits of State Action* and, later, John Stuart Mill's *On Liberty*, which was strongly influenced by Humboldt's work. A further aspect of this element of liberal thinking was its emphasis on personal responsibility, independence, and self-help, expressed in a multitude of works, of which Samuel Smiles's *Self-Help* was one of the best known.

Democracy, understood in terms of an extreme franchise and majority rule, is prominently absent from the basic tenets of liberalism. Certainly, as the 19th century progressed, many classical liberals came

to stress the need for a democratic form of government and the extension of the franchise. Some had advocated this idea even earlier, as was the case with the Jacksonians and the British Philosophic Radicals. The attitude of classical liberals toward democracy was always ambivalent, however. They were aware of the potential in an unbridled democracy for oppression of minorities by majorities. The franchise was seen not so much as a right as a responsibility, bringing duties and obligations, one reason that many, among them J. S. Mill, opposed the secret ballot. The main argument used by liberals in favor of extending the franchise was that governments exercised only a delegated authority (this idea had been put forward as early as 1647 by one of the Levellers, Thomas Rainborough) and that democratic political institutions served as a protection against the use of political power by exploitative minorities. Rousseauian arguments of popular sovereignty and the general will were not generally used by liberals. Moreover, 19th-century liberals, precisely because they had an elevated vision of politics, argued that certain preconditions must prevail for democracy to function properly: a wide diffusion of property, economic independence, education, independence of mind on the part of voting citizens, and an elevated public culture. Those considerations, rather than disdain for the masses, led them to advocate that the franchise only be gradually extended and that it be linked to economic independence and, frequently, the bearing of arms.

These liberal arguments were partly defined by what they opposed or sought to refute. Until the last third of the 19th century, the main opponents of classical liberalism were conservatives of various sorts: royalists and “ultras” in France, traditional Tories in Britain, Federalists and Whigs in the United States, and defenders of “throne and altar” in most parts of Europe. A persistent locus of opposition to liberalism does not clearly describe this category of conservative; they are best described as *populist* or *republican*. This group included such figures as Thomas Carlyle, John Ruskin, Orestes Brownson, and Jean Simonde de Sismondi, and political movements such as Chartism. What all of those thinkers and movements had in common was a critical or hostile view of modernity. Whereas liberals saw the economic and social transformations of modernity as on balance beneficial, their critics saw them as darkly destructive. Against liberal values of reason, liberty, individualism, and cosmopolitanism, they upheld tradition, authority, and

particularism. Socialism is best understood as a middle-way doctrine; its central thesis, especially in its Marxist variety, was that while accepting the populist critique of modernity it was not necessary to abandon modernity in its entirety. The contradictions and tensions could be resolved by advancing to a higher level of social and political organization in which it was possible to have the benefits of modernity without the perceived costs, understood as economic exploitation, alienation, social disruption and distortion, and loss of community.

Two other significant doctrines appeared in the 19th century that had a complex relationship with classical liberalism. The first was nationalism. Although national consciousness had existed from an early date, it had few political implications until the French Revolution. The political doctrine of nationalism—that each nation should have its own state and that the nation was the only proper basis for the state—appeared in fully fledged form soon after 1815. Initially, there was a close relationship between liberalism and nationalism, whereas conservatives, committed to upholding dynastic states, were generally hostile. Some figures such as Giuseppe Mazzini fall in both the nationalist and the liberal traditions. In the United States, nationalism, which tended toward a particular view of the nature of the American state and the constitutional compact, was first formulated and articulated by Alexander Hamilton and further developed by Whig politicians such as Henry Clay and Daniel Webster. Generally speaking, classical liberals embraced national self-determination as a part of their ideology. It was consonant with their opposition to imperialism and colonialism, and national self-determination was seen as the collective counterpart to individual liberty. In Germany and central or eastern Europe, national self-determination was regarded as a prerequisite for the achievement of liberty. Increasingly, classical liberals became aware of the practical problems inherent in nationalism, but saw the solution as lying in minimal government, individual rights, and autonomy for minorities through some form of federalism. There was a minority view among liberals that was hostile to conventional nationalism. It was put forward by Lord Acton and by the Hungarian liberal Jozsef Eötvös. As both of those authors realized, nationalism became problematic for liberals when coupled with the idea that there could be only one sovereign power within a state. Unfortunately, their warnings were not heeded, and the combination

of nationalism with the sovereign territorial state was to prove deadly to liberal ideals and hopes. That proved to be the case in many places, but particularly in Germany and the United States.

The other doctrine that occasioned theoretical problems for liberalism was feminism. “The woman question,” as it was called, became one of the central debates of the 19th century. The critical rationalism and individualism associated with liberalism entailed questioning the traditional views of women, as did liberalism’s emphasis on individual rights and choice. When an organized feminist movement appeared by the mid-19th century in Europe and America, some organizations were hostile to liberalism. However, the majority were strongly committed to liberal ideas on the grounds that the adoption of liberal goals would lead to the liberation of women. An almost forgotten fact is that many prominent 19th-century feminists such as Harriet Martineau, Elizabeth Cady Stanton, and Josephine Butler were, in some respects, militantly individualist.

In the period up to 1860, liberal movements gained a series of victories. Free trade was progressively extended, its high point being the Cobden–Chevalier trade treaty between Britain and France in 1860. Generally speaking, there was a movement everywhere from mercantilism and government control to market economy, from absolutism toward representative constitutional government, from confessional monopoly toward freedom of expression and conscience, and from hierarchy toward social and legal equality. Slavery, until then widespread, was abolished, as were serfdom and other forms of unfree labor. There was a reaction against colonialism and imperialism, which were now seen as backward relics and part of the old system. A true world economy came into being through the free movement of goods, capital, and labor and through technological advances such as the transoceanic cable, the steamship, and the railway. It was at precisely that moment of triumph that classical liberalism suffered a series of critical defeats, which were to lead, in another generation, to a sharp reversal in its fortunes.

Some of the setbacks took the form of apparent victories. The year 1861 saw the final triumph of the movement for Italian unification, the *Risorgimento*, a long-standing liberal cause, under the leadership of Camillo di Cavour, one of the century’s great liberal statesmen. However, the outcome was not solely the unification of the rapidly developing, liberal, northern

half of Italy, as Cavour had intended, but the creation of a state including the backward and reactionary south due to Giuseppe Garibaldi’s conquest of the Kingdom of the Two Sicilies. The result was to reduce Italian liberals to the status of a permanent minority in a population deeply hostile to liberalism, and liberal politicians were able to remain in power only by increasingly corrupt and desperate expedients. Cavour died immediately after the unification, and there was no one of his quality to replace him.

More significant in both the short and long run were contemporaneous events in Germany. After 1815, Prussia was the great hope of German liberals—the Rhenish provinces of Prussia were the heartland of liberalism. However, the 1850s saw a policy of reaction by the increasingly insane King Frederick William IV. Nevertheless, in 1859, the liberals gained a clear majority in the Prussian parliament, or *Landtag*. The liberal goal of *Kleindeutschland*, a united, liberal Germany excluding reactionary, absolutist Austria, seemed about to be realized. Then in 1862, the new Prussian ruler, William I, appointed his arch-conservative ambassador to Paris as Prussia’s minister president. Otto von Bismarck gained a crushing victory over the Austrians in the Seven Weeks War of 1866. This military success united northern Germany under Prussian control and completely outmaneuvered and divided the Prussian liberals. They split into two parties, one of which supported Bismarck, and liberalism in Germany suffered a defeat from which it never recovered. In 1871, Germany was indeed united, but under Bismarck’s terms and in a way that marked the total defeat of his liberal opponents.

The same period also saw critical turning points in the Anglo-Saxon countries. In 1874, Gladstone’s first great reforming government suffered an unexpected electoral defeat, with the conservatives gaining a parliamentary majority for the first time since 1846. The liberals had run on a platform that included abolishing the income tax—they opposed it on the libertarian grounds that government had no right to know how much people earned—and its replacement by a duty on alcohol. The Tories owed their success to a revived imperialism, symbolized a short time later by Benjamin Disraeli’s proclamation of Queen Victoria as Empress of India in 1876. Even more significant were events in America. The Civil War led to the long-sought emancipation of slaves, but at a terrible cost, not only in terms of casualties of war, dreadful though those were in the first “total war,” but in the transformation of the nature



of the American republic. The view of the state articulated by Hamilton, Clay, and Webster had triumphed completely, and although there was a considerable “rollback” of government power in the aftermath of the war, a whole range of precedents had been set, including the rudiments of the welfare state in the form of Civil War pensions. The common thread uniting all of those defeats for liberty—in Germany, Britain, and the United States—was nationalism, the idea of a sovereign, national state acting to achieve a collective national purpose or destiny.

The last third of the 19th century saw the decline of classical liberalism as both a body of ideas and a political movement. The period, described variously as the Gilded Age or *La Belle Epoque*, appears in retrospect as a kind of Indian summer of liberal civilization. In reality, the foundations of that civilization were being steadily eroded. Many states saw a movement in policy away from liberal prescriptions that had been instituted earlier—a crucial event in Britain was the first Gladstone government’s creation of compulsory state education in the Education Act of 1870. By the 1870s, the growth of interventionist legislation had become marked enough for Herbert Spencer to mount a vigorous attack in *The Man versus the State*, declaring that “those now passing as liberals are Tories of a new type” and forecasting “the coming slavery.” After 1870, liberal arguments lost much of their radical content and cutting edge and became increasingly defensive and conservative. Liberal ideas no longer set the agenda. One aspect of this development was an ever-growing focus on economic matters and arguments at the expense of other areas of debate. Another was a dramatic change in the content of culture. Most early and mid-19th-century artists, composers, and writers had been sympathetic to classical liberalism, and these views were reflected in their work. Verdi, Stendahl, Hugo, Trollope, Beethoven, Brahms, and Manzoni were all ardent liberals. The major artistic figures of the later part of the century, including Zola, Ibsen, and Wagner, were almost without exception hostile to liberalism and bourgeois civilization.

One aspect of the decline of classical liberalism as a doctrine was a change in the content and form of much of what passed as liberal argument. In every country, liberalism bifurcated into two distinct but related discourses, described variously as *moderate/radical* as in Italy and Scandinavia or *classical/new* as in England and North America. The 1890s saw the rise of new liberalism in Britain and progressivism in the United

States. In Germany, the new variant of liberalism, articulated by authors such as Friedrich Naumann, almost completely replaced the older form put forward by Eugen Richter and Ludwig Bamberger. New liberalism was a collectivist variant of liberalism that retained the commitment to freedom as the highest political good, but redefined the term as *positive liberty* or *capacity*, rather than *negative liberty*, which referred only to the absence of coercion. New liberalism gave a much larger role to the state in both economic and social matters and defined social development not in terms of increasing freedom, but as growing sociability and collective cooperation. This change did not go unchallenged. The 1880s and 1890s saw a vigorous debate in all countries, but particularly in Britain and the United States, between self-styled individualists and collectivists. In Britain, the case for limited government was put by organizations such as the Liberty and Property Defense League and the Personal Rights Association, ably supported by the older generation of feminists such as Helen Blackburn, Jessie Boucherett, and Josephine Butler. In the United States, a major individualist liberal was William Graham Sumner, a severe critic of the move to imperialism after 1896 in essays such as “The Conquest of the United States by Spain.” The debate is best understood as centering on the meaning of key terms such as *liberty* and *progress*. The shift in the meaning of these ideas was described in 1900 by E. L. Godkin in *The Nation*:

In the politics of the world, Liberalism is a declining, almost defunct force. The condition of the Liberal party in England is indeed parlous. There is actually talk of organizing a Liberal-Imperialist party; a combination of repugnant tendencies and theories as impossible as that of fire and water. On the other hand there is a faction of so-called Liberals who so little understand their tradition as to make common cause with the Socialists. Only a remnant, old men for the most part, still uphold the Liberal doctrine, and when they are gone it will have no champions.

The outcome of this debate was a decisive victory for the collectivists. In the United States, the turning point was probably the depression that followed Grover Cleveland’s second victory in 1892. It led to the crushing defeat in 1894 of the Democrats, at that time the party of free trade, limited government, and *laissez-faire*, and the start of a prolonged period of Republican domination of Congress. One feature of

the later 19th century was the appearance of a new kind of conservatism, founded on an alliance between government and big business. It was that alliance, forged in the United States by Republican “fixer” Mark Hanna, that lay behind much of the move toward a more collectivist and interventionist state. The Progressive Era saw further significant moves in the direction of statism in 1913, with the ratification of the 16th and 17th Amendments, which introduced a federal income tax and the direct election of senators. In Britain and Europe, the defeat of classical liberalism cannot be so clearly dated, but there is no doubt that by the 1890s, a definite movement away from its ideas and programs occurred.

The last 3 decades of the 19th century saw a sudden upsurge of a wide range of antiliberal ideas. Socialism, formerly a minor doctrine with limited support, suddenly became a major political force. Imperialism was revived on a massive scale; militarism grew and gave rise to an unprecedented arms race that turned Europe by 1900 into an armed camp of mutually hostile states. Other ideas that gained ground at the time were eugenics and racism. Socialism, nationalism, racism, and imperialism were all closely connected and frequently supported by the same people. There also was a marked growth in movements for the use of compulsion to reform people’s behavior, particularly sexual activity and drinking. The leaders in those campaigns for social purity and prohibition were often leaders of feminist movements, which had moved away from their earlier libertarianism.

The most significant change, however, was in the economic and social policies of governments. The pacesetter here was Germany. In 1879, Bismarck abandoned free trade and instituted a policy of economic nationalism based on the ideas of the German economist, Friedrich List. This program involved large-scale government support for and encouragement of industrialization, a pattern soon imitated throughout the world, notably in Russia. The United States, which had already pursued a policy of protection before the Civil War, also adopted it wholesale after 1860, abandoning the argument that tariffs were merely a revenue-raising device. Government support for the railroads led to the Interstate Commerce Act of 1887, the first significant piece of regulatory legislation, passed under the guise of protecting consumers. Imperial Germany led the way in social policy as well with the adoption by Bismarck of the policy of *sozialpolitik*, or state welfare, in 1883, providing yet

another model that was to be emulated throughout Europe and, ultimately, America. The protectionist policies of the major states, together with a mistaken monetary policy, caused the Panic of 1893, but, as so often happens, that actually redounded to the benefit of interventionists. More serious was the impact of the changed economic policies of major states on international relations. The growing economic and fiscal problems of imperial Germany led the German elite to adopt increasingly risky policies until, in 1914, they took the insane gamble of fighting a war on two fronts.

The Great War of 1914–1918 destroyed the liberal civilization that had been built in the previous century. Among its consequences were not only 10 million dead, but the collapse of the international monetary system, a communist revolution in Russia, and, a short while later, a national socialist revolution in Germany, and ultimately a Second World War that saw even greater and more terrible suffering. The totalitarian regimes that grew out of the world war killed millions of their own subjects and millions of others who fell under their yoke. The years between 1914 and 1945 were truly the dark night of liberalism in all its forms. There were some brave individuals who continued to argue for liberty, toleration, free trade, limited government, and peace, but in one country after another, they were defeated by the advocates of collectivism and statism. In Britain, the decisive turning point was the move toward a welfare state by the liberal government in 1909, followed by the massive restrictions on civil liberties contained in the Defense of the Realm Act of 1914. In 1931, Britain finally abandoned free trade. In the United States, there was a sharp move toward statism under President Herbert Hoover, a move that accelerated after 1932 with the introduction of President Franklin D. Roosevelt’s New Deal.

These two examples demonstrate that, although liberalism faced a mortal challenge from radical socialism, fascism, Nazism, and communism, the political agenda in the surviving democracies was increasingly set by collectivist new liberals and social democrats. Political scientists and economists came increasingly to demand widespread action by government to guide the economy, with the result that liberalism underwent a change of meaning. By the 1950s, liberalism had come to refer almost exclusively to its collectivist variant. Following the defeat of fascism in World War II, the challenge from communism, radical socialism, and fascism was successfully contained in



most Western countries, and collectivist social liberalism became the dominant political discourse—as it still is today. The surviving classical liberals were increasingly driven to ally themselves with conservatives to oppose the predominant statist forms of politics. For various reasons, that was much easier in the Anglo-Saxon countries, to such a degree in fact that after 1945 classical liberals were commonly described as conservative, a label many of them adopted. However, the underlying differences between the two doctrines of conservatism and liberalism remained, and increasingly in English-speaking countries classical liberals turned to the term *libertarian* to define their identity in a way that distinguished them from both conservatism and collectivist liberalism.

In the late 1940s, the remaining libertarians were, in the words of one of their number, Albert J. Nock, a “scattered remnant.” Their ideas had little purchase in academic and political debate, and many of the policies they had advocated were lost to sight entirely. This marginalization also reflected the dramatic narrowing of the scope of political debate and the range of ideological options that took place after about 1930. Yet it was at this point that the ideas and the movement that embraced them began to revive. The intellectual revival emerged largely as a result of the work being done in the discipline of economics. One intellectual development that took place in the late 19th century that lent support to liberal policies was the transformation of the science of economics by the “marginal revolution,” which removed a number of fundamental weaknesses in economic analysis and put liberal ideas in this area on a much sounder footing. In the 1920s and 1930s, the Austrian School of Economics, especially its leading figures Ludwig von Mises and Friedrich A. Hayek, made two vital contributions to liberal thought. The first was Mises’s demonstration that a pure socialist economy was literally impossible because of its inability to engage in effective economic calculation. Mises and Hayek both contributed to the second, the development of an explanation for the business cycle and the origins of economic depression in government monetary policy.

Following World War II, libertarian economists based at the University of Chicago and elsewhere developed an effective critique of the policy of demand management put forward by John Maynard Keynes and his followers, which had become the central policy of the postwar social democratic consensus. The figure most associated with this school is

Milton Friedman, who was to become an effective popularizer of free markets in general. During the prolonged economic boom that followed the Second World War, Keynesian ideas remained predominant, but by the later 1960s, it had become clear that policies based on these conclusions led to severe problems. By the end of the 1970s, they were entirely discredited in the minds of all but a few diehards. Even more spectacular was the vindication of Mises’s original analysis with the collapse of Soviet communism and the “revelation” of just how incredibly wasteful, exploitative, and cruel the Soviet economy had actually been.

After surviving and then flourishing in economics, libertarian analysis began to infuse other academic areas. Hayek became one of the 20th-century’s most important social and political philosophers, well known for his elaboration and application of the notion of spontaneous order and his study of institutional solutions to the problem of knowledge. James Buchanan and Gordon Tullock used economic reasoning to explain the political process and, with other scholars, created the new discipline of public choice analysis. Buchanan’s work built on the foundations laid before the Great War by liberals such as Vilfredo Pareto, Luigi Einaudi, and Knut Wicksell, while Hayek’s arguments were in many ways an elaboration of the ideas originally formulated by Scottish enlightenment figures in the 18th century. Murray Rothbard extended and elaborated the ideas of Mises and Hayek, pushing them to radical conclusions. In philosophy, Lockean ideas became a part of debate once more mainly because of the work of Robert Nozick, especially *Anarchy, State and Utopia*. Perhaps the biggest impact on popular culture came through the work of Ayn Rand, who made the case for individualism through her best-selling novels and essays.

This revival constitutes a continuation and development of longstanding classical liberal thinking. That is not to say, however, that contemporary libertarianism is simply classical liberalism risen unchanged from the dead. The events of the last 150 years have left their mark on libertarian discourse. Most notably, the belief in the inevitability of progress, which was such a prominent feature of 19th-century liberalism, is now muted: What survives is something much more like the older notion of improvement. The understanding of politics and the nature of the political process is now much deeper. On the other side, there has been little revival yet of classical liberal ideas in such disciplines

as history, sociology, or anthropology, although there are signs that this is starting to change.

The years after 1945 also saw the reappearance of an organized libertarian movement. Perhaps the most important initiative was the formation of the Mont Pelerin Society in 1948, which was followed by the growth of a plethora of organizations, societies, think tanks, and research institutes. There has not been a revival of organized politics to compare with the intellectual revival, but liberal ideas and analysis have had a growing impact on public debate and policy. The three major areas where libertarian arguments have once again emerged as important are, first, the old question of free trade versus protectionism, nowadays apostrophized as “the globalization question,” second, the welfare state, currently in the ascendant politically but facing an acute fiscal crisis in the near future, and, third, environmental matters where libertarians are confronting the intellectual descendants of 19th-century antimodernists such as John Ruskin and William Morris. Alongside those areas lies the central question for anyone who is concerned about liberty: What is the role of political power and how can it be effectively limited? In fact, despite all of the changes that have taken place in the last 250 years, the underlying intellectual and political issues are still the same: What is the nature of modernity and what kind of civilization is it to be?

Stephen Davies  
Manchester Metropolitan University

### Further Readings

- Bailyn, Bernard. *Ideological Origins of the American Revolution*. Cambridge, MA: Belknap, 1992.
- Barry, Norman P. *On Classical Liberalism and Libertarianism*. New York: Palgrave Macmillan, 1987.
- Berman, Harold J. *Law and Revolution: The Formation of Western Legal Tradition*. Cambridge, MA: Harvard University Press, 1983.
- Bramsted, E. K., and K. J. Melhuish, eds. *Western Liberalism: A History in Documents from Locke to Croce*. London: Longman Group, 1978.
- Brooks, David L., ed. *From Magna Carta to the Constitution: Documents in the Struggle for Liberty*. San Francisco: Fox & Wilkes, 1993.
- Buchanan, James, and Gordon Tullock. *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press, 1962.
- Coase, Ronald H. *The Firm, the Market, and the Law*. Chicago: University of Chicago Press, 1988.
- Friedman, Milton. *Capitalism and Freedom*. Chicago: University of Chicago Press, 1962.
- Halevy, Elie. *The Growth of Philosophical Radicalism*. 3 vols. Preface by John Plamenatz. London: Faber & Faber, 1972 [1901].
- Hayek, Friedrich A. *The Constitution of Liberty*. Chicago: University of Chicago Press, 1960.
- Higgs, Robert. *Crisis and Leviathan: Critical Episodes in the Growth of American Government*. New York: Oxford University Press, 1987.
- Jones, Eric L. *The European Miracle*. New York: Cambridge University Press, 1981.
- Leoni, Bruno. *Freedom and the Law*. Princeton, NJ: Van Nostrand, 1961.
- Lindsey, Brink. *Against the Dead Hand: The Uncertain Struggle for Global Capitalism*. New York: Wiley, 2002.
- Macaulay, Thomas Babington. *History of England*. New York: Penguin Books, 1986 [1848].
- Mises, Ludwig von. *Liberalism: The Classical Tradition*. Indianapolis, IN: Liberty Fund, 2005 [1927].
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Oppenheimer, Franz. *The State*. New York: Free Life Editions, 1975 [1914].
- Rosenberg, Nathan, and L. E. Birdzell, Jr. *How the West Grew Rich*. New York: Basic Books, 1986.
- Rüstow, Alexander. *Freedom and Domination: A Historical Critique of Civilization*. Princeton, NJ: Princeton University Press, 1980.
- Spencer, Herbert. *Social Statics*. New York: Robert Schalkenback Foundation, 1970 [1851].

See also Classical Economics; Free Trade; Money and Banking; Smith, Adam; Socialism

### Further Readings

- Ricardo, David. *On the Principles of Political Economy and Taxation*. Piero Sraffa, ed. Cambridge: Cambridge University Press, 1951 [1817].
- Rothbard, Murray N. *Classical Economics*. Hants, UK: Edward Elgar, 1995.
- Skousen, Mark. *The Making of Modern Economics*. New York: M. E. Sharpe, 2001.
- St. Clair, Oswald. *A Key to Ricardo*. New York: A. M. Kelley, 1965.

## RIGHTS, INDIVIDUAL

See INDIVIDUAL RIGHTS

## RIGHTS, NATURAL

Natural rights are rights that individuals possess by nature rather than by law or convention. Rights belonging to all human beings universally also are termed *human rights*, a phrase often interchangeable with *natural rights*. Many political and legal theorists claim that individuals have such rights against other individuals and against the state. Libertarians appeal to natural rights to argue that the power of government should be strictly limited, and anarchists contend that the very existence of the state is inimical to individual natural rights. Such theorists have the burden of demonstrating that individuals, in fact, have natural rights and of explaining what precisely they have rights to.

Jurists as well as political philosophers have made important contributions to the understanding of natural rights. In the law, natural rights are treated as a species of constitutional rights, as distinguished from political and civil rights, which are created and circumscribed by legal codes. Political rights are rights related to citizenship and government (e.g., to vote or hold office), and civil rights are other rights belonging to citizens or legal residents (e.g., to marry or to make contracts). Natural rights, in contrast, are regarded as innate, as growing out of human nature, or as required by one's natural ends (e.g., rights to life, liberty, privacy, etc.).

The legal theorist W. N. Hohfeld showed that a right is a legal relation involving three terms, and that this relation takes different forms. The most common right is a claim of an individual against another individual to a performance (e.g., to be repaid a debt). Such a right entails a correlative duty of the other individual to perform (e.g., to repay the

debt). But there are other important kinds of rights. One has a right in the sense of liberty (or privilege) when one has no duty to another person to act in a particular way (e.g., the right to use one's own property as one sees fit). One has a right in the sense of power (or authority) over others when one is able to create legal relations involving rights and duties (e.g., the right to make promises or contracts). One has a right in the sense of immunity when one is not subject to a specific power (e.g., the right against self-incrimination). In general, an ordinary right (e.g., ownership of a house) is analyzable into bundles of such relations.

Hohfeld's analysis implies that the distinction drawn from Roman law between rights *in personam* (against a person) and *in rem* (to a thing) disguises the fact that both rights involve three terms: A right *in personam* is a claim against a particular individual, whereas a right *in rem* (e.g., a right to property) is a claim against other persons generally. This distinction also helps to clarify a basic political controversy over rights. According to many libertarian (or classical liberal) theories, the only claims individuals have against all other individuals are rights not to be harmed or threatened with harm by others. Such rights entail "negative" duties—that is, duties on the part of others to refrain from harming them. Libertarians allow that individuals also may acquire rights to benefits through voluntary interactions (e.g., contracts). According to welfare liberal theories, however, individuals also have claims to their well-being against all others. Such rights entail "positive" duties—that is, duties on the part of others, and hence the state, to provide them with welfare.

The task of a theory of natural rights, then, is to demonstrate that individuals have certain rights (claims, liberties, etc.) on the basis of human nature, rather than of prevailing laws or conventions, and to determine the scope of such rights. The attempt to provide a philosophical justification for rights may be traced to antiquity. Arguably, the idea was already recognized in nascent form by even earlier thinkers such as Aristotle, who reasoned that citizens—who are equal by nature have the same natural right (i.e., just claim) to political office. In the late Middle Ages, the concept of natural rights began to emerge in a more recognizably modern form. A controversy arose among canon lawyers, philosophers, and theologians over whether the right to private property was conventional—Franciscans like William of Ockham—or natural—Dominicans like John of Paris. Some (e.g., Henry of Ghent) asserted a natural right of self-ownership. Late medieval natural rights theorists assumed the existence of natural law laid down by God, the divine legislator.

Natural rights were theorized by a series of early modern thinkers, including Hugo Grotius, Thomas Hobbes, Samuel Pufendorf, and, most influentially, John Locke, who argued that natural rights exist in the state of nature:

The State of Nature has a Law of Nature to govern it, which obliges every one: And reason, which is that law,

teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.

The natural rights of individuals consist primarily in self-ownership and, by extension, in property rights:

Though the Earth, and all inferior creatures be common to all men, yet every man has a property in his own person. This no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left in it, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.

According to Locke, men leave the state of nature to form governments to preserve their *property*, which Locke understood to encompass “life, liberty, and estate.” The positive laws of political society “are only so far right as they are founded on the Law of Nature, by which they are to be regulated and interpreted.” A ruler who flouts the law of nature and the natural rights of his subjects may be removed. Locke’s *Second Treatise of Government* was originally written to justify a revolution against James II, which eventuated in the Glorious Revolution of 1688, by which the King was deposed and replaced.

The revolutionary implications of Locke’s theory also were manifest in the American Declaration of Independence (1776):

We hold these truths self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government. . . .

The explicit basis for these rights is “the laws of nature and of nature’s God.”

Those who embrace a natural rights theory are faced with a problem: If natural rights derive from natural law, how is this law to be validated? Following tradition, Locke identified the law of nature with “the law of reason,” which was laid down by God for his creatures. Locke’s critics, most notably David Hume, questioned whether it was possible to prove that God exists or that God (if his existence could be demonstrated) would lay down such a law of nature. But is a purely secular theory of natural rights defensible? Hume also doubted whether it is possible to deduce a moral conclusion from purely factual premises—that is, a statement about what one “should” do from premises about what merely “is” the case. Natural rights

theories became less fashionable with the rise of utilitarianism in the 19th century. Jeremy Bentham’s quip that natural rights were “nonsense on stilts” seemed to have driven the nail in the coffin.

The end of the 20th century, however, witnessed a remarkable revival of natural rights theory, especially among libertarian theorists. A significant influence was Ayn Rand’s argument that “the source of rights is man’s nature.” Eschewing Locke’s theistic principle of natural law, Rand based natural rights on a principle of rational self-interest. The basic principle of her “Objectivist ethics” is that life is the ultimate standard of value: “The fact that a living entity *is*, determines what it *ought* to do.” From this determination she derived the basic social principle that “just as life is an end in itself, so every living human being is an end in himself, not the means to the ends or the welfare of others—and, therefore, that man must live for his own sake, neither sacrificing himself to others nor sacrificing others to himself.” Thus, from the same principle, Rand deduced both ethical egoism (individuals must treat themselves as ends in themselves) and respect for persons (individuals must treat others as ends in themselves). Rand offered the following derivation of rights:

*Rights* are conditions of existence required by man’s nature for his proper survival. If man is to live on earth, it is *right* for him to use his mind, it is *right* to act on his own free judgment, it is *right* to work for his values and to keep the product of his work. If life on earth is his purpose, he has a *right* to live as a rational being: nature forbids him the irrational.

Rand used the theory of rights to defend private property, limited government, and capitalism.

Robert Nozick criticized Rand’s theory of rights, objecting that even if a person’s life is his own highest value, an argument needs to be given that others should not forcibly intervene in his life when it is in their apparent interest to do so. He questioned her claim that there are no conflicts of interest among rationally self-interested individuals. Nozick also defended a neo-Lockean theory, contending that individuals are ends in themselves and are thus entitled to life, liberty, and private property. But he offered little by way of argument for his claim that individuals have rights in the sense of inviolable side constraints on the morally permissible actions of other individuals and political states, so that his theory was, fairly or not, criticized as “libertarianism without foundations.” Subsequently, other theorists entered the controversy, some seeking to vindicate Rand’s original theory and others striking out in new directions. Three distinctive approaches are mentioned briefly here.

Tibor Machan argues that ethical egoism should be understood along neo-Aristotelian lines as conducing to man’s flourishing, rather than his mere survival. Hence, when rational persons interact, they need to recognize one

another as moral agents: “free and equally morally responsible who require ‘moral space’ for living their lives in line with their natures.” Thus, argues Machan, enlightened self-interest entails respect for rights:

If, then, egoism requires that one be rational, and rationality produces a recognition of the equal moral nature of others . . . this justifies anticipating their choice to resist intrusion upon them. Their choice to live a life of rationality also commits them to a system of enforceable principles that protects and preserves the requirement that all persons obtain the moral space for their moral nature.

Tara Smith argues for a similar theory of rights.

Eric Mack argues that ethical egoism could be derived from a theory of objective functions. He infers that moral goodness is “the successful performance of those actions that sustain his existence as a living thing.” Mack understands this imperative as a principle of impersonal ethical egoism (i.e., the principle that all persons should act in their own interest). In his earlier work, he argued that this principle entails not only that they should act in their own interest, but also that they should not forcibly prevent others from acting in their own interests.

Taking a somewhat different line, Mack’s later writings develop a theory of moral individualism that affirms two distinct, but interrelated, forms of reasons for action: those based on the value of their outcomes for agents, and those based on the moral status of other persons. Mack maintains that individuals should respect others’ rights because “there is a type of incoherence in perceiving another as a being with rational ends of his own and not perceiving that other person as having a right of self-ownership.”

Douglas Den Uyl and Douglas Rasmussen have argued that “self-directedness or autonomy is nothing less than the very form, the only form, of the natural end of man.” An important contribution is their insight that rights are “meta-normative principles.” That is, unlike ordinary interpersonal legal or moral relations, rights are higher order principles governing constitutional arrangements. Thus, there is no need to demonstrate that it is invariably in one’s rational self-interest to respect others’ rights. Rather, they argue, rational egoists will recognize that it is in their mutual interest to establish a political framework of rights that protects the self-directedness—autonomy or liberty—of each and every individual.

Each of the foregoing approaches, along with others, has critics and defenders. Vigorous debate continues over whether a theory of natural rights can be successfully defended and whether such a theory would provide a philosophical foundation for libertarianism.

FM

See also Hume, David; Jefferson, Thomas; Locke, John; Nozick, Robert; Rand, Ayn; Rights, Theories of

## Further Readings

- Machan, Tibor R. *Individuals and Their Rights*. La Salle, IL: Open Court, 1989.
- Mack, Eric. “Egoism and Rights.” *The Personalist* 54 (1973): 5–33.
- . “Moral Individualism: Agent-Relativity and Deontic Restraints.” *Social Philosophy & Policy* 7 (1989): 81–111.
- Miller, Fred D., Jr. *Nature, Justice, and Rights in Aristotle’s Politics*. Oxford, UK: Clarendon Press, 1995.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- . “On the Randian Argument.” *The Personalist* 52 (1971): 282–304.
- Paul, Ellen F., Fred D. Miller, Jr., and Jeffrey Paul, eds. *Natural Rights Liberalism from Locke to Nozick*. Cambridge: Cambridge University Press, 2005.
- Rand, Ayn. *Capitalism: The Unknown Ideal*. New York: New American Library (Signet), 1966.
- . *The Virtue of Selfishness*. New York: New American Library (Signet), 1964.
- Rasmussen, Douglas B., and Douglas J. Den Uyl. *Liberty and Nature: An Aristotelian Defense of Liberal Order*. La Salle, IL: Open Court, 1991.
- Smith, Tara. *Moral Rights and Political Freedom*. Lanham, MD: Rowman & Littlefield, 1995.
- Tierney, Brian. *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150–1625*. Grand Rapids, MI: Eerdmans, 1997.
- Tuck, Richard. *Natural Rights Theories: Their Origin and Development*. Cambridge: Cambridge University Press, 1979.

---

## RIGHTS, THEORIES OF

---

Some advocates of libertarianism do not accord to individual rights a fundamental or even central role in justifying libertarian positions. Examples include Ludwig von Mises, F. A. Hayek, and David Friedman. Nonetheless, libertarianism is generally understood as the political expression of the idea that individuals have a basic, negative, moral right to liberty. *Right* is used here to refer to a claim or entitlement that individuals have on how others should treat them. These rights are “moral” in the sense that they direct that men *should* be accorded this treatment, not that it necessarily is accorded to them. *Negative* refers to the fact that persons are prohibited from initiating, or threatening to initiate, physical force in any or all of its forms against other persons. These rights are considered basic in the sense that they are not founded on any other right and are the source for other, derivative rights (e.g., contractual rights).

An individual’s right to liberty also is understood to entail two corollary rights: the right to life and the right to private property. So understood, that implies that the lives and resources, as well as the conduct of individuals, may not be directed to purposes to which they have not consented. Those rights apply to every human person, but they also require a legal system for their actual implementation.



Epstein's work on eminent domain brought him fame when Senator Joseph Biden held up a copy of Epstein's book *Takings* during the 1991 confirmation hearings of Clarence Thomas to the U.S. Supreme Court. According to Biden, judges who agreed with the central thesis of the book—that the federal government should be more vigilant about compensating people when their property is taken for public use—were unfit to sit on the Supreme Court. Epstein has said that he “took some pride” in being criticized for his position.

But I took even more pride in the fact that, during the [Stephen] Breyer hearings, there were no such theatrics, even as the nominee was constantly questioned on whether he agreed with the Epstein position on deregulation, as if that position could not be held by responsible people.

Epstein also has challenged established wisdom on employment discrimination laws, arguing that government intervention in employment contracts is unnecessary and even undesirable. “Labor markets raise *neither* of the two problems on which a principled case for legal intervention may properly rest,” he has written.

There are neither the holdout, coordination, or public good problems that justify government coercion and control so long as compensation is paid to regulated parties; nor are there the problems with externalities in the use of force or fraud against strangers that justify the use of state force without compensation.

Moreover, if one is interested in redistributing income to groups that have traditionally suffered discrimination, then antidiscrimination laws are a blunt tool to use toward that end. A combination of tax and welfare systems, keyed to individual wealth, would be more simple and effective, Epstein argues.

Although Epstein's discussions of eminent domain and antidiscrimination laws may appear radical to some observers, they in fact reveal how his worldview differs from those libertarians who see themselves as more uncompromising in their views. Epstein is no anarchist, nor does he believe that government action should be confined to protecting people from violence. In other words, he is no advocate of a night watchman state. Instead, he argues that the state must intervene in the provision of key public goods, such as supplying the nation's infrastructure in transportation and energy to overcome coordination problems among private interests. “I do not think that ‘free markets,’ let alone ‘capitalism,’ supplies the answer to all the questions of social organization,” Epstein writes. “Markets depend on governments; governments of course depend on markets. The key question is not to exclude one or the other from the mix, but to assign to each its proper role.”

Epstein has made his consequentialist case for classical liberalism in three recent books: *Simple Rules for a*

*Complex World*, *Principles for a Free Society*, and *Skepticism and Freedom*. He also has written extensively on health care, arguing that a less regulated system would provide better access and service to a greater number of people.

AS

See also Affirmative Action; Economics, Chicago School of; Eminent Domain/Takings; Health Care; Market Failure; Racism

## Further Readings

- Chapman, Stephen. “Takings Exception: Maverick Legal Scholar Richard Epstein on Property, Discrimination, and the Limits of State Action.” *Reason* (April 1995): 36–42.
- Epstein, Richard A. *Forbidden Grounds: The Case Against Employment Discrimination Laws*. Cambridge, MA: Harvard University Press, 1992.
- . *Principles for a Free Society: Reconciling Individual Liberty with the Common Good*. Reading, MA: Perseus Books, 1998.
- . *Simple Rules for a Complex World*. Cambridge, MA: Harvard University Press, 1995.
- . *Skepticism and Freedom: A Modern Case for Classical Liberalism*. Chicago: University of Chicago Press, 2003.
- . *Takings: Private Property and the Power of Eminent Domain*. Cambridge, MA: Harvard University Press, 1985.

## EQUALITY

Within the libertarian tradition, equality has primarily signified an equality of individual rights. This idea, which took centuries to develop, owed a good deal to post-Renaissance interest in the ancient philosophies of Stoicism and Epicureanism.

Stoics, working from the premise that all human beings possess the faculty of reason, maintained that each individual had an equal ability to live a virtuous life. Epicurus and his followers were early proponents of a social contract, a hypothetical model in which every individual has self-interested reasons to respect the equal rights of every other individual. Also important, especially in Anabaptist, Quaker, and other radical offshoots of Reformation thought, was the Christian doctrine that all human beings are equal in the sight of God.

The democratic implications of a theory of equal rights came to the fore in England during the 1640s, the era of the English Civil Wars. Libertarians such as John Lilburne, Richard Overton, and William Walwyn defended religious freedom (in some cases even for atheists), free trade, the rights of private property, and government by consent. Ironically perhaps, these libertarians are still known as *Levellers*, originally a term of opprobrium given to them by their political enemies who accused them of wishing to level all differences of property.

In fact, the Levellers were opposed to any kind of egalitarian socialism. While defending private property, based on the natural right of self-proprietorship, they rejected the doctrine that substantial property holders—especially in land—should enjoy special political rights. As Colonel Rainborough put it during the “Putney debates,” a public exchange between the Levellers and Cromwellians: “For I really think that the poorest he that is in England hath a life to live, as the greatest he . . . that the poorest man in England is not at all bound in strict sense to that government that he hath not had a voice to put himself under.”

The most influential statement of what later became the libertarian theory of equal rights appeared in John Locke’s *Second Treatise of Government*. According to Locke, “all Men are by Nature equal.” The state of nature (that “State all Men are naturally in”) is not only a “State of perfect freedom,” but “a State also of Equality, wherein all the Power and Jurisdiction is reciprocal, no one having more than another. . . .” The most fundamental among these equal rights is the right of every individual “to his own Person, which no other man has power over, but the free Disposal of it lies in himself.”

The import of Locke’s notion of equal rights may be described as *political reductionism*. This theory states that all rights and powers claimed by government must ultimately be reducible to the equal rights and legitimate powers of individuals as they would exist in a state of nature. Equal rights can be transferred, delegated, or alienated only through consent, according to Locke. Therefore, no person can lay claim to a natural privilege of sovereignty, which supposedly entitles him or her to rule others without their consent. Nor (as Samuel Pufendorf and others had argued) can a government lay claim to special rights that no individual could possibly possess.

Locke’s theory of equal rights had radical implications that would later manifest themselves in the American and French Revolutions. But even critics of these revolutionary tendencies would often defend some version of equal freedom with a distinctively Lockean flavor. For example, according to Edmund Burke,

[Social] liberty . . . is that state of things in which liberty is secured by the equality of restraint. A constitution of things in which the liberty of no one man, and no body of men, and no number of men, can find means to trespass on the liberty of any person, or any description of persons, in the society.

Similarly, Immanuel Kant, after defining *freedom* as “independence from the constraint of another’s will,” argued that authentic freedom must be “compatible with the freedom of everyone else in accordance with a universal law.”

This idea received one of its most influential formulations in Herbert Spencer’s “Law of Equal Freedom” (in

*Social Statics*, 1851). According to Spencer, “Every man has freedom to do all he wills, provided he infringes not the equal freedom of any other man.” The “freedom of each must be bounded by the similar freedom of all,” and “every man may claim the fullest liberty to exercise his faculties compatible with the possession of like liberty by every other man.”

This approach to equal rights stands in stark contrast to various doctrines of *egalitarianism* as this term is commonly understood. For instance, in *Power and Market* (1970), the libertarian economist Murray Rothbard argues that “the diversity of mankind is a basic postulate of our knowledge of human beings,” so “it can be shown that equality of income is an *impossible* goal for mankind.” Egalitarianism is “a literally senseless social philosophy.”

Another libertarian critique of egalitarianism, one that has profoundly influenced the course of contemporary political theory, appears in Robert Nozick’s *Anarchy, State, and Utopia* (1974). Nozick criticizes “welfare economics” and other theories of egalitarianism that are defended in the name of “distributive justice,” defending instead what he calls an “entitlement theory” of justice.

A libertarian theory of justice is not patterned or coercively imposed according to some notion of end results. According to Nozick, the “entitlement theory of justice in distribution is *historical*; whether a distribution is just depends upon how it came about.” If property titles were originally acquired by just means and if they have since been transferred voluntarily, then the resulting state of affairs is just even if it does not conform to the moral ideal of social planners. Hence, “The entitlement conception of justice in holdings makes no presumption in favor of [material] equality, or any other overall end state or patterning. It cannot merely be *assumed* that equality must be built into any theory of justice.”

GHS

See also Epicureanism; Levellers; Locke, John; Nozick, Robert; Rawls, John; Stoicism

## Further Readings

- Cicero, Marcus Tullius. *On Duties*. M. T. Griffin and E. M. Atkins, eds. Cambridge: Cambridge University Press, 1991.
- Locke, John. *Second Treatise of Government*. Peter Laslett, ed. Cambridge: Cambridge University Press, 2005.
- Lucretius. *On the Nature of Things*. Frank O. Copley, trans. New York: W. W. Norton, 1977.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Rothbard, Murray. *Power and Market*. Kansas City, MO: Sheed Andrews & McMeel, 1970.
- Sharp, Andrew, ed. *The English Levellers*. Cambridge: Cambridge University Press, 1998.
- Spencer, Herbert. *Social Statics*. London: Chapman, 1851.

Vonnegut, Kurt. "Harrison Bergeron." *Welcome to the Monkey House*. K. Vonnegut, ed. New York: Dial Press Trade Paperbacks, 2006.

———. *The Sirens of Titan*. New York: Dial Press Trade Paperbacks, 2006.

## EUTHANASIA

Euthanasia engenders debates over courage and cowardice, glory and defeat, and dignity and suffering. Ultimately, the euthanasia debate is about who we are as human beings. Are we masters of ourselves, if not of our universe, or are we more like subjects of a ruler whose reasoning we struggle to understand? Are we Prometheus or are we Job?

All concerns over end-of-life decision making ultimately are concerns about euthanasia. For those who follow in the footsteps of Job, *euthanasia* is a dangerous concept, and the word itself has only negative connotations. For those who follow in the footsteps of Prometheus, the word *euthanasia* harks back to its original meaning in the Greek: *ευθανασία*: *ευ*, eu, meaning "good," and *θάνατος*, thanatos, meaning "death."

In some major respects, the moral foundations of our culture are in direct conflict with each other. Joseph Campbell explains that "the ultimate loyalty of the Bible . . . is not to mankind but to God . . . , whereas the sympathy of the Greeks, finally, is for man; and the respect of the Greeks, for man's reason." Modern Western traditions are now a mix of these two diametrically opposed perspectives. Campbell continues: "Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, we are humanists with the Greeks; Sunday, for half an hour, Levantines, with the Prophets; and the following Monday, groaning on some equally troubled psychotherapist's couch."

No ethical debate in our culture exemplifies this fundamental philosophical contradiction more than the debate over end-of-life decision making. From Karen Ann Quinlan to Terri Schiavo, families, courts, legislatures, and society in general continue this ancient debate. When is it acceptable to allow individuals to hasten their own deaths or for them to request that others do it for them? Is it ever acceptable to hasten the death of another without their consent or even against their will? What if the person has left no indication of his wishes or is incapable of making this decision because of diminished capacity?

In all ancient cultures, it was thought that the gods held considerable influence over man's fate. However, in some cultures, like the Greek, humans took pride in challenging their deities, whereas in others, like the Judeo-Christian culture, humans took pride in unquestioning obedience. To the Greeks, *euthanasia* meant having the courage to control fate in the face of inevitable death, defeat, or indignity, and

to do so was merciful and/or honorable. To ancient Jews and Christians, euthanasia, regardless of the circumstances, was an affront to God, a challenge to his ultimate authority, and neither noble nor courageous. The modern-day confusion of these traditions has muddled our vocabulary and our laws with respect to end-of-life decisions in general and euthanasia in particular.

The terminology used to discuss euthanasia is constantly in flux. Usually, people signal their acceptance of some aspect of euthanasia by calling it something else (e.g., *letting die*, *letting nature take its course*, *assisted dying*, *death with dignity*, *mercy medication*, and *aid in dying*). Conversely, people signal their disapproval of forms of letting die or assisted dying by calling it *euthanasia*.

Broadly speaking, euthanasia is the killing of a person, including possibly oneself or an animal, in a merciful way for the purpose of relieving suffering or some other undesirable condition. Some of the most common limitations on what is considered euthanasia include the following claims: Euthanasia is distinguishable from suicide because in euthanasia someone kills another, whereas suicide is, by definition, self-inflicted. Euthanasia is not murder because the killing done in euthanasia is done with the intention of alleviating pain and suffering, not inflicting it. Treatment refusals that result in death are neither euthanasia nor suicide because in such cases nature or God is the direct cause of death. Similarly, cases where mercy medication results in death are not euthanasia because the death is only incidental to the primary goal of easing pain. Although each of these distinctions holds moral sway with those making them, they are of secondary importance to some more fundamental distinctions that need to be made.

There are five basic concepts that need to be understood and agreed on before any discussion of euthanasia or end-of-life decisions in general can proceed with coherent results.

1. *Voluntary euthanasia* is the term used for requesting to be killed or killing oneself to escape some inevitable ill fate. The killing is voluntary because either the person does it himself or requests that another do it for him. The ill fate that is usually at issue is intractable pain, a terminal illness (imminent death from an incurable disease), or an irreparable harm to one's dignity. For most people, the term *euthanasia* does not apply unless at least the first two of these conditions are met; killing another merely to preserve that person's dignity is usually considered murder, and to kill oneself under such circumstances is suicide.

Currently under U.S. law, ending one's own life is only allowed through the refusal of treatment and generally only if death is imminent even if treatment were continued. There are two exceptions: The first is that the termination of treatment is sometimes allowed in cases where death is not imminent (e.g., when a patient is in a persistent vegetative state). The second is that a person is sometimes, albeit



## PRIVATE PROPERTY

Of the different configurations of property rights, only private property provides a workable basis for a free society, a productive economy, and justice. In the 18th century and earlier, the single word *property* was customarily used because it was understood intuitively that only private property provided the incentive to work hard. Treatises such as Adam Smith's *An Inquiry into the Nature and Causes of the Wealth of Nations* did not specify that private property was the indispensable foundation of political economy because hardly anyone championed an alternative. Private property was "sacred" and, therefore, needed no intellectual defense. By the 19th century, however, and particularly in the *Communist Manifesto* (1848), the phrase *private property* began to be used pejoratively. Aristotle had defended it in passing, but the incentives and disincentives of the different configurations of property had, by the 19th century, not yet been systematically analyzed. It could be said that private property was attacked before it was fully defended. Karl Marx gave no indication of understanding why private property was essential to economic life.

Private property restricts government power and decentralizes decision making. It confers on an individual the right to use and dispose of some good and to prevent others from doing so. In a free society, there will be thousands or millions of such owners. They can sell their rights to specific property to the highest bidder and retain the proceeds. With communal property, in contrast, the rights to some good are shared in an undefined fashion by a definite or indefinite number of people. A good portion of the U.S. landmass was communal before the arrival of Europeans. Within a family, many goods also are treated as communal. As for state property, the managers who control access to it are employed by the state and cannot legally profit from the sale of such assets. Normally, state property is not for sale at all. If it is, the proceeds are expected to go into the public treasury, not into the pockets of state employees.

Since the time of the Roman Republic, it has been understood that some goods are naturally managed by the state—those that are needed to provide for the common defense, for example, or for administering justice and enforcing the rule of law. The provision of these goods runs into the difficulty that nonpayers cannot easily be excluded from sharing in their benefits. But most goods, as the Romans agreed, are best owned privately. It is assumed that the economic analysis of private property also embraces the freedom of contract.

From about 1870 to 1990, nonetheless, a majority of Western intellectuals viewed private property critically. Given that it may have been first acquired by force and inherited by heirs of no necessary merit, how could it then

be justified? To this question, David Hume offered an answer: The "stability of possession" was so important, he wrote, that dispossession was unwise in cases where the origin of the title had become "obscure through time." If we can only say that it may originally have been acquired by force, the injustice involved in seizing it is far greater than that involved in tolerating the mere possibility that remote ancestors were thieves. A distant and possible injustice would be "corrected" by a present and certain one.

Under the Stuart kings, Sir Robert Filmer had argued that all English law owed its existence to the royal will, and kings could therefore redistribute property as they saw fit. Replying in his *Two Treatises of Government*, John Locke located the right to property in labor. For every man, he argued,

the labour of his body and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that Nature hath provided, and left it in, he hath mixed his labour with, and joyned it to something that is his own, and thereby makes it his Property.

It is a measure of the unpopularity of private property among intellectuals in recent decades that a dozen academic works have been issued that attack Locke's defense, using arguments that the apologists for the Stuart tyranny might have admired, among them those written by, for example, Jeremy Waldron, Alan Ryan, Andrew Reeve, and G. A. Cohen. But all such arguments were futile inasmuch as the case for private property depends not on the ingenuity of philosophers, but on intractable features of human nature. The need for private property would be just as great if no philosophical defense of it had ever been written. The simplest argument for it is the minimal one. Property rights have to be assigned somehow if chaos is to be avoided, and the only known alternatives to private ownership—communal or state ownership—do not and will never work.

Communal property has this great defect. If the members of a commune have the right to equal shares in the overall product, those who work hard will subsidize those who do little. Idleness is thereby encouraged and industry discouraged. This phenomenon is generally known as the "free rider problem." It was restated in 1968 by Garrett Hardin in an influential article, "The Tragedy of the Commons." If an attempt is made to circumvent this problem by apportioning reward to effort, the commune has already moved halfway toward privatization.

The free rider problem is encountered when a group goes to a restaurant and shares the tab equally or in a "master-metered" apartment building where the utilities bill is divided equally among tenants. The solution—separate checks, individual utility meters—is the equivalent of "converting" from communal to private property. When such a conversion is made, efficiency increases—utility companies

report that electricity consumption may decline by 20%—but, more important, justice is introduced. Heavy electricity users and expensive eaters will pay more, whereas the frugal will pay less. In short, each person is given his due.

This notion corresponds to the classical definition of *justice* found in Aristotle and Thomas Aquinas. Private property is comparable to a set of mirrors that reflects back on individuals the consequences of their acts, thereby, in an approximate way, institutionalizing justice in society. That is probably the single most important argument in favor of a private property system. The pilgrims who came to Plymouth Colony on the Mayflower in 1620 at first tried communal property and were on the point of starvation when they shifted to private ownership. “This had very good success,” William Bradford reported, “for it made all hands very industrious, so as much more corn was planted than otherwise would have been.” As for the “common course” or communal arrangement, it “was thought injustice.”

Under stringent conditions, communes can be made to work. They must be small enough that members know one another, and they must be imbued with religious zeal or enthusiasm that imparts a spirit of self-sacrifice. This system would not be stable if its members were permitted to have children and to divide into families. Catholic, Orthodox, and Buddhist monasteries with communal property have survived for hundreds of years. The Israeli kibbutz attempted to preserve families and do away with private property, but was unable to do so. By 1989, the 3% of the population then living on kibbutzim had accumulated debts of \$4 billion, which were paid by the state.

As for state ownership, the lengthy experiment in Soviet Russia proved that it could not be the basis of a productive economy. Central planners did not have enough information to know what commands to give, and the planning system reduced the people to a form of slavery. They had no incentive to do more than the minimum required to avoid punishment. The failure of this experiment was disguised for a long time by the Western acceptance of Soviet statistics. Both the Central Intelligence Agency and Paul Samuelson’s best-selling textbook, *Economics*, reported for decades that the Soviet economy was growing twice as fast as the U.S. economy. In the year the Berlin Wall fell, the *Statistical Abstract of the United States* maintained that the per capita income in East Germany was higher than in West Germany. It also was hoped that the abolition of private property would promote a change in human nature. But “New Soviet Man” stubbornly refused to appear.

A kind of taboo surrounded the discussion of property in the Western world while the Soviet experiment was underway. After it was over, books favorable to private property began to appear. Long obscured and almost forgotten, private property at once appeared as a kind of lens through which history could be reviewed. Empires that had succeeded in the past, such as the Roman and the British, were

shown to have legal systems that gave security to property and so encouraged the accumulation of wealth. Countries that have conspicuously failed in our own day, often referred to as the Third World, have been shown to have lacked secure, transferable private property rights. Against all post–World War II predictions, the West has widened its economic lead, and the most important reason was that it had retained the institution whose importance Western elites had failed to grasp: private property.

In the decades ahead, the pressure to privatize property where it has not already occurred will grow stronger as the population increases.

TB

See also Externalities; Free-Market Economy; Privacy; Rule of Law

### Further Readings

- Bethell, Tom. *The Noblest Triumph: Property and Prosperity through the Ages*. New York: St. Martin’s Press, 1998.
- Bradford, William. *Of Plymouth Plantation*. Samuel Eliot Morison, ed. New York: Knopf, 1952.
- Cohen, G. A. *Self-ownership, Freedom and Equality*. Cambridge: Cambridge University Press, 1995.
- Hume, David. *A Treatise of Human Nature, 1739–1740*. Oxford: Oxford University Press, 2000.
- Locke, John. *Two Treatises of Government*. Peter Laslett, ed. Cambridge: Cambridge University Press, 1960.
- Pipes, Richard. *Property and Freedom*. New York: Knopf, 1999.
- Reeve, Andrew. *Property*. London: Macmillan Education, 1986.
- Ryan, Alan. *Property*. Milton Keynes: Open University Press, 1987.
- . *Property and Political Theory*. Oxford: Basil Blackwell, 1984.
- Waldron, Jeremy. *The Right to Private Property*. Oxford: Clarendon Press, 1998.

---

## PRIVATIZATION

---

Privatization refers to the shift of functions and responsibilities, in whole or in part, from the public to the private sector. Its best-known form is the transfer of state-owned assets and enterprises to private hands, while another takes the form of the granting of long-term franchises or concessions by government, under which the private sector finances, builds, and operates major infrastructure. The best-known American form of privatization is the outsourcing or competitive contracting of public services. Some theorists also consider the issuance of government vouchers as a form of privatization, in which government provides the purchasing power to an eligible subset of citizens, who are then free to select their own service provider.

Although the specific application of privatization dates back to the 18th century (with franchised British turnpikes),

the Page-Barbour lectures at the University of Virginia, which were later turned into *The Theory of Education in the United States*, an important critique of modern education.

The strongly antipolitical and antistatist flavor that runs throughout Nock's writing is most evident in his influential 1935 work *Our Enemy, the State*: "Taking the State wherever found, striking into its history at any point, one sees no way to differentiate the activities of its founders, administrators, and beneficiaries from those of a professional-criminal class." Shortly before his death, Nock criticized F. A. Hayek for not being a "whole-hogger" in his *The Road to Serfdom*. Indeed, the starting point of Nock's legacy to libertarianism is elegantly summarized in Walter E. Grinder's 1973 introduction to an edition of *Our Enemy, the State*: "It is a natural rights philosophy of self-responsibility, of inviolable individualism, and a social philosophy of unequivocal voluntarism. . . . It is a political philosophy of anti-Statism." Although conservative publisher Henry Regnery thought "he contributed substantially to the development of modern conservatism," most conservatives abandoned both his political and social warnings. Some, however, like his friend Frank Chodorov, tried to maintain the Old Right tradition.

In 1943, Nock published *The Memoirs of a Superfluous Man*, which summarized his "philosophy of intelligent selfishness, intelligent egoism, intelligent hedonism . . . they amount merely to a philosophy of informed common sense." The *Memoirs* touched on some of the influences on his thinking, including the writers of classical liberalism and the American Founding, as well as thinkers as diverse as Herbert Spencer, Henry George, Franz Oppenheimer, and Ralph Cram. The book also was, in part, a summary lament about his own intellectual journey: the necessity of disinterested thought in social criticism, and the struggle between hope for and scorn for his fellow humans. Nock did not complain because he joyfully acknowledged he had more than he deserved: "So while one must be unspeakably thankful for all the joys of existence, there comes a time when one feels that one has had enough." Maintaining his sense of privacy and perfectionism, he destroyed a number of manuscripts before his death.

Albert Jay Nock's larger legacy to the American scene and to libertarianism goes well beyond his important critique of statism. One must consider his work as a whole and remember that he saw his job as a commentator on human possibilities and foibles. There was a more positive side to his work that emphasized the essentially nonpolitical nature of civilization, but it came across to many as weak and incomplete because he refused to offer any pat solutions of his own. He distrusted hacks with solutions to sell. He saw that he was simply taking on "Isaiah's job"—to encourage and brace up a remnant of individuals in building a "substratum of right thinking and well-doing." As he noted often, "What matters is that, for life to be truly fruitful, life

must be felt as a joy, and that where freedom is not, there can be no joy. . . ."

CH

See also Anarchism; Hayek, Friedrich A.; Liberalism, Classical; Voluntarism

## Further Readings

- Crunden, Robert M. *The Mind and Art of Albert Jay Nock*. Chicago: Henry Regnery Company, 1964.
- Nock, Albert Jay. *Jefferson*. New York: Harcourt, Brace, 1926.
- . *Memoirs of a Superfluous Man*. New York: Harper & Brothers, 1943.
- . *Our Enemy, the State* (Introduction by Walter E. Grinder). New York: Morrow, 1935; New York: Free Life Editions, 1973.
- . *The State of the Union: Essays in Social Criticism*. Charles H. Hamilton, ed. Indianapolis, IN: Liberty Press, 1991.
- Wreszin, Michael. *The Superfluous Anarchist*. Providence, RI: Brown University Press, 1971.

## NONAGGRESSION AXIOM

The nonaggression axiom is an ethical principle often appealed to as a basis for libertarian rights theory. The principle forbids "aggression," which is understood to be any and all forcible interference with any individual's person or property except in response to the initiation (including, for most proponents of the principle, the *threatening* of initiation) of similar forcible interference on the part of that individual.

The axiom has various formulations, but two especially influential 20th-century formulations are those of Ayn Rand and Murray Rothbard, who appear to have originated the term. Ayn Rand maintained that "no man may *initiate* the use of physical force against others. . . . Men have the right to use physical force *only* in retaliation and *only* against those who initiate its use." This quote is similar to Murray Rothbard's thesis that "no man or group of men may aggress against the person or property of anyone else."

Some libertarians use the term *coercion* as synonymous with *aggression*, whereas others use *coercion* more broadly to designate all use of force, including legitimate defensive use. Hence, under the former formulation, but not the latter, the nonaggression axiom would prohibit all coercion. Although the ordinary sense of coercion arguably involves getting somebody to *do* something—so that simply assaulting somebody would not count as coercion—conformity with this usage is the exception, rather than the rule, in libertarian theory.

The axiom is often regarded as virtually equivalent to Herbert Spencer's *law of equal freedom* ("Every man has

freedom to do all that he wills, provided he infringes not the equal freedom of any other man”), or to the principle of *self-ownership*, or both inasmuch as all three principles specify protected boundaries around each individual, ordinarily understood to include not just the individual’s mind and body, but also legitimately acquired external property. Within these boundaries, people are to be allowed complete liberty from forcible interference by others, the extent of one individual’s boundary being limited only by the similar boundaries of others.

Actions that might otherwise ordinarily count as aggression against an individual become permissible if the individual *consents*, although libertarian theorists disagree among themselves as to whether and under what circumstances such consent can be irrevocable (e.g., is a contract to alienate one’s rights over oneself legitimate?). To say that an action is permissible under the axiom, it should be noted, is simply to say that the action is not a rights violation and so may not legitimately be obstructed by force. The nonaggression axiom does not rule out such an action’s possible moral wrongness on other grounds or the possible appropriateness of attempting to combat it by peaceful means. The nonaggression axiom is intended as a rule specifically for actions involving force, not as a guide to the whole of moral conduct.

This axiom is intended, however, to govern the actions not only of private citizens, but of government officials. Hence, the enforcement of laws or regulations requiring anything more from individuals than their bare abstention from aggression counts as aggression and so is prohibited under the principle. The entire range of libertarian rights to personal and economic liberty is thus taken to follow from the nonaggression axiom.

The nonaggression axiom is not to be confused with a call to minimize the total amount of aggression—first, because the axiom is purely prohibitory and does not call for positive action of any kind; and, second, because the axiom does not countenance, as a minimization requirement might, the inflicting of a small amount of aggression to prevent a greater amount (e.g., conscripting citizens to deter foreign invasion). The prohibition on aggression thus counts, in Robert Nozick’s terminology, as a *side constraint* to be respected, rather than a goal to be promoted. To be sure, adherents of the nonaggression axiom unsurprisingly tend to favor the overall reduction of aggression in society—so long as such reduction can be accomplished without violating the axiom—but the nonaggression axiom per se calls for no such commitment.

Some formulations of the nonaggression axiom make specific reference to external property while others do not, but it is widely agreed that the application of the axiom requires some additional principle to determine when the use of a person’s possessions without permission counts as aggression. Unless such use does count as aggression,

forcibly preventing unpermitted use will violate the axiom. How, then, must one be related to an external object so that another’s appropriation of that object constitutes an illegitimate appropriation of the possessor? Many attempts to answer this question draw on or develop John Locke’s theory that one acquires just ownership by either mixing one’s labor with previously unclaimed resources or acquiring resources by consent from already legitimate possessors. Samuel Wheeler, for example, argues that external property is an artificial extension of one’s body and so entitled to the same protection as bodily integrity, whereas Nozick maintained that seizing the products of another person’s labor is tantamount to forcing that person to labor for one’s own benefit. Thus, theft is condemned as an indirect form of force, whereas fraud is typically condemned as an indirect form of theft (inasmuch as a transfer of property to which consent is obtained under false pretenses is tantamount to taking property without consent).

Although the nonaggression axiom prohibits initiatory force, it does not specify what forms of retaliatory force, if any, are permissible, and so is in principle compatible with a variety of conclusions on this issue. These conclusions include Rothbard’s view that the victim may inflict on the aggressor an amount of force proportionate to that which the aggressor had inflicted; Randy Barnett’s milder view that aggressors may be coerced only insofar as it is necessary to restrain their aggression and secure restitution to the victim; and Robert LeFevre’s belief that all force, whether initiatory or retaliatory, is morally impermissible. Thus, the nonaggression axiom by itself does not specify whether its own enforcement is permissible, although it does specify that no other principle could be permissibly enforced because to enforce anything other than nonaggression is a form of aggression.

Proponents of the principle differ as to the basis of its justification, and a variety of defenses have been offered. For example, Nozick upholds nonaggression as an application of the duty to treat persons as ends in themselves, rather than as mere means. Rothbard argued that to aggress against another person is to treat that person as one’s property, thus introducing an asymmetry of rights inconsistent with the requirement that ethical norms be universalizable. Jan Narveson has maintained that a mutual rejection of nonaggression would be endorsed by rationally self-interested contractors. Ayn Rand condemned aggression as a form of parasitism inconsistent with the independent mindset needed for an individual’s successful living. Utilitarian libertarians argue, often on economic grounds, that a general commitment to nonaggression will tend to maximize social welfare. Douglas Den Uyl and Douglas Rasmussen regard the prohibition of aggression as part of a “metanormative” framework to protect the conditions within which individuals can pursue their own Aristotelian flourishing. Hans-Hermann Hoppe holds that inasmuch as the justification of

any proposition presupposes a context of uncoerced interpersonal dialogue, no assertion of the right to aggress can be justified without self-contradiction. Less theoretically, the nonaggression axiom is often held to be simply a consistent application of the commonsense norms that govern ordinary personal morality; that we usually deal with our neighbors through persuasion rather than compulsion.

Other controversies over the axiom include what exceptions, if any, may be made to the axiom in emergencies, and whether the axiom permits the use of force against innocent shields. This question arises when collateral damage to bystanders cannot be avoided in the course of self-defense against an aggressor. A further question concerns so-called innocent threats; that is, the actions of those who aggress through no fault of their own, and whether these threats are to be considered aggression and, therefore, illegitimate.

The nonaggression axiom has “a long past but a short history.” In some form, a prohibition on aggression recurs frequently throughout human history—as one might expect if it is indeed a generalization of commonsense moral norms. For example, the principle of *ahimsa* (nonviolence, noninjury) is central to Hinduism, Buddhism, and Jainism, while the notion of justice as a mutual nonaggression pact is put forward by the Greek philosophers Lycophron and Epicurus, as well as by the character Glaucon in Plato’s *Republic*. The *Institutes* of the Byzantine Emperor Justinian define the essence of legal obligation as “to live honestly, to injure no one, and to give every man his due,” whereas in China, Kao-tsu, the founder of the Han dynasty, announced that the only valid laws were those against murder, theft, and personal injury. But in practice the actual content of legislation generally far outstripped these suggested limits; more broadly, the invocation of a nonaggression principle was seldom applied consistently, having usually been coupled with the endorsement of institutions and practices (e.g., slavery) that seem strikingly inconsistent with it.

It is in the 17th century that the prohibition on aggression began to bear radical political fruit. Precursors of the nonaggression axiom were employed in support of revolutionary liberalism by writers like Richard Overton, who wrote that “every man by nature [is] a king, priest and prophet in his own natural circuit and compass, whereof no second may partake but by deputation, commission, and free consent from him whose natural right and freedom it is.” John Locke wrote similarly that “being all equal and independent, no one ought to harm another in his life, health, liberty or possessions.” With the classical liberals and individualist anarchists of the 19th century, the axiom became the foundation of a thoroughgoing libertarian political program; American anarchist Benjamin R. Tucker, for example, described his fundamental political principle as “the greatest amount of liberty compatible with equality of liberty; or, in other words, as the belief in every liberty except the liberty to invade.”

There are a small group of libertarians who do not accept the nonaggression axiom. Its critics, including some libertarians, charge that it offers too simplistic an approach to the complexities of social life and ignores context; that it is illegitimately absolutistic, disallowing uses of force that might bring beneficial consequences; or that it cannot be unambiguously applied without appeal to additional ethical principles. Not all proponents of the axiom regard this last comment as an objection.

Another objection focuses on the term *axiom*, which is sometimes taken to imply that the prohibition of aggression enjoys a special epistemic status analogous to that of the law of noncontradiction (e.g., that it is self-evident or knowable a priori, or a presupposition of all knowledge, or that it cannot be denied without self-contradiction). Although some proponents of the prohibition do indeed claim such a status for it, many do not. Accordingly, it is sometimes suggested that *nonaggression principle* or *zero aggression principle* is a more accurate label than *nonaggression axiom*.

Nevertheless, an axiom also can denote a foundational presupposition of a given system of thought even if it rests on some deeper justification outside that system. For example, Isaac Newton described his fundamental laws of motion as axioms within his deductive system of mechanics, yet regarded them as grounded empirically. In this sense, nonaggression might legitimately be regarded as an axiom of libertarian rights theory, regardless of what one takes its ultimate justification to be.

The nonaggression principle must be distinguished from a number of popular moral principles easily confused with it. The golden rule (“Do unto others as you would have them do unto you”), unlike the nonaggression axiom, does not distinguish between negative and positive obligations. Again unlike the axiom, it does not clearly rule out paternalistic legislation because paternalists might sincerely prefer that they be coerced should they, in the future, stray from what they presently regard as the true path. The nonaggression axiom also should not be confused with John Stuart Mill’s “harm principle,” which specifies that “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” Despite their similarity, the two principles are arguably not equivalent. First, *harm* seems to be a broader concept than *aggression*: outcompeting an economic or romantic rival is not aggression, but might count as harm. Second, Mill’s principle does not specify that the person to be coerced in order to prevent harm must be the author of the harm to be prevented. The nonaggression axiom also should be distinguished from Immanuel Kant’s categorical imperative that persons are to be treated as ends in themselves and never as mere means. Kant’s requirement is broader because it forbids *all* forms of manipulative and degrading treatment (even when those so treated consent)



and not aggression alone. Finally, the nonaggression axiom is distinct from John Rawls's principle that each person is to have an equal right to the most extensive basic liberty compatible with similar liberty for others because Rawls explicitly excludes from his notion of "basic liberty" the freedom to do as one likes with one's property.

RL

See also Individual Rights; Nozick, Robert; Rand, Ayn; Rothbard, Murray

### Further Readings

- Hoppe, Hans-Hermann. *The Economics and Ethics of Private Property*. 2nd ed. Auburn, AL: Ludwig von Mises Institute, 2006.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Rand, Ayn. *The Virtue of Selfishness: A New Concept of Egoism*. New York: Signet, 1964.
- Rothbard, Murray N. *The Ethics of Liberty*. New York: New York University Press, 2003.
- . *For a New Liberty: The Libertarian Manifesto*. Rev. ed. New York: Collier, 1978.

---

## NOZICK, ROBERT (1938–2002)

---

Robert Nozick was a writer, a philosopher, and, at one time, a leading supporter of libertarian thought. Two Harvard professors resuscitated political philosophy in the American academy where interest had languished for decades under the sway of analytic philosophy. John Rawls, a distinguished academician, came to press first in 1971 with his somewhat ponderous tome, *A Theory of Justice*, which employed a variant of the "state of nature" argument to justify the liberal welfare state. In defending both individual liberty and redistribution, Rawls's arguments ignited a torrent of responses that have not abated in the ensuing decades. These critiques were written overwhelmingly by his fellow liberals or those further to the left who thought Rawls had not gone far enough toward collectivism. Surprisingly, however, Rawls's most enduring challenge came from one of his own colleagues, a younger philosopher with an engaging writing style who accomplished something extraordinary. Robert Nozick's book, *Anarchy, State, and Utopia*, published in 1974, had the unpredictable effect of transforming libertarianism from a political philosophy that had been taken seriously by only a few academics into an obligatory topic of discussion among American philosophers and their students. After Nozick, libertarian views have been routinely considered in introductory texts in political philosophy, typically as an ideology to be disputed, but one that must be given serious consideration.

Prior to *Anarchy, State, and Utopia*, Nozick had published two papers in political philosophy, one on "Coercion" and another, for which he was best known in libertarian circles, "On the Randian Argument," in which he discussed Ayn Rand's moral argument for natural rights, the bedrock of her defense of capitalism. Although he shared Rand's support for free markets as well as her commitment to grounding capitalism on natural rights rather than utility or a social contract, he argued that Rand's derivation of natural rights was flawed.

Emerging from the academy of the 1970s, almost uniformly hostile to and uninformed about libertarian ideas, *Anarchy, State, and Utopia* was a bombshell, challenging from its first sentence the hoary truths of the contemporary liberal professoriate. "Individuals have rights," Nozick declared, "and there are things no person or group may do to them (without violating their rights)." To the liberals' wholehearted embrace of the welfare state, Nozick responded that the justification of any state, even a minimal one, is problematic. To their fondness for redistribution, Nozick offered a blistering argument against "patterned theories" of justice that require constant intervention by the state to prevent deviations that voluntary acts cause. To utopians of various sorts, Marxists included, Nozick offered his own vision of a libertarian framework that would allow voluntary communities of all sorts to flourish under its minimalist wing. Coming from a professor at Harvard University's highly ranked philosophy department, such heretical thoughts could not be easily ignored, especially after Nozick's book received the 1975 National Book Award.

The 1970s were a time of great intellectual ferment in libertarian circles. A heady debate flourished, sometimes acrimoniously, but most often in good spirit, between advocates of a minimal state and their anarchist adversaries who argued that any state would necessarily violate individual rights. The minimalists took their inspiration from such figures as Ayn Rand, Milton Friedman, Friedrich Hayek, and Ludwig von Mises. The anarchists' champion, economist Murray Rothbard, a student of Mises and arguably the pre-eminent libertarian of his day, eagerly embraced the individualist anarchist tradition of Benjamin R. Tucker and Lysander Spooner. Nozick attempted, in the first part of *Anarchy, State, and Utopia*, to refute the anarchists and justify a minimal state "limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on."

The imprint of John Locke's *Second Treatise* (1690) is present throughout Nozick's book. Nozick begins by assuming Locke's state of nature and then by reprising his account of its moral foundation in natural law and natural right. Nozick concedes that he has no defense of this moral theory and notes that providing that foundation is "a task for another time. (A lifetime?)." Locke's state of nature is a

This concern with the potentially deleterious effects of democratic opinion on freedom of thought also was expressed in J. S. Mill's "On the Liberty of Thought and Discussion," a seminal chapter in *On Liberty* (1859). In addition to legal freedom, Mill emphasized the need for "diversity of opinion" and the need for personal toleration of unorthodox beliefs in maintaining the social conditions of a free society.

GHS

See also Censorship; Conscience; Freedom of Speech; Religion and Liberty; Separation of Church and State

### Further Readings

- Bacon, Francis. *The Major Works*. Brian Vickers, ed. New York: Oxford University Press, 2002.
- Collins, Anthony. *A Discourse of Free-Thinking*. New York: Garland, 1978.
- Descartes, René. *Discourse on Method and Meditations on First Philosophy*. Indianapolis, IN: Hackett, 1998.
- Locke, John. "A Letter Concerning Toleration." *The Works of John Locke in Nine Volumes*, vol. 5. 12th ed. London: Rivington, 1824.
- Mill, John Stuart. "On the Liberty of Thought and Discussion." *On Liberty*. London: J. W. Parker and Son, 1859.
- Milton, John. *Areopagitica and Other Political Writings of John Milton*. John Alvis, ed. Indianapolis, IN: Liberty Fund, 1999.
- Orwell, George. 1984. New York: Harcourt, 2000.
- Spencer, Herbert. *Social Statics: or, the Conditions Essential to Happiness Specified, and the First of Them Developed*. London: John Chapman, 1851.
- Tocqueville, Alexis de. *Democracy in America*. Harvey C. Mansfield and Delba Winthrop, eds. Chicago: University of Chicago Press, 2000.

## FREE-MARKET ECONOMY

A free-market economy is a complex of voluntary exchange relationships. Some of these relationships are fleeting, as when someone buys a T-shirt from a street vendor, whereas others are more elaborate, as when a company agrees to supply to a customer certain specified cellular telephone services over the course of a year. Common to all voluntary exchanges is each party's belief that his participation in the exchange will make him better off. This conclusion follows from the fact that all exchanges on free markets are voluntary. Because every person has the right to refuse any offer of exchange, each person accepts only those offers that he believes to be in his interest.

All that is necessary for a free-market economy to exist is security of private property rights and its natural twin: contract law to ensure that exchanges of these rights are truly voluntary. Each owner of each bundle of rights can

choose whether, when, and how to use or exchange his property in whatever ways he deems best. The only restriction is that this use or exchange not physically harm others' properties, nor obstruct others' equal rights to use their properties as they choose.

Even with no production, the voluntary exchange of property rights means that parties to these exchanges are made better off. But people go beyond simple exchange; they produce. Producers in a free-market economy assemble various inputs into outputs that are then offered to consumers. If consumers willingly purchase some output at a price sufficiently high to enable the producer to cover all of his costs, the producer makes both himself and his customers better off. The world is materially wealthier as a consequence of this production decision.

At first glance, this conclusion might appear odd because there is no centralized decision maker in a free-market economy. Consumption and production decisions are made individually by each property owner according to his own assessment of how his resources can best be used to promote whatever ends he chooses to pursue. It appears intuitive that the results would be chaotic. However, decentralization of decision making within a regime of private property rights not only does not lead to chaos, but, in fact, generates a coherent and prosperous economic order that would be impossible to achieve otherwise.

The great advantage of the free market is that it maximizes the amount of mutual accommodation at work to satisfy human wants. Mutual accommodation occurs whenever two or more people adjust their actions with respect to each other in ways that make each of them better off. Even if all human wants, resources, and production techniques were unchanging, the immense number of different wants and alternative ways of satisfying these wants implies that no single person or committee could possibly learn all that must be known to direct production as effectively as it is directed by the market. Decision making *must* be decentralized. Different bits of knowledge from literally millions of people are necessary to produce almost any products found in modern society.

Consider the ordinary pencil. No single person or committee can know what kind of wood is best used for the pencil shaft *and* where to find the trees that produce this wood *and* how to make the ax for felling the trees *and* where to find the graphite used for the pencil's center *and* how to build the machines used to extract the graphite from the earth *and* how to refine the graphite *and* where to find and how to mix the bauxite and alumina necessary to make the aluminum ferrule that holds the eraser on securely *and* how to extract the oil from the ground *and* how to refine it so that it serves as the base of the paint to coat the pencil *and* how to accomplish all of the other multitude of tasks necessary for the production of a pencil. A few moments of reflection reveal that the amount of

knowledge required to produce an ordinary pencil is incomprehensibly vast.

Pencils are produced only because millions of people, each one with highly specialized knowledge of one of these countless different pieces of the process necessary to produce pencils, cooperate in ways that result in their production and sale. This cooperation is directed by market prices, which do a far better job at coordination than could possibly be achieved by a central planner. If, say, pencil retailers initially overestimated the number of pencils demanded by consumers, these retailers will, in the future, purchase fewer pencils from pencil manufacturers. Needing to supply fewer pencils, pencil manufacturers reduce their demands for the inputs used to manufacture pencils. Consequently, the price of each of these inputs falls. These falling prices tell producers of these inputs (paint for the pencil casing, lead-and-graphite shafts for the core, aluminum ferrules, etc.) to produce fewer of these inputs. The production of a larger volume of different inputs for other purposes becomes more attractive.

The price system informs each of the myriad producers along the way to reduce the amount of effort and resources devoted to making parts for pencils (and, hence, to shift this effort toward the production of inputs whose prices have risen relative to those of pencil parts). The Nobel laureate economist F. A. Hayek perceptively explained this communications feature of the price system:

The most significant fact about this system is the economy of knowledge with which it operates, or how little the individual participants need to know in order to be able to take the right action. In abbreviated form, by a kind of symbol, only the most essential information is passed on only to those concerned. It is more than a metaphor to describe the price system as a kind of machinery for registering change, or a system for telecommunications which enables individual producers to watch merely the movement of a few pointers, as an engineer watches the hands of a few dials, in order to adjust their activities to changes of which they may never know more than is reflected in the price movement.

As essential as this system of decentralized decision making is when wants, resources, and production techniques are static, it is even more essential when these things change. In reality, constant change—change initiated by both consumers and producers—is the norm.

In light of what has so far been said, the reader can easily see that unexpected changes in consumer tastes, resource availability, and production techniques can be accommodated best by relying on people on the spot—each with a direct and personal stake in accommodating those changes—to arrive at ways to best respond to these changes. Relying on political authorities to accommodate these changes would be to rely on people who possess neither sufficient incentive nor the detailed knowledge necessary to respond appropriately.

What isn't as obvious is the advantageous role played by decentralization in promoting beneficial change. Although the current pattern of resource use might be better than all other known alternatives, the number of possible ways to use resources is so colossal that even the best currently known set of resource uses almost certainly can be improved upon. Israel Kirzner is surely correct to insist that “we live in an open-ended world, in which as yet unseen opportunities always exist for improving human well-being through the discovery of new resources or of new ways of deploying resources productively.”

Discovering these unseen opportunities requires human creativity—creativity to produce heretofore unimagined goods and services, and creativity to devise and execute heretofore unknown means of producing outputs. If all production decisions are required to be made only centrally, by politically selected operatives, the amount of productive creativity at work will be minimal. The reason is that only people on the spot possess a sufficiently specialized knowledge of the myriad nuanced facts surrounding any particular piece of the economic landscape. The intimate familiarity of someone who is “on the spot” is likely to provide him with reliable hints about how that piece of the landscape might be improved. Such hints are reliable because they are the product of deep familiarity borne of specialization. Compared with a centralized decision maker, the on-the-spot person has a greater sense of both the possible (i.e., how the current way of doing things might be improved) and the impossible (i.e., the inevitable limitations pressing on his piece of the economic landscape).

Moreover, when decisions to experiment with new patterns of production are made by owners of private property, each experimenter bears the largest bulk of the costs—and receives a large part of the benefits—of such experiments. Internalizing the costs and benefits of economic experiments on those who actually decide which experiments to undertake and which to avoid is the best possible way of ensuring that we get the experiments necessary to generate progress without, at the same time, suffering waves of experiments that prove to be wasteful.

The great advantage of a free-market economy is that its foundation of private property rights means that decisions on resource use are decentralized; they are in the hands of people on the spot, each with unique knowledge of how best to use his resources to accommodate the wishes of other property rights owners within his purview. The prohibition against anyone coercing or defrauding another into accepting an offered exchange means that the resulting prices and other information generated by market transactions are reliable guides to how resources can effectively be used to satisfy human wants. The spur of profit prompts people not only to adjust to changes in familiar and predictable ways, but also to be alert to creative new ways to use resources. These market signals ensure that the countless instances of on-the-spot mutual accommodation that



occur daily in markets coalesce into a vast productive order. If history is a guide, a free-market economy ensures continual improvement in humankind's material welfare.

DJB

See also Civil Society; Decentralism; Entrepreneurship; Laissez-Faire Policy; Private Property; Wealth and Poverty

### Further Readings

- Cox, W. Michael, and Richard Alm. *Myths of Rich & Poor*. New York: Basic Books, 1999.
- Hayek, F. A. "The Use of Knowledge in Society." *Individualism and Economic Order*. F. A. Hayek, ed. Chicago: University of Chicago Press, 1948. 77–91.
- Kirzner, Israel M. *How Markets Work*. London: Institute of Economic Affairs, 1997.
- Lebergott, Stanley. *Pursuing Happiness*. Princeton, NJ: Princeton University Press, 1993.
- Polanyi, Karl. *The Great Transformation*. New York: Octagon Books, 1975.
- Rand, Ayn. *Capitalism: The Unknown Ideal*. New York: Penguin Putnam, 1986.

## FREE TRADE

Free trade means the exchange of goods and services across international borders, unhindered by government tariffs, quotas, or other restrictions. Since the publication of *The Wealth of Nations* by Adam Smith in 1776, the debate over free trade has been one of the major battlegrounds in the broader controversy about economic freedom. Free trade is an essential component of globalization, which includes not only trade, but the international flow of capital and people and the resulting integration of national economies with each other.

Free trade has been a central tenet of the libertarian, or classical liberal, philosophy for centuries. The same philosophical and economic arguments for the freedom of exchange within a national economy apply equally to exchange across international borders. According to libertarian principles, workers should be free to voluntarily exchange the fruits of their labors with others for mutual benefit, whether the trading partner lives across the road or across an ocean. The increased competition occasioned by free trade can indeed result in some domestic industries losing market share and workers temporarily losing jobs, but advocates of free trade see this loss as a normal and healthy outcome of free-market competition.

Mankind has always engaged in trade. Even in the poorest societies, households have traded with one another, and rural farmers have traded with city dwellers. However, natural barriers, long distances, and government controls have

hindered international trade throughout much of mankind's history. Despite those obstacles, trade flourished in the Mediterranean basin for centuries before the rise of the Roman Empire, reaching its height in the 2nd and 3rd centuries A.D., while during the late Middle Ages, the member states of the Hanseatic League were engaged in a burgeoning trade in the Baltic and North Seas. During that same time, Venice thrived as the center of the overland spice trade from Asia. Venetian traders pioneered foreign exchange, bank loans, accounting, and letters of credit. Spices and manufactured goods were the staple of trade in the Mediterranean, whereas lumber, fish, wool, and hides were the chief commodities of trade in Northern Europe.

The voyages of discovery in the 15th and 16th centuries opened new routes among Europe, the New World of the Americas, and the markets of South and East Asia, ushering in the Mercantilist Era. The discoveries and dramatic expansion of sea-going trade were made possible by the development of three-masted ships, called *carracks*, which could sail more sharply into the wind and made shipping less dependent on seasonal trade winds. The leading trading nations of that era, which lasted until about 1800, were Spain and Portugal, followed by the Dutch Republic and then France and Great Britain. As trade grew, so did government intervention. According to the prevailing mercantilist ideas at the time, exports were preferable to imports because they better enabled governments to acquire and accumulate gold, the universal currency of the day. As a result, a web of national laws evolved that hindered trade in a broad range of goods, but especially manufactured items.

Against this backdrop, Adam Smith published his magisterial work, *An Inquiry into the Nature and Causes of the Wealth of Nations*. Smith argued, with systematic logic and illuminating examples, that a nation's wealth is not measured by its stockpile of gold, but by the ability of its people to produce goods and services of value to others. Nations raise their productivity through the division of labor, with households, regions, and nations specializing in what they do best. Trade allowed the creation of more wealth by expanding the size of the market, thus allowing a finer division of labor among and within nations. As Smith famously observed in Book IV,

It is the maxim of every prudent master of a family, never to attempt to make at home what it will cost him more to make than to buy. . . . What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage.

The intellectual argument for free trade was fortified in 1817 when British stockbroker David Ricardo first explained the theory of "comparative advantage." According to this theory, even if a nation's workers can produce everything

occur daily in markets coalesce into a vast productive order. If history is a guide, a free-market economy ensures continual improvement in humankind's material welfare.

DJB

See also Civil Society; Decentralism; Entrepreneurship; Laissez-Faire Policy; Private Property; Wealth and Poverty

### Further Readings

- Cox, W. Michael, and Richard Alm. *Myths of Rich & Poor*. New York: Basic Books, 1999.
- Hayek, F. A. "The Use of Knowledge in Society." *Individualism and Economic Order*. F. A. Hayek, ed. Chicago: University of Chicago Press, 1948. 77–91.
- Kirzner, Israel M. *How Markets Work*. London: Institute of Economic Affairs, 1997.
- Lebergott, Stanley. *Pursuing Happiness*. Princeton, NJ: Princeton University Press, 1993.
- Polanyi, Karl. *The Great Transformation*. New York: Octagon Books, 1975.
- Rand, Ayn. *Capitalism: The Unknown Ideal*. New York: Penguin Putnam, 1986.

## FREE TRADE

Free trade means the exchange of goods and services across international borders, unhindered by government tariffs, quotas, or other restrictions. Since the publication of *The Wealth of Nations* by Adam Smith in 1776, the debate over free trade has been one of the major battlegrounds in the broader controversy about economic freedom. Free trade is an essential component of globalization, which includes not only trade, but the international flow of capital and people and the resulting integration of national economies with each other.

Free trade has been a central tenet of the libertarian, or classical liberal, philosophy for centuries. The same philosophical and economic arguments for the freedom of exchange within a national economy apply equally to exchange across international borders. According to libertarian principles, workers should be free to voluntarily exchange the fruits of their labors with others for mutual benefit, whether the trading partner lives across the road or across an ocean. The increased competition occasioned by free trade can indeed result in some domestic industries losing market share and workers temporarily losing jobs, but advocates of free trade see this loss as a normal and healthy outcome of free-market competition.

Mankind has always engaged in trade. Even in the poorest societies, households have traded with one another, and rural farmers have traded with city dwellers. However, natural barriers, long distances, and government controls have

hindered international trade throughout much of mankind's history. Despite those obstacles, trade flourished in the Mediterranean basin for centuries before the rise of the Roman Empire, reaching its height in the 2nd and 3rd centuries A.D., while during the late Middle Ages, the member states of the Hanseatic League were engaged in a burgeoning trade in the Baltic and North Seas. During that same time, Venice thrived as the center of the overland spice trade from Asia. Venetian traders pioneered foreign exchange, bank loans, accounting, and letters of credit. Spices and manufactured goods were the staple of trade in the Mediterranean, whereas lumber, fish, wool, and hides were the chief commodities of trade in Northern Europe.

The voyages of discovery in the 15th and 16th centuries opened new routes among Europe, the New World of the Americas, and the markets of South and East Asia, ushering in the Mercantilist Era. The discoveries and dramatic expansion of sea-going trade were made possible by the development of three-masted ships, called *carracks*, which could sail more sharply into the wind and made shipping less dependent on seasonal trade winds. The leading trading nations of that era, which lasted until about 1800, were Spain and Portugal, followed by the Dutch Republic and then France and Great Britain. As trade grew, so did government intervention. According to the prevailing mercantilist ideas at the time, exports were preferable to imports because they better enabled governments to acquire and accumulate gold, the universal currency of the day. As a result, a web of national laws evolved that hindered trade in a broad range of goods, but especially manufactured items.

Against this backdrop, Adam Smith published his magisterial work, *An Inquiry into the Nature and Causes of the Wealth of Nations*. Smith argued, with systematic logic and illuminating examples, that a nation's wealth is not measured by its stockpile of gold, but by the ability of its people to produce goods and services of value to others. Nations raise their productivity through the division of labor, with households, regions, and nations specializing in what they do best. Trade allowed the creation of more wealth by expanding the size of the market, thus allowing a finer division of labor among and within nations. As Smith famously observed in Book IV,

It is the maxim of every prudent master of a family, never to attempt to make at home what it will cost him more to make than to buy. . . . What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage.

The intellectual argument for free trade was fortified in 1817 when British stockbroker David Ricardo first explained the theory of "comparative advantage." According to this theory, even if a nation's workers can produce everything

more efficiently than workers in other nations, they can still trade profitably. What matters is what those workers produce most efficiently compared with whatever else they could produce. Hence, if workers in a rich country are twice as efficient at producing shoes as workers in a poor country, but five times more efficient at producing computer chips, it is still an advantage for both nations for the rich country to specialize in computer chips and import shoes from the poor country. By specializing in their comparative advantages, each country can shift resources—capital, labor, and land—to those sectors where gains in productivity and output are greatest. The final result is that workers in both nations can increase their consumption of both goods.

The ideas of Smith and Ricardo fueled the movement in Great Britain to repeal trade barriers and embrace free trade. Reformers Richard Cobden and John Bright led a successful effort in 1846 through the Anti-Corn Law League to the repeal of Britain's high tariffs on agricultural grains. For the rest of the 19th century, Britain engaged unilateral free trade. Cobden later joined Parliament and became an international advocate of free trade as an instrument of peace among nations.

Meanwhile, in a series of brilliant essays, French economist Frédéric Bastiat argued for free trade on the European continent. Through a combination of incisive analysis and devastating satire, Bastiat ridiculed the whole range of protectionist arguments. In "A Petition," for example, he used the protectionists' own logic to argue for a law requiring citizens to cover their windows during the day to protect France's candle-making industry from unfair competition from the sun. Like Cobden, Bastiat argued that international commerce promoted peace among nations and is widely credited with the saying, "When goods cannot cross borders, armies will."

Bastiat portrayed free trade as an essential human liberty. In an 1849 essay, "Communism and Protection," Bastiat noted,

every citizen who has produced or acquired a product should have the option of applying it immediately to his own use or of transferring it to whoever on the face of the earth agrees to give him in exchange the object of his desires. To deprive him of this option when he has committed no act contrary to public order and good morals, and solely to satisfy the convenience of another citizen, is to legitimize an act of plunder and to violate the law of justice.

Although the benefits of free trade were soon accepted as economic orthodoxy, it was not universally practiced even during the height of the first wave of globalization in the 19th and early 20th centuries. Germany and the United States, in particular, used trade barriers to protect certain industries. But barriers to trade remained on average low compared with what they had been during the mercantilist era, and rapid industrialization, falling transportation costs due to steamships and

railroads, and political stability fueled a dramatic rise in global trade and capital flows until World War I.

The global conflict from 1914 to 1918 disrupted trade and ushered in new economic controls that did not disappear when the war ended, and efforts to return to the economic policies of the more liberal prewar system were only partially successful. The Great Depression of the 1930s unleashed a vicious cycle of rising trade barriers, falling trade volume, and deepening economic misery and nationalism. The U.S. Congress and then-President Herbert Hoover compounded the crisis by enacting the Smoot-Hawley tariff in 1930, which raised tariffs dramatically on a broad swath of imports to the United States. The tariff bill did not cause the Great Depression, but it did prolong and deepen it, and it certainly did not protect domestic industry and jobs as its advocates claimed it would.

After the devastation of the Great Depression and World War II, the United States and its Western allies lowered trade barriers unilaterally and through the multilateral General Agreement on Tariffs and Trade (GATT), which 23 nations first signed in 1947. The reduction in trade barriers stimulated a dramatic rise in global trade flows and cemented peaceful ties among Western Europe, the United States, and Japan. Through engagement in the global economy, the "Tigers" of East Asia—South Korea, Taiwan, Singapore, and Hong Kong—transformed themselves from poor to rich countries. Beginning in the 1970s, Mainland China, India, Chile, Mexico, and less-developed nations lowered their previously high trade barriers, welcomed foreign investment, and dramatically increased their trade with the rest of the world. The collapse of global communism in 1989 and the growing disillusionment with protectionism as a tool of development have led to further reductions in trade barriers worldwide.

Despite more than two centuries of economic thought and empirical evidence in support of free trade, it continues to remain controversial today. Industries seeking relief from competition from abroad have been joined by environmentalists, antimarket activists, and some conservatives in opposing market-opening trade agreements. Others have argued that free trade spurs a "race to the bottom" as multinational companies seek locations where labor and regulatory costs are lowest. Supporters of free trade counter that the wealth that trade creates allows people in less-developed countries to raise their own environmental and labor standards and to reduce or eliminate child labor. They point out that most global investment flows between developed countries, where workers are more productive because of better education, capital, and infrastructure.

Today, people generally enjoy greater freedom to engage in mutually beneficial trade across international borders than they had been allowed in the past, but government controls still remain significant. Trade barriers in much of the less-developed world remain high, retarding development and restricting freedom. In rich countries, low

average tariff levels are belied by stubbornly high barriers against imports of textiles, apparel, steel, and many agricultural goods, such as sugar, cotton, beef, citrus, and dairy products. So-called antidumping laws are used to impose tariffs on imports that are allegedly being sold at an unfairly low price, but in reality are being priced according to normal market conditions.

Libertarians agree on the desirability of free trade, but not always on how to achieve it. Some libertarians are skeptical of trade agreements between governments, such as the North American Free Trade Agreement, because such agreements can exclude politically sensitive sectors from liberalization or can create new bureaucracies to monitor environmental or labor standards. They see the World Trade Organization (WTO), the successor to the GATT, as an unnecessary governmental body and a potential threat to national sovereignty. Other libertarians argue that such agreements, including those negotiated through the WTO, restrain the power of governments to interfere in peaceful commerce, and that any flaws are usually outweighed by the trade liberalization they achieve. Debate also continues on whether trade promotes peace among nations, as Richard Cobden and others believed. A decline in international wars in recent decades, along with rising globalization, appears to support the connection, although some economists challenge whether there is any significant correlation.

Despite the political controversy it generates, free trade has become widely accepted by economists as the best trade policy for promoting a nation's prosperity. It is a genuine libertarian idea that has gained widespread acceptance in theory, if not in practice.

DTG

See also Anti-Corn Law League; Development, Economic; Globalization; Mercantilism; Taxation

## Further Readings

- Bastiat, Frédéric. *Economic Sophisms and Selected Essays on Political Economy*. Princeton, NJ: Van Nostrand, 1964.
- Bhagwati, Jagdish. *In Defense of Globalization*. New York: Oxford University Press, 2004.
- Hazlitt, Henry. *Economics in One Lesson*. San Francisco: Laissez Faire Books, 1996.
- Hinde, Wendy. *Richard Cobden: A Victorian Outsider*. New Haven, CT: Yale University Press, 1987.
- Irwin, Douglas. *Against the Tide: An Intellectual History of Free Trade*. Princeton, NJ: Princeton University Press, 1996.
- . *Free Trade under Fire*. 2nd ed. Princeton, NJ: Princeton University Press, 2005.
- Larsson, Tomas. *The Race to the Top: The Real Story of Globalization*. Washington, DC: Cato Institute, 2001.
- Lindsey, Brink. *Against the Dead Hand: The Uncertain Struggle for Global Capitalism*. New York: Wiley, 2002.
- Norberg, Johan. *In Defense of Global Capitalism*. Washington, DC: Cato Institute, 2003.

Sally, Razee. *Classical Liberalism and International Economic Order: Studies in Theory and Intellectual History*. London: Routledge, 1998.

Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations*. New York: Modern Library, 1982 [1776].

Wolf, Martin. *Why Globalization Works*. New Haven, CT: Yale University Press, 2004.

---

## FRENCH REVOLUTION

---

The French Revolution, which usually dates from the meeting of the Estates-General in 1789 to the end of the Directory in 1799, or sometimes to 1815, was part of a more general movement for liberal reform that transformed Western Europe and North America in the late 18th century. This movement for liberal reform, whose aims included deregulation of the economy, constitutional limits on the power of the monarch, equality before the law, freedom of speech and of the press, and religious tolerance can be seen as originating in the American Revolution, continuing in several parts of Europe during the 1780s with the reforms of the “enlightened despots,” among them Joseph II of Austria, and intensifying with the outbreak of the French Revolution in 1789. The historian R. R. Palmer has shown how reform ideas, money, and people flowed back and forth between America and Europe during those decades as the aptly named “trans-Atlantic” revolution swept away the old regime and created the foundations for the modern liberal, constitutional, and democratic societies that were to emerge in the 19th century.

The French Revolution not only transformed France by sweeping away the legal and political privileges of the ruling elites, but also triggered independent revolutions in other states, such as the French colony of Haiti, where ex-slaves created an independent state. More important, it carried the reformist ideals of democracy and republicanism via the French Civil Code to the neighboring European states as Republican and then later Napoleonic armies conquered much of Europe. One of the many paradoxes created by the French Revolution is the idea that all the people of Europe could be liberated from feudal oppression at the point of a French gun. Another paradox, which was hotly debated by liberal historians in the 19th century, was how to explain a movement whose original intentions were to increase individual liberty, deregulate the economy, and limit state power that yet produced the Jacobin Terror and the military dictatorship of Napoleon Bonaparte. It might well be that every revolution for liberty sows the seeds of an inevitable period of counterrevolution before more stable and workable political and economic institutions emerge in which liberty can flourish.

It is useful to view an event as complex as the French Revolution as a series of sometimes overlapping stages in

peoples of Europe, and it endeavored to give many of them a national homeland. Moreover, the treaty sought to punish the nations that lost the Great War—a view consistent with the ideology of nationalism, which demands collective winners and losers. Finally, it called for a League of Nations, a supranational governing entity that would formally instantiate the nation as a political actor endowed with rights and prerogatives beyond those of the individual. Historians generally agree that the treaty was a colossal failure: The punitive measures against Germany only embittered the German people and exacerbated German nationalism, leading to the rise of Nazism as the most murderously nationalistic political movement yet known. Impelled by a sense that they had a score to settle, the Nazis soon overran all the fragile new national homelands created by the Versailles Treaty, an act that the League of Nations was completely powerless to stop.

Nationalism, on the whole, represents one of the key forces inimical to liberalism in the modern world. Even those nationalisms that profess liberty or peace as the key to national identity are rooted in ethical collectivism. Thus, individualist philosophies have always been skeptical of nationalism, and libertarianism particularly so, occasional truces or tactical allegiances notwithstanding.

JTK

See also Collectivism; Mercantilism; Racism; State; War

### Further Readings

Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. New ed. New York: Verso, 1991.

Hegel, G. W. F. *Philosophy of Right*. S. W. Dyde, trans. Mineola, NY: Dover, 2005.

Lieven, Anatol. *America Right or Wrong: An Anatomy of American Nationalism*. New York: Oxford University Press, 2004.

Mises, Ludwig von. *Human Action*. Chicago: Contemporary Books, 1966.

———. *Nation, State, and Economy*. New York: New York University Press, 1983.

The main points of contention regarding this doctrine concern the question as to how widespread and extensive this harmony is and the question of whether state action is required to put in place the right institutional framework to ensure that interests are harmonious.

The idea that the interests of a large group of individuals could be naturally harmonious became prominent in the late 17th and early 18th centuries through the work of Richard Cumberland and was taken up by the Physiocrats in France. It received a highly detailed and systematic exposition by Adam Smith. What is probably the most well-known description of the harmony of interests can be found in the *Wealth of Nations*, where Smith claims that “It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest.” It is this harmony that underlies and explains Smith’s famous “invisible hand.” The coordination of the desires of a disparate group of people is possible because there is at work an invisible hand, a function of individual interests being harmonious. There is no need for intervention, no need for a conscious intelligence to bring about beneficial results. The general welfare will naturally improve as an unintended consequence of everyone acting according to his or her own self-interest. The key exponent of this idea in the 19th century was Frédéric Bastiat, who wrote a book titled *Economic Harmonies* in which he discusses many instances of this general harmony. In the 20th century, it was primarily the work of Ludwig von Mises that provided a detailed description of the way in which interests are harmonious and of the principle that we serve ourselves best by serving others. This notion is closely related to what Mises calls the *sovereignty of the consumer*—the idea that producers in a market system have to please the consumers if they are to be able to compete. Those who serve the consumers best will benefit the most. The key debate at the end of the 20th and beginning of the 21st centuries regarding the harmony of interests concerns whether state action is required to put into place an institutional framework that allows for mutually beneficial voluntary exchanges or whether the gains from trade can be realized without third-party enforcement through various self-enforcing mechanisms.

The harmony of interests leads to beneficial results by means of voluntary exchanges. A voluntary exchange is only performed if it is in the interests of all parties involved, allowing everyone to realize the mutual gains from trade that derive from the division of labor and from comparative advantage. This stricture obviously applies to both intra- and international trade. The interests of different individuals and nations are essentially harmonious, and thus there should be freedom of exchange inside and among nations. The harmony also generalizes beyond the relationship between producers and consumers and encompasses all voluntary economic interactions, such as those between

## NATURAL HARMONY OF INTERESTS

The notion of a natural harmony of interests plays a significant role in libertarian thought. It is predicated on the idea that individual interests are harmonious insofar as acting in one’s own interest furthers the interests of the community. Improving the general welfare is an unintended consequence of self-interested behavior. This unintended consequence is based on what Jacob Viner calls the “coordinating, harmonizing, and organizing function of free competition.”



employers and employees. This scalability highlights the idea that trade and other economic interactions more generally do not amount to a zero-sum game, but are mutually beneficial. There is no fixed pie that is to be divided and shared in such a way that one person's gain causes a loss to someone else.

The natural harmony of interests strongly supports a system of free markets, or what Smith called a *system of natural liberty*. If left alone, he argued, the economy will naturally develop for the better. As Smith noted, "Little else is required to carry a state to the highest degree of affluence from the lowest barbarism but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things." The interests of various people are harmonious, and, hence, no interference is required. Serving others is an unintended consequence of serving ourselves. Because people will take care of their own good, there is no need for the state to look after the public good. All we need for the common good to flourish is that men act in their own self-interest, which they are by nature inclined to do without any external assistance, guidance, or direction.

The harmony of interests is a general feature that holds with only few exceptions, such as in cases of natural or government-created monopolies. Such exceptions are rare, however, and the vast majority of voluntary human interactions are such that the interests of the parties involved are not essentially at odds, but can be furthered jointly. This fact supports a strong presumption in favor of liberty and against government interference. Most conflicts of interests that actually exist are the result of interventions by the state, such as the establishment of barriers to entry or exit that bring about artificial monopolies. State intervention often produces artificial and unnecessary conflicts of interest. The state shifts the strategic structure of agency from one of cooperation to one of competition for rents. People then are no longer competing to serve their own interests by serving the interests of the consumers, but are instead competing for limited and fixed benefits handed out by the government. The result is a battle for political power and political favors. Rent seeking rather than production becomes the strategy that self-interested individuals will follow given that the state has put into place an antagonistic incentive structure. Bastiat nicely captured this phenomenon when he described the state as "the great fiction by which everybody tries to live at the expense of everybody else." As opposed to the artificial conflicts produced by the state, we can describe the market as the great mechanism by which everybody manages to benefit everyone else by benefiting himself.

Another question that arises concerns the nature and kind of interest that is at issue. The interests that are harmonious are what Tocqueville and Mises classify as "interests rightly understood." That is, we are concerned with long-term

interests, rather than with what counts as an agent's immediate interest. Although spoliation and aggressive behavior may be advantageous in the short run, long-run interest clearly dictates peaceful cooperation and productive behavior. As regards the kinds of ends that are harmonious, some qualification also is required. Obviously in a just society the interests of murderers and thieves, as well as of those who wish to live at the expense of others, are and should be frustrated. However, it is not these kinds of interests that are at issue when we claim that there is a natural harmony of interests. Rather, we are concerned with material ends broadly understood and the interest that all have in attempting to better their material condition. It is long-term self-interest that is harmonious, not some kind of perverse interest that essentially involves the suffering of others.

The fact that short-term interests can conflict and that it is long-run interests that are harmonious implies that certain background conditions for a stable and coordinated society must be met. Long-run interests must be taken into serious consideration, and the present and immediate future must not fully absorb the consideration of individuals. For long-run interests to become salient, individuals must be able to interact in a secure and peaceful setting. Property must be protected and contracts upheld, otherwise long-term planning will be useless and repeated reciprocal cooperative interactions will be impossible. When living in a Hobbesian state of nature and when immediate survival is the issue, the harmony of long-run interests will largely be ignored and will thus be ineffective. Consequently, peace and security are preconditions of the harmony of interests.

The idea of a natural harmony of interests underscores the importance of an adequate system of incentive structures. We can understand human actions as falling somewhere on a spectrum ranging from peaceful, productive, and cooperative behavior, on the one hand, to spoliation, on the other hand. Individuals will act in one way or the other. The relevant question is whether they will act in a peaceful and cooperative manner or one that involves conflict and antagonism. Where on the spectrum between production and spoliation a society finds itself is at least partly determined by the incentive structures that individuals face in making their decisions. To the extent that people do act in accordance with their own interest, the incentive structure directly influences their behavior. By altering the incentive structure, one alters self-interested behavior. State intervention often shifts or modifies the incentive structure, such that opportunism and spoliation, rather than production and cooperation, become the optimal strategy in some cases. As has been extensively argued by libertarians, the right incentives to ensure a socially beneficial outcome are provided by the institution of private property. Clearly defined and enforced private property rights ensure the best allocation of scarce resources and allow for the coordination of the actions of vast numbers of individuals. That is, to achieve this optimal

allocation, there is a need for the right kind of framework within which humans act and interact.

Once it is accepted that the harmony of interests requires some form of institutional framework, the question arises as to what status this institutional framework possesses in the theory of the natural harmony of interests. It would appear that this framework is in some sense “unnatural” and the product of human action. Accordingly, it becomes questionable whether the harmony of interests can be classified as being “natural” in a meaningful sense. Two different approaches can be identified with respect to the question of the role and status of these apparently unnatural frameworks within which human action and interaction take place. Some theorists have put forward a moderate account of the natural harmony of interests according to which state action is required to put in place and maintain the required institutional framework. Provided that such a framework is in place, the interests of different individuals will be harmonious. Interests are harmonious when private property rights are respected, and therefore there is a need for state action to put into place the required background conditions. Although state action is required, however, it should be noted that such action on the part of the state should be of a general and rather abstract nature. That is, the state should look after the protection of private property rights and the enforcement of contracts. There is no need for specific interventions or interferences. All we need is the establishment and maintenance of the rule of law. The state only has to set up the right institutional framework, rather than micromanage human interactions. To put it differently, the state should set the general rules of the game, rather than dictate particular outcomes.

The more radical approach takes the harmony of interests to be natural in the sense that the gains from trade can be realized through voluntary means without any need to have recourse to government action. This more radical version of the natural harmony of interests is often defended by anarcho-capitalists. According to this view, self-enforcing institutions will and do emerge spontaneously. Although certain frameworks are required, these frameworks naturally arise and do not need to be deliberately imposed and enforced by government. They are endogenous and do not have to be imposed exogenously. The harmony of interests is a natural harmony in that the institutions and frameworks that allow this harmony to become fully effective are the result of a natural process. Rather than requiring political institutions, various social norms, rules, and mechanisms are available to achieve successful cooperation among strangers without requiring third-party enforcement, including signaling, selection, exclusion, inclusion, and reputation mechanisms.

RMB

See also Bastiat, Frédéric; Civil Society; Ferguson, Adam; Free Trade; Laissez-Faire Policy; Smith, Adam

## Further Readings

- Bastiat, Frédéric. *Economic Harmonies*. Irvington-on-Hudson, NY: Foundation for Economic Education, 1996.
- Friedman, David. *The Machinery of Freedom: Guide to a Radical Capitalism*. La Salle, IL: Open Court, 1989.
- Mises, Ludwig von. *Human Action: A Treatise on Economics*. Auburn, AL: Ludwig von Mises Institute, 1998.
- Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations*. Indianapolis, IN: Liberty Fund, 1982.
- Stringham, Edward, ed. *Anarchy, State and Public Choice*. Cheltenham, UK: Edward Elgar, 2005.
- Viner, Jacob. “Adam Smith and Laissez Faire.” *The Journal of Political Economy* 35 no. 2 (April 1927): 198–232.

## NATURAL LAW

Theories of natural law hold that there is a single law, or body of laws, based on nature, that all human societies should obey. This tradition, embraced by philosophers and legal theorists for more than 2,500 years, has been highly adaptable and multifarious.

The idea of natural law originated with the Greek philosopher Heraclitus (circa 500 B.C.), who declared, “All the laws of human beings are nourished by the one divine [law].” This universal principle was independent of human opinion or agreement, but rather was regarded as the justification for human laws. The corollary—that human ordinances are invalid if they conflict with the higher law—was asserted by the heroine of *Antigone*, where Sophocles has the heroine defy an edict on the grounds that “mortal man cannot transgress the gods’ unwritten and unfailing laws.” The Sophists too recognized this conflict when they pitted law (*nomos*) against nature (*phusis*). Law, they argued, was the result of human custom, agreement, and belief, and was therefore contingent, variable, and relative; but nature manifested itself in invariant instincts such as self-interest. Responding to this challenge, Plato contended that law was grounded in nature. He explicated this law in terms of his theory of Forms, the eternal principles of goodness and justice apprehended by reason rather than sense experience. Aristotle in the *Rhetoric* discussed the “law of nature” as an eternal, immutable principle, which was commonly invoked in Greek legal arguments. He elsewhere defended a notion of “natural justice,” variable but grounded in universal human nature.

The theory of natural law was expounded more fully by the Stoics, whose views were summarized by the Roman Cicero. “True law,” Cicero writes,

is right reason in agreement with nature, diffused among all men; constant and unchanging, it should call men to their duties by its precepts and deter them from wrongdoing by its prohibitions; and it never commands or forbids

both houses of Congress had approved 12 amendments to be sent to the states for ratification. Only after that time was the Constitution ratified by North Carolina and Rhode Island, the last of the original 13 states to do so.

By December 1791, 10 of the 12 amendments proposed by Congress in 1789 had been ratified by the legislatures of three fourths of the states, as Article V requires, and so became the first 10 amendments, known popularly as the Bill of Rights. The first eight protect various individual rights, among them freedom of speech and press, religious freedom, the right to keep and bear arms, protections against unreasonable searches and seizures, property rights, the right to a jury trial in both civil and criminal cases, and various procedural safeguards for the rights of the accused. The 9th and 10th Amendments provide general rules of constitutional interpretation designed to solve the problems Federalists maintained would arise from the addition of a bill of rights to the Constitution: the 9th protects against the loss of unenumerated rights, while the 10th explicitly limits the national government to those powers enumerated in the Constitution.

In the 210 years since the ratification of the Bill of Rights, the Constitution has been amended only 17 times. By far the most significant amendments were added after the Civil War: the 13th Amendment, which abolished slavery; and the 14th Amendment, which redefined U.S. citizenship and imposed significant additional limits on state governments to protect the “privileges or immunities” of U.S. citizens, to ensure “the equal protection of the laws,” and to prohibit the rights of “life, liberty, and property” from being denied without “due process of law.” The most recent amendment, the 27th, which limits congressional salary increases, also is one of the oldest proposed, having been among the original 12 amendments recommended by the 1st Congress, and which finally was ratified in 1992 by the requisite three-fourths of the states.

Since the U.S. Supreme Court first declared unconstitutional an act of Congress in *Marbury v. Madison* (1803), the Court has exercised the power of judicial review, that is, the power to interpret the Constitution and to declare void any laws or governmental acts in conflict with it. Before the Civil War, that power was exercised sparingly. However, following the war and especially during the 20th century, the Court has sometimes aggressively used—and, in the eyes of many critics, abused—its powers of judicial review.

The Supreme Court has had an uneven record in enforcing the Constitution. Although the Court has expanded its protection of certain rights, such as the 1st Amendment protection of freedom of speech, the Court also has virtually eviscerated other constitutional provisions, such as the 14th Amendment’s “privileges or immunities” clause. Since the late 1930s, the Court has followed a double standard of constitutional review under which it has given greater protection to certain preferred personal rights, but

less protection to property rights and economic liberty. Moreover, through its broad interpretations of congressional powers to spend money and to regulate interstate commerce, the Court in the late 20th century sanctioned the enormous growth of the national government, far beyond what the Constitution’s framers ever intended or imagined.

DNM

*See also* Bill of Rights, U.S.; Constitutionalism; Federalists Versus Anti-Federalists; Freedom of Speech; Madison, James; Separation of Church and State

### Further Readings

- Barnett, Randy E. *Restoring the Lost Constitution: The Presumption of Liberty*. Princeton, NJ: Princeton University Press, 2004.
- Cooke, Jacob E., ed. *The Federalist*. Middletown, CT: Wesleyan University Press, 1961.
- Ely, James W., Jr. *The Guardian of Every Other Right: A Constitutional History of Property Rights*. New York: Oxford University Press, 1992.
- Farber, Daniel A., and Suzanna Sherry, eds. *A History of the American Constitution*. 2nd ed. St. Paul, MN: West Group, 2005.
- Farrand, Max, ed. *The Records of the Federal Convention of 1787*. Rev. ed. 4 vols. New Haven, CT: Yale University Press, 1966.
- Kelly, Alfred H., Winfred A. Harbison, and Herman Belz. *The American Constitution: Its Origins and Development*. 7th ed. 2 vols. New York: W. W. Norton, 1991.
- Kurland, Philip B., and Ralph Lerner. *The Founders' Constitution*. 5 vols. Chicago: University of Chicago Press, 1987.
- Levy, Leonard W., ed. *Essays on the Making of the Constitution*. 2nd ed. New York: Oxford University Press, 1987.
- McDonald, Forrest. *Novus Ordo Seclorum: The Ideological Origins of the Constitution*. Lawrence: University Press of Kansas, 1985.
- Rutland, Robert Allen. *The Birth of the Bill of Rights, 1776–1791*. Rev. ed. Boston: Northeastern University Press, 1983.
- . *The Ordeal of the Constitution: The Antifederalists and the Ratification Struggle of 1787–1788*. Boston: Northeastern University Press, 1966.

## CONSTITUTIONALISM

Constitutionalism is the effort to impose a higher level order on the actions of government so that officials are not the judges of the limits of their own authority. Just as law is a limitation on action, a constitution limits the government’s actions and is therefore a “law for laws.” In the absence of a constitution, a state’s ruling power is ultimately arbitrary, and its decisions are matters of decree rather than of well-settled and generally understood principles. Such a society can provide little protection for individual rights, economic prosperity, or the rule of law.

Although some writers have defined the term *constitution* broadly enough to encompass any institution that helps



constitute a society—including languages or religious traditions—the term is more precisely used to describe the political arrangements that set the terms under which a government operates. Constitutions can be written, as in the United States, or unwritten, as in England. Constitutionalism in the Western tradition began with ancient lawgivers such as Cleisthenes of Athens, who reorganized the city's tribes and set rules for membership in the legislative body. The earliest known written constitutions, such as the Iroquois Confederacy or the *Leges* of San Marino, were much more like treaties or statutory codes that placed limits on government officials. The first written constitutions in the latter sense were probably those of Commonwealth England and the American colonies. The latter took either the form of royal corporate charters or improvised agreements such as the Mayflower Compact.

Constitutional government can be contrasted with government by decree; law is to arbitrary power as reason is to will: The distinction rests on whether the government's action is based on some overriding and separately justified purpose or the product of simple *ipse dixit*; a mere assertion of power. Thus, there are three basic purposes for a constitution: (1) to impose stable and predictable limits on the state, (2) to ensure widespread understanding and debate concerning changes to those limits, and (3) to require that the government act on the basis of general public reasons, rather than arbitrarily for the private welfare of political insiders.

Nations with unwritten constitutions have often suffered from the fact that their ambiguity has allowed political authorities to expand their powers in novel and unpredictable ways—which, in turn, set precedents for future expansions of authority. For example, England suffered a major constitutional crisis in the early 17th century when James I and his successors asserted claims to absolute monarchy, including the power to rule without Parliament. This expression of royal power conflicted with the views of early Whigs, who believed that sovereign authority existed only when the King acted in conjunction with Parliament. The subsequent clash led to civil war, as well as to the adoption of many of the documents and principles that make up the present-day English Constitution, including the Petition of Right, the Bill of Rights, and the concept of parliamentary sovereignty.

Although the advent of written constitutions helps avoid or minimize such controversies, regimes where constitutions are frequently rewritten generally suffer the same or worse effects because the government becomes unstable and behaves unpredictably. This endangers individual rights and deters economic investment and innovation. Peru, for example, went through five constitutions in the 20th century—which is one reason for its well-documented political and economic woes. To avert this mutability, James Madison urged his countrymen to adopt an almost religious reverence for their Constitution.

If constitutionalism is to accomplish its purposes of limiting and stabilizing the political order, it is essential that the government actually comply with it. Regimes such as the Soviet Union had written constitutions that included explicit guarantees of certain individual rights, including freedom of speech. Yet the actual operations of the government were completely arbitrary, with no adherence to the constitution's terms. Thus, the Soviet Union was a lawless regime, lending credence to Friedrich Hayek's observation that a totalitarian state is one in which law has essentially been abolished.

In addition to predictability, constitutionalism helps to ensure that changes in the scope and nature of state power are subjected to widespread discussion before they are implemented and that such changes are as unambiguous as possible. Where the structure of government can be drastically altered without an orderly, openly discussed, and unequivocal change to the constitution, the legitimacy of such changes are open to doubt, and individual rights are threatened. Squealer's midnight alterations to the Seven Commandments in George Orwell's *Animal Farm* are a well-known dramatization of this principle. Another more recent example is the debate spurred by the contention of Bruce Ackerman and others that the expansion of federal power during the New Deal—and the Supreme Court's decisions upholding that expansion—amounted to an unwritten amendment to the Constitution. But such "amendments"—enacted without formal popular consent—cannot be legitimately ascribed to the will of the people and set a dangerous precedent for manipulation of the Constitution by unelected elites.

James Buchanan has contended that one important role for a constitution is to restrain the possibility of legislation that redistributes wealth and opportunities between interest groups in society. A requirement that laws be generally applicable would eliminate lobbyists' "incentive[s] for investment in efforts to secure differentially or discriminatorily favorable treatment." James Madison saw this role as essential for the Constitution—if not the very definition of constitutional government: "In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger." Early in American history, the Due Process Clause was, in fact, read as a generality requirement under the theory of "substantive due process," and Cass R. Sunstein, otherwise unsympathetic to libertarian constitutionalism, has contended that it is "focused on a single underlying evil: the distribution of resources or opportunities to one group rather than another solely on the ground that those favored have exercised the raw political power to obtain what they want." However, as Anthony de Jasay has argued, such a requirement is insufficient because just as legislative majorities may seek to

influence the legislature for their own benefit, so they will seek constitutional regimes that will maximize the possibility for such legislation. The New Deal's relaxation of Due Process requirements is best seen as a step in this direction.

Because different constitutional interpretations will yield different conclusions regarding the limits of government power, debates over interpretation are often highly charged political matters. In the United States, libertarian constitutionalism tends to emphasize *originalism* or *textualism*—the first referring to the view that the constitution should be interpreted consistent with the way it was understood at the time of its ratification and the latter having reference to the view that the constitution should be interpreted strictly according to its text, rather than through broad interpretations of its terms. “Living constitutionalism,” by contrast, tends to be embraced by those who support an expanded government role that would allow it to reach beyond the Constitution's explicit limits. Expansive readings of the Commerce Clause, for instance—which was originally intended as a limited grant of federal authority—currently authorize the federal government to act virtually at will with respect to any matter connected with commercial enterprise in even the most attenuated way, thus replacing orderly constitutional government with a government that can determine the scope of its own powers. Hence, Roger Pilon has described such interpretive theories as “politics trumping law.”

Libertarian constitutionalism descends from the theories of James Madison and other classical liberals, whose views were taken up by John Quincy Adams, his protégé Charles Sumner, and other abolitionists and Radical Republicans of the Civil War era, including Lysander Spooner, Gerrit Smith, and Frederick Douglass. These Republican constitutionalists embraced natural rights-based theories to argue that protecting individual freedom is the leading goal of the constitution's limitations. These thinkers tended to emphasize the Declaration of Independence as a reference point for interpretation—or even as a binding legal document—a theory that has recently been called *liberal originalism*.

Republican constitutionalism was explicitly adopted in the 13th, 14th, and 15th Amendments, although these were severely undermined by decisions of the contemporaneous Supreme Court, such as *The Slaughterhouse Cases*. Although writers such as Eric Foner and Paul Kens describe this Republican constitutionalism as a facet of “Free Labor Ideology” and contend that it was devised in the 19th century as an ideological rationalization for capitalism, it in fact descended directly from the views of Madison, James Wilson, and other prominent constitutional framers. What was truly innovative and a challenge to the natural rights understanding of the Constitution was the view that it was a treaty between sovereign states. This theory was pioneered by such thinkers as John Taylor and John C. Calhoun and later defended by paleo-libertarians,

who contended that state sovereignty would help check the expansion of federal power. The best primer on most aspects of modern libertarian constitutionalism is Randy E. Barnett's book *Restoring the Lost Constitution*.

The underlying premise of Republican, and later libertarian, constitutionalism is that liberty takes precedence over democracy. This notion is consistent with the Constitution's unambiguous description of liberty as a “blessing” and the fact that in many particulars it limits the power of democratic majorities. Democracy is regarded as an instrumental good, justified only insofar as it is consistent with liberty. Libertarian constitutionalism emphasizes natural rights, which are incorporated into the Bill of Rights, through the Privileges or Immunities Clause of the 14th Amendment and by the 9th Amendment's reference to “other” rights beyond those explicitly listed. Libertarians reject the view that government is the source of rights and contend that it is only a mechanism for protecting rights that arise from an independent source. Therefore, government may not simply cancel such rights or create new ones by fiat that conflict with natural rights. The fact that natural rights are innumerable and that the 9th Amendment forbids the reading of the Bill of Rights as exhaustive requires courts to presume in favor of individual freedom when lawsuits are brought challenging the constitutionality of laws. This view contrasts with currently prevailing jurisprudence, under which most laws are presumed to be constitutional until they are proven inconsistent with explicit constitutional rights.

Although originally retarded by hostile Supreme Court decisions, important parts of Republican constitutionalism managed to prevail in the form of “substantive due process,” beginning with *Loan Association v. Topeka* decided in 1874, *Hurtado v. California* in 1884, and *Lochner v. New York* in 1905. These cases embraced the view that, because government exists to provide for the general public welfare, any law that promotes only the private welfare of particular groups, for no general public reason, is a mere act of force or will and, therefore, not a “law.” Thus, any law that takes property from A and gives it to B simply because B has greater political power, or because the legislature wished to confer a benefit on B, cannot qualify as “due process of law” and violates the 14th Amendment.

By the early 20th century, the Progressive theories of living constitutionalism and legal positivism—which reject natural rights and see law as simply the will of the lawmaker—have become increasingly popular. During the 1930s, the Supreme Court conclusively adopted them, abandoning substantive due process and natural rights almost entirely. Instead, the Court today generally defers to legislatures to such a degree that they are often free to act as they will, with little or no constitutional constraint. On the present Supreme Court, only Justice Clarence Thomas has explicitly endorsed a natural rights understanding of the Constitution, but his defense of the view that the

Constitution is a league of sovereign states and his refusal to endorse substantive due process disqualify him as a true libertarian constitutionalist.

A constitution is sometimes said to represent the will of the sovereign. In the United States, where the people are sovereign and the Constitution is explicitly ordained by "the people of the United States," the Constitution represents the basic agreement of the whole people—as distinguished from mere legislation, which only represents the agreement of the members of a particular legislature at a particular time. Thus, according to *The Federalist*, the judiciary is actually *enforcing* the will of the people—not overriding it—when it annuls a law that exceeds constitutional limits.

If a constitution is a higher order law that limits the legislative powers of the state, it must be drafted or authorized by some power other than the legislature. In his *Notes on the State of Virginia*, Thomas Jefferson declared that one of the leading defects of the Virginia Constitution at that time was that it could be altered by the legislature. This idea was problematic because a legislature could not have power to "pass an act transcendent to the powers of other legislatures," such as a constitution. "The other states in the Union have been of the opinion that to render a form of government unalterable by ordinary acts of assembly, the people must delegate persons with special powers." It was in this spirit that the federal convention of 1787 prepared, and special ratification conventions later approved, the U.S. Constitution. Moreover, the fact that it was not ratified by state legislatures made the 1787 Constitution an agreement of the whole people of the United States, as opposed to a league of sovereign entities, as were the Articles of Confederation. For Madison, this distinction was essential because "one of the essential differences between a 'league' and a 'Constitution' was that the latter would prevent subunits from unilaterally bolting whenever they became dissatisfied." Thus, the fact that the Constitution is, in fact, a constitution and not a treaty is decisive in the question of whether secession is constitutionally permissible.

TMS

See also Constitution, U.S.; Madison, James; Magna Carta; Rule of Law

## Further Readings

- Ackerman, Bruce. *We the People: Transformations*. Cambridge, MA: Harvard University Press, 1998.
- Amar, Akhil Reed. *America's Constitution: A Biography*. New York: Random House, 2005.
- Barnett, Randy E. "The Original Meaning of the Commerce Clause." *University of Chicago Law Review* 68 (2001): 101–147.
- Buchanan, James M. "Generality as a Constitutional Constraint." *The Collected Works of James M. Buchanan*, vol. 1. Geoffrey Brennan, Hartmut Kliemt, and Robert D. Tollison, eds. Indianapolis, IN: Liberty Fund, 1999. 427.

- Cooley, Thomas. *A Treatise on Constitutional Limitations*. Boston: Little, Brown, 1868.
- De Jasay, Anthony. *Justice and Its Surroundings*. Indianapolis, IN: Liberty Fund, 1998.
- Douglass, Frederick. "The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery?" *Frederick Douglass: Selected Speeches and Writings*. Philip Foner and Yuval Taylor, eds. Chicago: Lawrence Hill Books, 1999.
- Gerber, Scott. *To Secure These Rights: The Declaration of Independence and Constitutional Interpretation*. New York: New York University Press, 1996.
- Hayek, Friedrich. *Law, Legislation and Liberty: Vol 2. The Mirage of Social Justice*. Chicago: University of Chicago Press, 1978.
- Kens, Paul. *Justice Stephen Field: Shaping Liberty from the Gold Rush to the Gilded Age*. Lawrence: University Press of Kansas, 1997.
- Pilon, Roger. "How Constitutional Corruption Has Led to Ideological Litmus Tests for Judicial Nominees." *Nexus: A Journal of Opinion* 7 (2002): 67–78.
- Rosen, Gary. *American Compact: James Madison and the Problem of Founding*. Lawrence: University Press of Kansas, 1999.
- Sandefur, Timothy. "How Libertarians Ought to Think about the U.S. Civil War." *Reason Papers* 28 (2006): 61–83.
- Schor, Miguel. "Constitutionalism through the Looking Glass of Latin America." *Texas International Law Journal* 41 (2006): 1–37.
- Sunstein, Cass R. "Constitutionalism after the New Deal." *Harvard Law Review* 101 (1987): 421–510.
- . "Naked Preferences and the Constitution." *Columbia Law Review* 84 (1984): 1689–1732.

---

## CONTRACTARIANISM/ SOCIAL CONTRACT

---

The idea of a social contract as the basis for morality or political principles goes back a long way—there is, for example, a brief statement of it in Plato's *Republic*. More notably, the great writers on political and moral philosophy of the 18th century were contractarians. In our own time, John Rawls's work is regarded, both by him and those who are familiar with his writings, as falling within the general tradition of social contract theory, while David Gauthier's "morals by agreement" present an elaboration of the principles of contractarianism.

Inasmuch as contractarianism has specific reference to a theory about the foundations of moral and political philosophy, its relation to libertarianism is somewhat indirect. Libertarianism is a theory regarding the general principles of justice. The underlying support for these principles, in the contractarian view, is that such theories are rational only if all agree to it. Additionally, contractarianism has no direct connection to any actual historical event, such as a Constitutional Convention; the idea is more abstract than that.

Two features of contract are crucial. First, one who enters into a contract does so for reasons of his own, usually

ideas, Augustine also denied that unjust laws had the authority of law and compared governments to robber bands, but he regarded submission to government as a necessity in light of humanity's fallen nature. Also, it can be argued that the Christian emphasis on the sacred value of the individual soul laid the foundation for the development of theories of individual rights.

RL

See also Aristotle; Cicero; Epicureanism; Religion and Liberty; Republicanism, Classical; Stoicism

### Further Readings

- Cohen, Edward E. *Athenian Economy and Society: A Banking Perspective*. Princeton, NJ: Princeton University Press, 1992.
- Constant, Benjamin. "The Liberty of the Ancients Compared with That of the Moderns." *Benjamin Constant: Political Writings*. Biancamaria Fontana, ed. and trans. Cambridge: Cambridge University Press, 1988.
- Finley, M. I. *Politics in the Ancient World*. Cambridge: Cambridge University Press, 1994.
- Forrest, W. G. *The Emergence of Greek Democracy: 800–400 BC*. New York: McGraw-Hill, 1975.
- Hansen, Mogens H. *Polis and City-State: An Ancient Concept and Its Modern Equivalent*. *Acts of the Copenhagen Polis Centre*. Vol. 5. Copenhagen: Royal Danish Academy of Sciences and Letters, 1998.
- Hunter, Virginia J. *Policing Athens: Social Control in the Attic Lawsuits, 420–320 B.C.* Princeton, NJ: Princeton University Press, 1994.
- Leoni, Bruno. *Freedom and the Law*. 3rd ed. Indianapolis, IN: Liberty Press, 1991.
- Long, Roderick T. "Austro-Libertarian Themes in Early Confucianism." *Journal of Libertarian Studies* 17 no. 3 (Summer 2003): 35–62.
- Miller, Fred D., Jr., ed. *A History of Philosophy of Law from the Ancient Greeks to the Scholastics*. Dordrecht: Kluwer Academic, forthcoming.
- Muller, Herbert J. *Freedom in the Ancient World*. New York: Harper & Row, 1961.

concerned with a specific part of human life while the rest is left to the sphere of private action. Additionally, it commonly includes the idea that the scope of government action should be limited by a basic law or constitution that sets out the "rules of the game" for the political process and is not itself subject to everyday politics. In many cases, this constitution is an actual document—as, for example, in the United States or Germany—but it can be a matter of informal understandings and tradition as much as written text, as in the United Kingdom and Israel. Limited government also is intimately connected to the idea of the rule of law—that political power must be bound and limited by explicit and known rules and can be exercised only in a rule-defined way, rather than an arbitrary and unpredictable one.

However, the concept of limited government says nothing about how extensive the scope of government concern and activity should be, only that it should be limited. Thus, limited government is not necessarily the same as small government, which depends on how tightly the limits are drawn. For libertarians, limited government means small government because it is augmented by a second argument—that the constraints on government activity should be drawn tightly and restrictively. The antithesis of limited government is totalitarian government, where every aspect of human life is, or has the potential to be, the concern of the state and, as such, subject to the process of collective political decision making, rather than personal and private choice. This view of politics was theorized most explicitly by Benito Mussolini and Giovanni Gentile in *The Doctrine of Fascism* in 1932, but it also is a central feature of communist regimes at least in theory. Libertarians argue that contemporary social democratic regimes, while in theory disavowing this unrestricted view of legitimate government activity, have an inherent tendency in this direction. Just as the notion of limited government is associated with that of the rule of law, so the totalitarian concept of government is linked with the idea of the need for those with political power to have wide or even unlimited discretion and freedom of action and decision.

Historically, the idea of limited government has been formulated independently in a number of times and places, and it appears to be a common response by political thinkers to the reality of political power. In imperial China, Confucian thinkers argued for both natural and legal limits on the scope of politics and government in opposition to the views of the Legalists that all life should be subject to laws and political power. Classical Islamic thinkers argued that the scope of government should be limited by both the demands of piety and a clear distinction between the public and private, that is, with regard to government enforcement of moral rules. The most significant example of limited government, however, both in theory and practice (because of subsequent developments), took place in medieval Europe.

## LIMITED GOVERNMENT

Limited government is one of the central tenets of modern libertarianism. However, it is one libertarians share with many of their political opponents. The idea of limited government, although seldom explicitly defended, is in principle one that few will explicitly argue against. Put simply, the notion of limited government implies that political power should be used only for a number of specific or defined purposes and that the scope of government activity and legislation should be limited to what is necessary for those purposes. In other words, government should only be

Europe during the Middle Ages saw the development of a theory of the limits to political power and its embodiment in the formal institutions and laws then established. This development was not the product of design or philosophy, but was rather the result of real-life political disputes, above all the conflict between the Holy Roman Empire and papacy over the apparently trivial issue of clerical investiture and in the disputes between monarchs and their more powerful subjects and between aristocrats and associations of peasants and the inhabitants of towns. From the early 13th century onward, a series of documents and political settlements, starting with Magna Carta in 1215, made explicit the idea that the power of rulers was limited and defined. This view was challenged during the 16th and 17th centuries with the rise of the doctrine of political absolutism. However, even theories of absolute monarchy of the kind that appeared in Europe at this time were quite different from modern defenses of totalitarian government, a difference even greater in practice. Rather, the claims associated with absolute monarchy regarding the nature and origin of political power had implications that were dangerous for the idea of limiting the sphere of government. Opponents of the rise of absolutism initially relied on conservative arguments about the need to preserve existing institutions, but were increasingly driven to produce principled arguments based on ideas about the nature and origin of political power, which, it was claimed, ultimately derived from the consent of the governed and implied that government was a delegated power exercised over a specific and delimited area of life.

However, the question that more than anything else led to the explicit articulation of a doctrine of the limited scope of government was that of religious division and the need for toleration. The divisions created in most parts of Europe by the Reformation led to a series of devastating wars and political unrest. The solution that was eventually arrived at was that, although only one denomination was established within each state, religious pluralism should exist in Europe as a whole. A minority argued that the solution to religious dissension was to make religious belief an essentially private matter and so take religious belief and observance out of the public sphere of government responsibility. This view was first formulated in the Dutch Republic and Britain (and in other parts of Europe where absolutism had been fought off) by thinkers such as Baruch Spinoza and John Locke. However, to argue for this position, these thinkers first had to develop a theory about the proper sphere and limits of government and its nature as a necessarily limited activity.

Throughout the 18th and 19th centuries, classical liberals and their progenitors argued the case for limited and rule-bound government. They argued for the primacy, both moral and practical, of personal choice and judgment concerning how we live our lives as opposed to public and

collective decisions. This conclusion was grounded in the view that people were, in general, the best judges of their own interests and that truly moral behavior required the person involved to make decisions for themselves, for which they would bear the consequences, for good or ill. This precept implied strict limits on the scope of government. Limited government was thus intimately connected to the concepts of personal development and flourishing and grounded in the belief that only by limiting the scope of government could individual choice and self-development be maximized. This argument had its clearest and purest exposition in the work of Wilhelm von Humboldt in his *The Limits of State Action*. He maintained that a limited constitutional government also was a government of laws and not of men, the *Rechtsstaat* as it was known in Germany. The most prominent and historically significant example of a document expressing this view was, of course, the U.S. Constitution. However, it was only one of a number of such documents, the Belgian Constitution of 1830 being another influential example. The American constitution also showed a tactical division among classical liberals over how best to define the limits of government in constitutional rules. One method, found in the main body of the constitution, set out what the specific and enumerated areas of government power and responsibility were. The other, found in the Bill of Rights and looking back to earlier examples such as the Levellers' *Agreement of the People*, listed those activities that governments were explicitly excluded from concerning themselves with or doing. Experience suggests that the latter strategy has been more successful.

There were of course divisions among classical liberals over exactly where the limits of government should be drawn. Many were not as strict or rigorous as Humboldt and thus, for example, regarded education as a legitimate area of government responsibility. Thinkers who embraced the views associated with limited government also found themselves having to argue not only against others who wished these limits to be considerably broader, but also against those who rejected the idea of limits entirely. Among the first were advocates of what became known as the *Polizeistaat* (literally police state, but more accurately general welfare state) who claimed that governments had a responsibility to improve the moral and physical well-being of the public. A wider view of government's scope also was taken by many traditional conservatives, particularly in the Catholic and Lutheran parts of Europe. The more radical opposition came from followers of Rousseau. For them government was the embodiment of the General Will of society, which, by definition, sought the best interests of society as a whole. As such, providing government was correctly constituted so that it did indeed act in accord with the General Will, there were no theoretical limits to what it might choose to concern itself with. This radical view held

that, once governments were freed from dependence on a particular minority, they could become the instrument through which society as a whole acted to achieve its collectively willed ends and, as such, should not be limited. One response to both this and a perceived threat to personal independence and judgment from social, as opposed to government, pressure and action was John Stuart Mill's *On Liberty*, which restated Humboldt's view of a limited sphere for politics, but placed it on a different foundation.

In the first two-thirds of the 19th century in particular, the classical liberal argument for limited government tended to carry the day. Reviews of Mill's work were, on the whole, favorable and even went so far as to contend that, because Mill was clearly right, his ideas required no extended argument in their support. However, the latter part of the 19th century saw, first, a decisive shift in the direction of a looser and wider understanding of limited government in the shape of "New Liberal" and social democratic thought, and, second, in the rise of explicitly totalitarian politics. This tendency remained a minority before 1914, but the disruption brought about by World War I paved the way for more totalitarian political philosophies, such as fascism in Italy and Germany and communism in Russia. World War II led to the spread of the communist totalitarian ideologies beyond their original base in the Soviet Union. Faced with this challenge, a *de facto* alliance emerged during the cold war between the different varieties of politics that espoused some version of limited government against these totalitarian and comprehensive theories of politics. In the latter part of the 20th century, the explicit argument against limited government—of the kind put forward by Mussolini and Gentile—seemed to have been defeated, and the debate now became one between libertarians arguing for a strictly defined and limited government and social democrats and conservatives who put the case for a limited but more extensive one.

In recent years, the debate has begun to move back onto the kind of grounds that it occupied in the later 18th and early 19th centuries. Increasingly, social democracy, the dominant tendency in contemporary democratic politics, has become defined by state intervention not only in the nation's economic life, but by intervention in many aspects of what were formerly thought to be purely private areas of life, such as diet and personal habits. In other words, we are seeing a revival of the idea of the police power and the associated general welfare state of the kind that was advocated by Prussian cameralists 200 years ago. Currently, the debate increasingly centers on where to draw the division between private matters subject to personal choice and public matters where choice is exercised by some form of collective decision-making process. This notion is clearly relevant to the more general argument of how extensive government should be. Libertarians consistently argue that giving government a large role is bad in and of itself

because it reduces the extent of individual autonomy, which is necessary for the practice of virtue; further, it is dangerous because the larger the area of government concern, the more a logic of expansion applies, which will ultimately approach a totalitarian state.

SD

*See also* Civil Society; Constitutionalism; Judiciary; Rule of Law; Separation of Church and State

### Further Readings

- Bastiat, Frédéric. "The State." *Selected Essays on Political Economy*. Seymour Cain, trans. George B. de Huszar, ed. Irvington-on-Hudson, NY: Foundation for Economic Education, 2006.
- Hayek, F. A. *Constitution of Liberty*. Chicago: University of Chicago Press, 1960.
- Hobbes, Thomas. *Leviathan*. Richard Tuck, ed. Cambridge: Cambridge University Press, 1996.
- Humboldt, Wilhelm von. *Limits of State Action*. J. W. Burrows, ed. Indianapolis, IN: Liberty Fund, 1993.
- Locke, John. "Second Treatise on Government." *Two Treatises on Government*. Peter Laslett, ed. Cambridge: Cambridge University Press, 2005.
- Madison, James. "Federalist No. 10." *The Federalist*. Clinton Rossiter and Charles R. Kesler, eds. New York: Signet Classics, 2003.
- Mill, John Stuart. *On Liberty*. London: J. W. Parker and Son, 1859.
- Rand, Ayn. "The Nature of Government." *Capitalism: The Unknown Ideal*. New York: Signet, 1986.
- Spooner, Lysander. *No Treason: The Constitution of No Authority*. Boston: L. Spooner, 1867.

---

## LOCKE, JOHN (1632–1704)

---

John Locke was perhaps the most influential and paradigmatic of classical liberal thinkers. Locke studied and taught at Oxford from 1652 to 1667, at which point he joined the household of Lord Ashley (later the Earl of Shaftesbury) as his personal physician. As a member of Shaftesbury's circle, Locke was deeply involved in political opposition to Charles II and James II throughout the 1670s and early 1680s. Locke went into exile in Holland shortly after Shaftesbury's death in 1683 and only returned to England after the Glorious Revolution. His early works in political philosophy include the *Essays on the Law of Nature* (1663–1664), and the pro-tolerance *An Essay on Toleration* (1667). His major and mature works in political philosophy were *Two Treatises of Government* (written 1680–1683, published in 1689) and the *Letter Concerning Toleration* (written in 1685, published 1689, with the subsequent letters published in 1690 and 1692). Locke established his



the English Bill of Rights and aimed to guarantee the liberties for which the War for Independence had been fought.

RMD

See also Adams, John; Cato's Letters; Declaration of Independence; Jefferson, Thomas; Locke, John; Paine, Thomas; Revolution, Right of; Washington, George; Whiggism

### Further Readings

- Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge, MA: Harvard University Press, 1967.
- Colbourn, Trevor. *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution*. Chapel Hill: University of North Carolina Press, 1965.
- Higginbotham, Don. *The War of American Independence: Military Attitudes, Policies, and Practice, 1763–1789*. New York: Macmillan, 1971.
- Maier, Pauline. *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765–1776*. New York: Alfred A. Knopf, 1972.
- Rakove, Jack N. *Original Meanings: Politics and Ideas in the Making of the Constitution*. New York: Alfred A. Knopf, 1996.
- Royster, Charles. *A Revolutionary People at War: The Continental Army and American Character, 1775–1783*. Chapel Hill: University of North Carolina Press, 1979.
- Wood, Gordon S. *The Creation of the American Republic, 1776–1787*. Chapel Hill: University of North Carolina Press, 1969.

## ANARCHISM

Max Weber famously defined *government* as an organization with a geographic monopoly on legitimate coercion. Libertarianism puts severe limits on morally permissible government action. If one takes its strictures seriously, does libertarianism require the abolition of government, logically reducing the position to anarchism? Robert Nozick effectively captures the dilemma: “Individuals have rights, and there are things no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the question of what, if anything, the state and its officials may do.”

Libertarian political philosophers have extensively debated this question, and many conclude that the answer is “Nothing.” Even a libertarian minimal state is morally prohibited from (a) imposing taxes, or (b) granting itself a legal monopoly. By the standard Weberian definition, any government that respected these strictures would cease to be a government.

In isolation, this conclusion would probably be taken as a *reductio ad absurdum* of libertarianism. But upon consideration, libertarian economists, most notably Murray

Rothbard and David Friedman, concluded that the practical viability of anarchism is underrated: At least once established, so-called anarcho-capitalism would work better in pragmatic terms than a libertarian minimal government.

Libertarians’ interest in anarchism is complicated by anarchism’s historic association with the radical left. The most famous 19th-century anarchists, such as Peter Kropotkin and Michael Bakunin, are routinely described as anarcho-socialists or anarcho-communists. Anarchist mass movements—most famously, the CNT-FAI in pre-Franco Spain—were based on militant anarcho-syndicalist labor unions. Profoundly isolated from mainstream economics, left-wing anarchists rarely explain how their preferred society would function. If they favor voluntary egalitarian socialism, what will they do with people—especially abler people—who opt out? If all must join, does it not follow that a government is necessary to enforce participation? If people get to choose their commune, would not inequality reemerge among the more and less prosperous communes?

The territory controlled by anarchists during the Spanish Civil War elegantly illustrates these dilemmas. In the cities, anarchist workers took over their places of employment. However, because membership was voluntary, abler members demanded unequal shares, and workplaces with high capital-labor ratios refused to share. As many anarcho-socialists lamented, capitalism spontaneously reemerged. In contrast, in the country, anarchism took an Orwellian turn. Anarchist revolutionaries imposed forced collectivization at gunpoint, with—at best—token rights to opt out, producing small-scale Stalinism in all but name.

Despite anarcho-socialists’ denials, anarcho-capitalism has 19th-century antecedents. The most clear-cut example is Belgian economist Gustave de Molinari, whose controversial 1849 article, “The Production of Security,” forcefully argued “that no government should have the right to prevent another government from going into competition with it, or to require consumers of security to come exclusively to it for this commodity.” Individualist anarchists, especially Lysander Spooner and Benjamin Tucker, likewise maintained that the free market could and should take over the functions of the nightwatchman state. Spooner and Tucker held stereotypically socialist economic theories about interest, rent, and wages, but insisted that *laissez-faire* was the solution for these supposed evils, not their cause. It was primarily Murray Rothbard and David Friedman, however, who rescued anarcho-capitalism from modern obscurity. In their respective 1973 classics, *For a New Liberty* and *The Machinery of Freedom*, they laid the groundwork for modern anarcho-capitalist literature.

Almost all anarcho-capitalists were at one point advocates of a libertarian minimal or nightwatchman state, in which government limits itself to the monopolistic provision of police, courts, criminal punishment, and national

defense. The easiest way to grasp the anarcho-capitalist position is to start with the minimal state and then imagine what would happen if the free market absorbed its remaining functions.

A government police force supported by taxes would be replaced by police firms supported by paying customers. When disputes arose, police firms would turn to private courts for adjudication. Private courts, in turn, would strive to attract more subscribers by crafting judge-made law to prevent disputes from arising in the first place. Many rulings would be enforced by ostracism, bonding, or other nonviolent means. However, for violent offenders with few liquid resources, it would probably be necessary to have a private prison industry to extract restitution.

Anarcho-capitalism is often dismissed as utopian, but Rothbard rejects the charge: "In contrast to such utopians as Marxists or left-wing anarchists . . . libertarians do *not* assume that the ushering in of the purely free society of their dreams will also bring with it a new, magically transformed Libertarian Man." Indeed, anarcho-capitalists are deeply concerned about what economists call *incentive compatibility*: Would private firms in a defense services industry find it in their self-interest to behave as described?

Anarcho-capitalists predictably identify *competition* and *reputation* as the mechanisms that link selfish motives and socially beneficial results. Why would police firms do a good job for a reasonable price? If they fail, consumers would switch to a competitor. If Client A of Firm X accuses Client B of Firm Y and infringing his rights and B denies the charge, what would happen? A shoot-out between X and Y is possible, but unlikely. It would be more profitable for both sides to negotiate rather than fight. After all, the policemen work voluntarily and would have to be paid far more if bloodshed were a daily occurrence. In fact, business leaders would predict that such problems would likely occur and write contracts to handle them before they arose. Why would police agencies turn to a judge instead of defending their clients to the death? Agencies pursuing this strategy would counterproductively attract the high-risk clients. Why would judges give honest rulings instead of selling themselves to the highest bidder? A judge with a reputation for corruption would find it difficult to attract clients. How would one extract restitution from an indigent criminal? Convicted criminals would be sold to private prisons as indentured servants and released after they paid off their debt. Why would private prisons treat inmates humanely? Because a safe and healthy indentured servant is a productive indentured servant.

Even many libertarians find anarcho-capitalism outlandish and frightening. Therefore, it is worth pointing out that the market already plays a larger role in the defense services industry than is generally recognized. There are currently more security guards in the United States than government police. In many respects, private arbitration

now resolves more disputes than the public courts. The market has created an array of nonviolent punishments—from credit reports to bonding to eBay feedback ratings—to deter offenses the government fails to prosecute. Despite the private sector's large current role in the defense services industry, dangerous side effects have yet to materialize.

Even libertarians are often given to hasty rejection of anarcho-capitalism. Ayn Rand, to take the most famous example, asserted that warfare would erupt as soon as the client of one police firm became embroiled with the client of another police firm. She did not explain why profit-maximizing businesses would prefer bloodshed to arbitration. The young Roy Childs won notoriety in libertarian circles by pointing out the internal inconsistencies of her critique of anarchism in his "Open Letter to Ayn Rand."

Critics are on firmer ground when they doubt the ability of the free market to repel foreign invaders. How would it be in anyone's financial interest to shoulder this burden? Standard economics suggests that defense is a public good; competing firms would free ride off the efforts of others, leading to a suboptimal supply. Austrian economists like Murray Rothbard unconvincingly reject this conclusion on methodological grounds. David Friedman has a less ideological response. Friedman agrees that defense against foreign invaders is a public good. However, the total cost of this public good is only a fraction of the current level of charitable giving. It is not unrealistic to suggest that national defense could be funded by redirecting existing charitable impulses. Many would also add that even if a tax-funded minimal government is better equipped to repel foreign aggressors, it also is more likely to engage in foreign aggression, provoke foreign attacks, or stage a coup d'état against domestic liberty.

Libertarians are normally skeptical about the extent and effectiveness of business conspiracies to push prices above the competitive level. These conspiracies are plagued by an array of difficulties—most fundamentally, new entry. However, this risk seems markedly greater in the market for defense services. A cartel of defense firms might collude to raise prices and then short-circuit the market's usual checks by threatening to attack new entrants who dare to undermine the agreement.

Is this possible? Yes, but is it likely? That depends on the equilibrium number of firms in the industry. As David Friedman puts it, "If there are only two or three agencies in the entire area now covered by the United States, a conspiracy among them may be practical. If there are 10,000, then when any group of them starts acting like a government, their customers will hire someone else to protect them against their protectors." The number of firms, in turn, depends on the level of demand and the extent of scale economies. If demand is low and scale economies are substantial, there might only be a couple of rival police firms, just as a small town sustains only a couple of grocery

stores. But neither of these conditions is likely to hold in the defense services industry. Physical security is not a niche product; almost everyone would want to buy some, so overall demand for defense services would be fairly high. Although we must extrapolate with caution, the existing security industry does not exhibit substantial scale economies. Because privatization would sharply increase demand, a privatized police industry would probably be even more atomistic than it currently is.

Tyler Cowen advances a novel variation on the collusion theme. According to Cowen, defense services is a network industry, the defining characteristic of which is that competing firms must cooperate with each other to deliver an attractive product. For example, MCI competes with AT&T, but they also cooperatively interconnect their systems so MCI's customers can call AT&T's, and vice versa. If MCI users were only able to dial other MCI users, their phone service would be far less valuable. By the same logic, competing defense firms would want to interconnect so customers of Firm X could peacefully resolve disputes with customers of Firm Y.

In Cowen's view, this scenario gives rise to a special dilemma. If transaction costs are low enough to allow firms to interconnect, they also would probably be low enough to allow firms to cheaply collude to seize power. However, if transaction costs are too high for collusion, they also would prevent interconnection, leading to chaos and warfare. Either way, then, anarcho-capitalism will not work well. Cowen's thesis has been criticized for ignoring the fact that—in contrast to collusion—there is no incentive to cheat on an interconnection agreement.

In *Anarchy, State, and Utopia* (1974), the most famous modern work of libertarian political philosophy, Robert Nozick argues against the anarcho-capitalists that a minimal state could arise without violating libertarian rights. He begins by assuming that economies of scale in the defense services industry are so large that a single dominant firm would naturally emerge from the competitive process. This firm would then have the power to ban competing firms. More important, from a philosophical standpoint, Nozick maintains that the dominant firm would have the *right* to do so because rival judicial procedures would impose an illegitimate risk on the dominant firm's clients. Finally, Nozick maintains that the dominant firm would be morally obliged to compensate individuals who lose as a result of the ban, and the most natural form of compensation would be free defense services.

Anarcho-capitalists have heavily criticized every step in Nozick's thesis. Descriptively, Nozick provides little evidence of significant economies of scale. Normatively, Nozick's critics deny that a dominant firm could justifiably ban rivals merely because it felt that their procedures were too risky. At minimum, the dominant firm could not put its rivals out of business if they were to mimic the dominant firm's own procedural safeguards. Furthermore, if a ban is justified to

protect individual rights, there is no obligation to compensate those who lose as a result. Above all else, actual states did not arise in Nozick's rights-respecting manner, so, as Murray Rothbard put it, "it is incumbent upon Nozick to join anarchists in calling for the abolition of all States, and then to sit back and wait for his alleged invisible hand to operate."

Although dissenters remain, the consensus view of anarcho-capitalism held by libertarian scholars can be fairly summarized.

First, it is impossible to reconcile the minimal state with morally absolute individual rights. In terms of rights theory, only the anarcho-capitalist position is internally consistent. However, libertarians have become increasingly reluctant to embrace theories of absolute individual rights; in philosophical terms, consequentialism has gained considerably over deontology.

Second, there is at least a moderate risk that an anarcho-capitalist experiment would have poor consequences. Although it is more likely to be practically viable than usually believed, predictions about anarcho-capitalism's performance remain speculative. All we have are isolated historical examples, most notably David Friedman's account of medieval Iceland. Nevertheless, the modern industries of security, arbitration, credit rating, and the like could plainly play a much larger role without in any way endangering civilization. As these industries expand, it should be possible to slowly and safely learn whether anarcho-capitalists' optimism is justified.

BC

See also Anarcho-Capitalism; Childs, Roy A. Friedman, David; Hobbes, Thomas; Individualist Anarchism; Minimal State; Nozick, Robert; Rothbard, Murray; Spooner, Lysander; State; Tucker, Benjamin R.

## Further Readings

- Benson, Bruce. *The Enterprise of Law: Justice without the State*. San Francisco: Pacific Research Institute for Public Policy, 1990.
- . *To Serve and Protect: Privatization and Community in Criminal Justice*. New York: New York University Press, 1998.
- Bolloten, Burnett. *The Spanish Civil War: Revolution and Counterrevolution*. Chapel Hill: University of North Carolina Press, 1991.
- Caplan, Bryan, and Edward Stringham. "Networks, Law, and the Paradox of Cooperation." *Review of Austrian Economics* 16 (2003): 309–326.
- Childs, Roy. "The Invisible Hand Strikes Back." *Journal of Libertarian Studies* 1 (1977): 23–33.
- . "Objectivism and the State: An Open Letter to Ayn Rand." *Liberty Against Power: Essays by Roy A. Childs, Jr. San Francisco*: Fox and Wilkes, 1994. 145–156.
- Cowen, Tyler. "Law as a Public Good: The Economics of Anarchy." *Economics and Philosophy* 10 (1992): 249–267.
- Friedman, David. *The Machinery of Freedom: Guide to a Radical Capitalism*. LaSalle, IL: Open Court, 1989.

- Molinari, Gustave de. "The Production of Security." New York: The Center for Libertarian Studies, 1979.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Rand, Ayn. "The Nature of Government." In *The Virtue of Selfishness: A New Concept of Egoism*. New York: Signet, 1964. 107–115.
- Rothbard, Murray. *Man, Economy, and State*. Los Angeles: Nash Publishing, 1962.
- . "Robert Nozick and the Immaculate Conception of the State." *Journal of Libertarian Studies* 1 (1977): 45–57.

## ANARCHO-CAPITALISM

Anarchism is a theory of society without the state in which the market provides all public goods and services, such as law and order. Although most anarchists oppose all large institutions, public or private, anarcho-capitalists oppose the state, but not private actors with significant market power. For evidence that this system is workable, anarcho-capitalists point to the 19th-century American West, medieval Iceland, and Anglo-Saxon England.

Because anarcho-capitalism is predicated on a capitalist economic system, it requires markets, property, and the rule of law. (Many anarchists reject one or more of these elements. Some of those objections are discussed later.) Anarcho-capitalists believe that private entities will provide those goods and services necessary for society to function in peace and good order without the existence of a state that coerces individuals into paying for or obeying legal institutions.

Consider the anarcho-capitalist solution to the need for law and order. We can decompose *law and order* into a set of discrete services: rule production, protection (deterrence of rule violations), detection (capture of rule violators), adjudication (determination of guilt), and punishment. In most modern societies, these services are bundled together by the state, which requires all taxpayers to purchase the bundle. All of these services are economic goods. Bruce Benson discusses the issues surrounding the market provision of legal systems in detail, including descriptions of the extent to which many law services are already market-based.

Anarcho-capitalists often point to the commonwealth period of Icelandic history (930–1264 A.D.) as the best example of an anarcho-capitalist society. Economist David Friedman, for example, concluded his description of medieval Iceland by saying: "One might almost describe anarcho-capitalism as the Icelandic legal system applied to a much larger and more complicated society." (Benson also relies on the Icelandic example.) The Icelandic commonwealth had a flourishing society with remarkably little government. The Icelandic sagas or epic histories recently collected in *The Sagas of Icelanders*, although subject to

some scholarly debate as one might expect with 1,000-year-old folklore, present a fascinating example of a virtually stateless society.

Medieval Iceland's government had no executive, no criminal law, and no bureaucracy, and its system of chieftainships was based on markets. What we think of as criminal laws, against crimes like assault, murder, or theft, were resolved through tort-based civil law. As a result, there were few victimless crimes, and all penalties were monetary.

The key figures in this system were chieftains, called *goðar* (singular *goði*). The crucial feature of chieftainships was their market-based nature. The bundle of rights that constituted being a chieftain, called *goðorð*, was private property. As Friedman describes it, "if you wanted to be a chieftain, you found one who was willing to sell his *goðorð* and bought it from him." Allegiance to a chieftain was purely voluntary. The followers freely contracted with the *goði* for services. Even more important, switching allegiance to a different *goði* was possible and straightforward because Icelanders were not geographically limited in their choice of chieftain.

To see how this system functioned, consider the reliance on private entities to provide protection against violence. In the absence of police and courts, how did Icelanders prevent violent members of society from harming them? Physical harm to another required payment of damages, fixed according to a schedule that provided so much for loss of an eye, so much for loss of an arm, and so much for a killing. (Friedman estimates that the price of killing someone was between 12.5 and 50 years of income for an ordinary man.) Thus, an individual who harmed another would be required to pay the victim (or his heirs) for the harm caused. This payment system prevented the wealthy from abusing the poor, a frequent complaint by critics of anarcho-capitalism. If a wealthy individual harmed a penniless person, that person would receive enough funds as compensation to allow him to purchase retribution if the victim desired. Alternatively, the victim could sell or assign his claim to a stronger rival of his attacker and thus contract out collection.

The Icelandic commonwealth eventually came to an end in 1262–1263, when Icelanders voted to ask the king of Norway to take over the country. The reasons for this development remain obscure. Friedman speculates that Norwegian meddling; increased violence, which he calculates as roughly equivalent to our highway death rate today; or increasing concentrations of wealth and power made the system vulnerable and less stable.

Social anarchists, those anarchists with communitarian leanings, are critical of anarcho-capitalism because it permits individuals to accumulate substantial power through markets and private property. Noam Chomsky, for example, argued that anarcho-capitalism "would lead to forms of tyranny and oppression that have few counterparts in

human history. . . . The idea of 'free contract' between the potentate and his starving subject is a sick joke, perhaps worth some moments in an academic seminar exploring the consequences of (in my view, absurd) ideas, but nowhere else."

For these anarchists, the key issue is the existence of power, not who wields it. By rejecting any meaningful role for market forces and private property, however, social anarchists leave unresolved the mechanism for coordinating the economic activity necessary to sustain human existence and generally retreat into evocations of the need for community.

Some libertarians reject anarcho-capitalism and argue instead for a government limited to dispute resolution and preservation of order. They object to the variance in standards of justice and procedure likely to occur when law depends on market forces—law will vary among places and persons, just as the varieties of breakfast cereals do. The problem with this argument, as Friedman has observed, is that it assumes the government is controlled by a majority that shares a taste for similar principles of law. If such a majority exists, market mechanisms also will produce a uniform set of legal services. If such a majority does not exist, however, anarcho-capitalism better serves to produce a diversity of legal services that would satisfy diverse tastes.

A further libertarian criticism of anarcho-capitalism is its failure to limit the types of law that will be produced by market forces. If almost everyone desires restrictions on some particular behavior, an anarcho-capitalist society might impose such restrictions, whereas a libertarian one will not. Some anarcho-capitalists (e.g., Murray Rothbard and his followers) have made similar criticisms of the analyses of other anarcho-capitalists (e.g., David Friedman). Andrew Rutten uses game theory to explore various problems with an anarchist society, including this one. Given the potential for abuse of power even in anarchy, these critics argue, it is not necessarily clear that anarchy will be better at protecting rights than the state. A related libertarian criticism is that an anarchist system will break down as the result of collusion between the firms providing law and order so that eventually something like a state emerges, but without constitutional limits on state power.

AM

See also Anarchism; Friedman, David; Minimal State; Rothbard, Murray

## Further Readings

- Benson, Bruce. *The Enterprise of Law: Justice without the State*. San Francisco: Pacific Research Institute for Public Policy, 1990.  
 Cowen, Tyler. "Law as a Public Good: The Economics of Anarchy." *Economics and Philosophy* 8 (1992): 249–267.

Friedman, David D. *The Machinery of Freedom: Guide to a Radical Capitalism*. 2nd ed. LaSalle, IL: Open Court, 1989.

Kellogg, Robert, and Jane Smiley. *The Sagas of Icelanders*. New York: Viking Penguin, 2000.

Morriss, Andrew P. "Miners, Vigilantes & Cattlemen: Overcoming Free Rider Problems in the Private Provision of Law." *Land & Water Law Review* 33 (1998): 581–696.

Rutten, Andrew. "Can Anarchy Save Us from Leviathan?" *The Independent Review* 3 (1999): 581–593.

---

## ANTI-CORN LAW LEAGUE

---

In 1815, following the Napoleonic Wars, Great Britain imposed import duties on a large array of agricultural goods from abroad. Known collectively as the "Corn Laws," these laws prohibited the importation of foreign agricultural goods until the domestic price of wheat reached 80 shillings per quarter. In 1828, the laws were amended to allow a sliding scale of import duties—the duties fell as the prices at home rose. Still the measures remained highly protectionist and were condemned by liberal thinkers and statesmen around the British Isles. Some 11 years later, in 1839, the Anti-Corn Law League was founded to lobby for the repeal of these laws. The leaders of this group were Richard Cobden and John Bright, both of whom served in Parliament. They argued for a comprehensive liberal agenda, but at the forefront of their efforts were the causes of international trade and peace. Their efforts proved successful. In 1846, the Corn Laws were effectively repealed (although modest tariffs on some farm goods remained), and the league was disbanded.

Libertarians have long praised the efforts of the Anti-Corn Law League, arguing that it serves as a model for modern-day interest groups wishing to enact libertarian—indeed, radical—reform. Historians and economists, however, continue to debate whether the league was, indeed, fundamentally libertarian in orientation. Some have claimed that the league was composed primarily of self-interested manufacturers who believed that lowering domestic tariffs on agricultural goods would open markets for their industrial products. Foodstuffs would enter Britain from the continent, and, in exchange, manufactured items would flow abroad. These manufacturers, it is argued, had the same goals as libertarian free-traders, but their reasons were far from ideological. The efficacy of the league also has been debated at length. The league, to be sure, saw its goal achieved. But was it crucially instrumental in ending the Corn Laws? Or, instead, were the tariffs repealed primarily as a matter of simple economic necessity? On both points, the evidence is mixed.

There were, no doubt, members of the league who had little interest in a broader liberal agenda. But, in the main, the league was indeed a radical group comprising people



## RULE OF LAW

Rousseau's clear, affective style made him deeply influential, and his invocations of liberty inspired many, despite the contrarian nature of many of his ideas. The opening lines of the *Social Contract* are a striking example: "Man was born free, and everywhere he is in chains. Those who think themselves the masters of others are indeed greater slaves than they." This ringing endorsement of freedom brought courage to many who were suffering under the Old Regime, as well as great fame to its author. Although he quarreled and broke ties with Enlightenment liberals such as Diderot and Voltaire, the educated public read Rousseau's books in record numbers. His novel *La nouvelle Héloïse* was a great commercial success, as was his book-length treatise *Emile*, which proposed a system of education that would inculcate Rousseauian philosophy. Ironically, *Emile* was burned at both Paris and Geneva for its subversive section on natural religion, the "Confession of Faith of a Savoyard Vicar."

Rousseau's life was as paradoxical and tempestuous as his philosophy: The author of the best-selling educational and moral tracts of his era also fathered five illegitimate children and placed all of them in an orphanage. He wrote plays and ferociously attacked the theater. An advocate of unfeigned sincerity, Rousseau came to mistrust all around him, including the philosopher David Hume, who had offered him refuge in England. Rousseau's *Confessions*, published posthumously, were scandalous enough that certain of his admirers claimed that they were forgeries. Attempts to make sense of it all are likely to be futile, and Rousseau is chiefly known today for his works, which are among the most ready of all to invoke liberty as a word—and among the most ready of all to betray liberty as an ideal.

JTK

See also Enlightenment; French Revolution; Material Progress; Positive Liberty; Virtue; Wealth and Poverty

### Further Readings

- Cranston, Maurice. *The Noble Savage: Jean-Jacques Rousseau*. Chicago: University of Chicago Press, 1991.
- Damrosch, Leo. *Jean-Jacques Rousseau: Restless Genius*. New York: Houghton Mifflin, 2005.
- Rousseau, Jean-Jacques. *Confessions*. Angela Scholar, trans. New York: Oxford University Press, 2000.
- . *The Discourses and Other Early Political Writings*. Victor Gourevitch, trans. Cambridge: Cambridge University Press, 1997.
- . *Émile: Or, Treatise on Education*. William H. Payne, trans. Amherst, NY: Prometheus Books, 2003.
- . *Politics and the Arts: Letter to M. d'Alembert on the Theatre*. Allan Bloom, trans. and ed. Ithaca, NY: Cornell University Press, 1960.
- . *The Social Contract*. Maurice Cranston, trans. London: Penguin, 1968.

The political and philosophical doctrine of the rule of law is an integral feature of the classical liberal theory. It is a necessary, if not sufficient, element to a well-rounded theory of what constitutes a proper liberal society and, in a practical sense, provides the carapace within which individualism, the market and private property, as well as personal or moral liberties flourish. Its connection with liberty was well described by Albert Venn Dicey, the English jurist, who wrote: "Liberty is not secure unless the law, in addition to punishing every kind of interference with a man's lawful freedom, provides adequate security that everyone who, without legal justification, is placed in confinement shall be able to get free."

The rule of law is a guarantee against arbitrariness inasmuch as everyone, including and especially government, is subject to its constraints. Unlike in communist regimes, where the government acts entirely on the whim of the Party, in regimes characterized by the rule of law, politicians are not exempt from legal rules. To quote Dicey again: "With us [the United Kingdom] every official, from the Prime Minister down to a constable or collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen."

The rule of law is often presented as an important mechanism to ensure limited government because under it, if governments have to go through an enormously complex process of law-making and judicial action and to overcome restraints against the arbitrary seizure of property, there is likely to be less of it. One illustration of this constraint is the writ of habeas corpus, which requires that a charge be leveled against a person before he can be held in police custody against his will. The rule of law may be called an end-independent doctrine, which dictates that whatever the ends of government, it must follow certain procedures if its actions are to be regarded as legitimate. This notion derives from the general skepticism that liberals hold regarding the ends of government. Because there are innumerable disputes about the good life, it is wise to tolerate a certain kind of pluralism in which rival versions of the good compete with each other under the rule of law. It also accords with the antirationalist reservations that are a strong feature of the liberal arguments of someone like F. A. Hayek.

In contrast, a much stronger argument for limited government derives from the claim that a set of morally and economically certain purposes of government are demonstrable from first principles. This approach is reflected in those constitutions that have bills of rights attached to them, such as the first 10 amendments to the U.S. Constitution or the European Convention on Human Rights. Although these two approaches to limited government may reach the same conclusion on many issues, it is important to remember their distinct philosophical foundations.



The features of the purely formal, procedural rule of law are best expressed by Hayek. In *The Constitution of Liberty*, Hayek noted that laws should be perfectly general, name no one person or group, and be nondiscriminatory. This generality requirement is consistent with the operations of the market, which is indifferent to the sexual, racial, or religious origins of its participants. Thus, any law embodying such criteria for market action would be alien to the rule of law on grounds of both efficiency and morality. To be fully consistent with the rule of law, a putative statute should name no person or group or confer any type of privilege.

The major difficulty with this feature of the rule of law is that it does not invariably protect people potentially targeted by government because it is easy to demonstrate how a perfectly general law could be written that does nevertheless discriminate against a minority. The majority Protestant province of Northern Ireland in the United Kingdom once had its own legislative assembly—now restored—which at one point passed a law forbidding the playing of sport in public parks on a Sunday. Without mentioning Catholics, this group was the losers because it was their habit to play sports on Sunday, whereas Protestants did not. Yet this law would have passed muster under Hayek's standards. Indeed, the wholesale nationalization of the economy would be consistent with Hayek's rule of law, but seizing little bits would be discriminatory. It seems clear that if liberty is to be guaranteed, something more than the formally correct wording of a rule is required. Perhaps only a list of rights, a rationalistic, un-Hayekian approach, can properly protect liberty.

The same problem arises with respect to Hayek's position on taxes. He quite rightly sees the progressive income tax as a breach of the rule of law because it treats high earners unequally, but his preferred solution, a proportionate income tax, raises as many problems for libertarians. After all, this tax could in principle raise as much money as does a progressive tax. Yet perhaps there should be an absolute limit on the state's taxing powers, rationalistically determined. Although the rule of law prohibits retrospective legislation, and although a market could not work if what were legal today became illegal and subject to punishment tomorrow, are not all tax laws retrospective?

Even more important is the question of sovereignty. Almost all English proponents of the rule of law saw the final authority of law lying in the sovereign: first in the King and later in Parliament. They did not see, as the American revolutionaries later did, that sovereignty, however formulated and wherever located, was a threat to liberty and the rule of law. Dicey, the leading authority on the rule of law, was a fierce spokesman for both doctrines, sovereignty and the rule of law. Yet at the time he was writing, in the late 19th and early 20th centuries, the powers of an unlimited Parliament posed serious problems for liberty and the rule of law. The major victim of such regimes has been the individual

property holder. It is true that in the period from 1945 to 1951, when Britain was governed by a socialist administration, all of its reforms were enacted within the confines of the rule of law. Yet the difference between mere legality and the rule of law had been noticed by a near contemporary of Dicey's, Lord Hewart, in his prophetic 1929 work, *The New Despotism*.

In modern political thought, the theory of the rule of law is best understood in the context of democratic theory. Of course, there are many types of *democracy*, the most promiscuous word in political language: Almost all political doctrines profess their intimate connection with democracy. For the sake of convenience, the great variety of democratic theories may be reduced to two: direct and representative. The former, which derives from the politics of ancient Greece, envisages a direct role for citizens in political decision making. Traditionally, this form of direct democracy was reflected in the fact that citizens attended and voted in legislative assemblies. Outside the city-states of ancient Greece, however, this proved to be impractical, and in modern democracies the citizens take part by directly voting on issues through referenda. In representative democracies, the citizens' political role is limited to the choice of representatives who have the time and leisure to debate issues. Proponents of the rule of law on the whole favor representative democracy. Under direct democracy, the great mass of people are likely to be moved by passion rather than reason, and the democratic system disintegrates into straight mob rule. The transient decisions of direct democracies, at least superficially, appear in conflict with the rule of law, which requires the security of longevity for rules to provide the stability that the market transactors need. Edmund Burke became the most eloquent spokesman for this point of view in his famous speech to the electorate of Bristol, where he maintained,

Your Representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion. . . . You chuse a Member indeed; but when you have chosen him, he is not Member of Bristol, but he is a Member of *Parliament*.

However, there is reason to doubt Burke's wisdom in this regard because the main threat to the rule of law may come not from the mob, but from a myriad of interest groups that dominate modern representative assemblies. Public choice theory tells us that the modern representative is as self-interested as any market trader and cannot be relied on to act altruistically or to seek the public good. In attempting to gain government favors, they damage the rule of law. As Mancur Olson maintained,

It does not follow that the results of pressure group activity would be harmless . . . even if the balance of power equilibrium kept any one group getting out of line. Even if

such a pressure group system worked with perfect fairness to every group it would still tend to work inefficiently.

All of this pressure group activity is in breach of the rule of law as Hayek understands it.

However, there are examples from modern politics that show that direct democracy can produce classical liberal, or at least conservative, results. Perhaps the best of these is Switzerland, where the regular use of the referendum at the cantonal and federal levels has insulated the country from the advance of European socialist programs. Even today the combined spending of the cantons is still more than that of the federal government: a situation that has not obtained in the United States since the early part of the 20th century. In 2005, the electorates in the Netherlands and France rejected by referendum the proposed heavily centralist European constitution. In Japan, former Prime Minister Junichiro Koizumi conducted the 2005 general election as if it were a referendum on his plan to privatize the postal system: a market scheme that had been held up by a previous Parliament riddled with pressure groups.

Despite the depredations that it has suffered from communism, socialism, and, more surreptitiously, unlimited democracy, the rule of law remains an essential building block in the framework of a free society. Indeed, there are encouraging signs in the United States that some traditional values with respect to property are being reasserted. Over the past 20 years, the Supreme Court has delivered several decisions favorable to property owners in disputes involving the several legislatures' use of the takings power (eminent domain). If transactors are to be secure in their dealings, they need a reliable set of rules and not the creative activity of politically motivated judges. In a world of uncertainty about science, religion, and art, in a genuinely liberal society, these ultimate questions must be left to the individual conscience and not placed in the public domain, where government can use coercion to enforce its beliefs.

However, as Hayek has pointed out, there is a distinction between law and legislation. The former encompasses private actions, especially economic ones, and the rules that enable people to conduct their aims peacefully. The latter refers to those public actions that the state undertakes; legislation is not a series of guidelines, but a structure of commands. People are ordered to do things that they would not do or to refrain from doing things they otherwise would do were governments effectively restrained by the rule of law. In the modern world, there is too much legislation and not enough genuine liberty-enhancing law.

The rule of law is a necessary condition for a free society. However, it must be supplemented by other protections, notably constitutionalism and the absolute guarantee of private property. Only if these are realized will we really have a society governed by the rule of law and not the rule of men.

NB

See also Constitutionalism; Hayek, Friedrich A.; Hobbes, Thomas; Locke, John; Republicanism, Classical; Whiggism

### Further Readings

- Barnett, Randy. *The Structure of Liberty: Justice and the Rule of Law*. New York: Oxford University Press, 2000.
- Hayek, F. A. *Constitution of Liberty*. Chicago: University of Chicago Press, 1960.
- Hobbes, Thomas. *Leviathan*. Richard Tuck, ed. Cambridge: Cambridge University Press, 1996.
- Locke, John. *Two Treatises on Government*. Peter Laslett, ed. Cambridge: Cambridge University Press, 2005.
- Madison, James. "Federalist No. 10." *The Federalist*. Clinton Rossiter and Charles R. Kesler, eds. New York: Signet Classics, 2003.
- Olson, Mancur. *Power and Prosperity: Outgrowing Communist and Capitalist Dictatorships*. New York: Basic Books, 2000.

fewer meaningful ones, say, fewer acts of religious worship. But if we concede that the objects of freedom can be more or less significant, it is hard to imagine how we might “maintain the incorrigibility of the subject’s judgments about his freedom, or rule out second-guessing” with respect to these judgments. Taylor’s argument urges a return to what he calls “the most inspiring terrain of liberalism, which is concerned with individual self-realizations,” and it suggests “a view of freedom which sees it as realizable or fully realizable only within a certain form of society.” Of course, this line of argument does little to ensure that such a society will not bring with it “excesses of totalitarian oppression in the name of liberty.” Taylor’s point, however, is that these worries must be taken up in their own right, not predetermined by a particular definition of freedom.

Challenges to conceptions of justice predicated on negative accounts of freedom extend beyond the objections posed by the proponents of positive accounts. In particular, critics of libertarian conceptions of justice have charged that appeals to freedom as understood in its negative sense do not provide the support that one might attribute to them in arguments for the minimal state. Critics contend that freedom-based justifications for the minimal state fail even when we assume that negative freedom would be determinative in such an argument. G. A. Cohen, for example, maintains that “it is quite unclear that social democratic restriction on the sway of private property, through devices like progressive taxation and the welfare minimum, represents any enhancement of governmental interference with freedom.” Here it is important to notice that Cohen is concerned with negative freedom. His claim is that, without further argument, we cannot reject redistributive schemes on the grounds that they increase the total number of restrictions on negative freedom. For just as property rights constrain nonowners’ actions to maximize negative freedom for property owners, “incursions against private property which *reduce* owners’ freedom and transfer rights over resources to non-owners thereby *increase* the latter’s freedom.” Cohen concludes that “private property, like any system of rights . . . is a particular way of distributing freedom and *unfreedom*,” even in its negative variety.

This species of critique leaves the advocate of libertarianism with several possibilities for response. First, the libertarian can offer the argument that the minimal state does indeed enhance negative freedom. This argument would be all the stronger for showing that strong property rights increase negative freedoms on the whole in society. A second line of response better attends to the fact that certain negative freedoms have more value than do others. The rights-based form of this argument draws on conceptions of negative freedom typically associated with John Locke. On Locke’s account, the state should limit itself to a concern with those constraints on negative freedom that violate individual rights. Admittedly, the appeal to negative freedom

cannot be foundational in an argument for the minimal state. Because the value of the negative freedoms protected by the minimal state is grounded in a particular set of individual rights, the rights must be grounded in something other than negative freedom.

One alternative to the rights-based defense of certain negative freedoms is consequentialist in nature. Here the work of F. A. Hayek is instructive. In his book *The Constitution of Liberty*, Hayek makes the argument that, “the case for individual freedom rests chiefly on the recognition of the inevitable ignorance of all of us concerning a great many of the factors on which the achievement of our ends and welfare depends.” In other words, the negative freedoms identified with the minimal state allow individuals to “make use of this knowledge in their actions” for their own well-being and for the well-being of others. The consequentialist version of the argument thus allows one to defend a particular distribution of negative freedoms without an appeal to a particular set of individual rights.

TLP

See also Liberty in the Ancient World; Nonaggression Axiom; Paternalism; Positive Liberty; Rousseau, Jean-Jacques; Virtue

### Further Readings

- Berlin, Isaiah. “Two Concepts of Liberty.” *Four Essays on Liberty*. Oxford: Oxford University Press, 1969.
- Cohen, G. A. “Capitalism, Freedom, and the Proletariat.” David Miller, ed. *Liberty*. Oxford: Oxford University Press, 1991.
- Constant, Benjamin. “The Liberty of the Ancients Compared with That of the Moderns.” *Political Writings*. Biancamaria Fontana, ed. Cambridge: Cambridge University Press, 1988.
- Hayek, Friedrich A. *The Constitution of Liberty*. Chicago: Chicago University Press, 1978.
- Kant, Immanuel. *Groundwork of the Metaphysic of Morals*. New York: Harper & Row, 1956.
- Locke, John. *Second Treatise of Government*. Indianapolis, IN: Hackett, 1980.
- Mill, J. S. *On Liberty*. Indianapolis, IN: Hackett, 1978.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: HarperCollins, 1974.
- Rousseau, Jean-Jacques. *The Social Contract and Discourses*. London: J. M. Dent Ltd., 1973.
- Taylor, Charles. “What’s Wrong with Negative Liberty?” *The Idea of Freedom*. Alan Ryan, ed. Oxford: Oxford University Press, 1979.

## FREEDOM OF SPEECH

The emergence of freedom of speech as an essential value of Western civilization is inseparable from the emergence of individual religious liberty in the 17th and 18th centuries. For generations, following the Reformation of the

16th century, religious war, mutual fratricide, torture, hatred, and repression had rent the fabric of European society, which pointed to the increasing incompatibility of coercing inward belief and outward expression with the needs of civil and policy society. Further, the consciences of a growing number of Europeans were moved by the seeming contrast between the violence of such coercion and repression, on the one hand, and the claims of religion to be a source of peace and love, on the other hand. For reasons of practice and conviction, then, the call for liberty of belief and expression grew steadily more compelling for those who saw such spectacle as inconsistent with religion, creating a growing desire to find ways to live in societies of more mutual forbearance. The arguments on behalf of that mutual forbearance, however, led logically and in practice to freedom of speech being recognized as both a necessity of our living peacefully together and a moral end in itself.

Many of the calls for religious freedom initially were meant to apply only within limited but increasingly variegated communities of belief: to Protestants in general, for example; or, an extreme latitude at the time, to those who simply believed in God. As usually occurs with claims for liberty, however, the spirit of the arguments overflowed the initial boundaries envisaged. In societies that believed religion to be mankind's highest calling and whose members' greatest pain was occasioned by what they saw as heretical or impious expressions, winning the debate on behalf of liberty in religion—the area where restrictions on speech seemed the most reasonable—carried with it a victory on behalf of freedom of speech in general.

In the midst of the English Civil War, the Parliamentary party attempted to censor the book trade by means of the Licensing Order of 1643. In his *Areopagitica*, published in 1644, John Milton, although an ardent supporter of the Parliamentary cause, argued passionately on behalf of allowing the full force of free debate to sustain both liberty and truth. Although his opposition to censorship was intended for good Protestants alone, Milton's soaring defense of freedom of expression established more universal themes. One can choose truth and goodness, he wrote, only where there is "knowledge of evil": "I cannot praise a fugitive and cloistered virtue, unexercised and unbreathed, that never sallies out and sees her adversary." Confrontation with error, he wrote, is essential "to the confirmation of truth," and that confrontation depends on "hearing all manner of reason." Further, what men possibly could be trusted to regulate human discourse? When God gave man reason, Milton urged, "He gave him freedom to choose," which made human beings morally responsible. To "know" truth because of coercion was without merit, and Parliament would err grievously if it sought, even on behalf of the good, "to suppress all this flowery crop of knowledge and new light sprung up and yet springing daily in this city . . . to bring a famine upon our minds again." Any "free and

humane government" favored "free writing and free speaking." Liberty, he wrote, raises the human mind to rare heights: "Give me the liberty to know, to utter, and to argue freely according to conscience; above all liberties." We need not worry about the strength of truth: "Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter?" England, he urged, should be "the mansion house of liberty."

On the Continent, generations of religious warfare and persecution led many thinkers to believe that coerced uniformity and suppression of differences in belief were far more threatening to both the individual human soul and the stability and peace of society than diversity of opinion and freedom of expression. In many of his writings, the great critic, polemicist, and philosopher Pierre Bayle (1647–1706), a Huguenot living in exile in Holland after the revocation of even limited toleration of Protestants in France, argued that suppression of the outward expression of sincere belief, however false, corrupted the human spirit, leading men to a damnable cruelty and hypocrisy. Holland, finely balanced between Catholics and Protestants, permitted the most freedom of speech of any nation in Europe by the late 17th century, out of a prudential concern for what would follow if various claimants to truth had to fight for control of the state in order to have liberty of expression. In his *Tractatus Theologico Politicus* (1670), Baruch Spinoza devoted his final chapter to the proposition that, "in a free commonwealth, every man may think as he pleases and say what he thinks." Because belief was a matter of "individual right . . . no man may surrender it even if he wishes to do so," and governments that sought to compel belief were "tyrannical" and therefore unstable and subject to violent overthrow. At the heart of such compulsion was the effort to control expression, and "the most tyrannical government will be that in which the individual is denied the freedom to express and to communicate to others what he thinks." The function of the state was not "to transform human beings from rational creatures into beasts or automata," but, to the contrary, "to enable them to develop their mental and physical faculties in security" so long as they did not harm others in their liberty and security. In short, "the purpose of the state is, in actuality, freedom."

Shortly after his return to England from exile in Holland, the philosopher John Locke published *A Letter Concerning Toleration* (1689), in which he argued that "It is one thing to persuade, another to command" and "It is only light and evidence that can work a change in men's opinions." Locke did not intend that his arguments on behalf of toleration should apply in particular to atheists or Catholics, both of whom he believed represented a danger to the state and society. Yet as with the Declaration of Independence, whose "all men are created equal" and whose "life, liberty, and the pursuit of happiness" were far from inclusive claims in the author's mind, Locke had articulated

a principle that had a power to expand human freedom in general.

The inseparability of the campaign for religious toleration from the emergence of claims on behalf of freedom of speech is seen clearly in the American experience, where the 1st Amendment of the Bill of Rights—ratified in 1791—first established freedom of religion as an essential right and only then established freedom of speech as such. Arguing in 1776 on behalf of religious liberty in the Commonwealth of Virginia, James Madison urged that “the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men.” Madison’s own bill declared that “all men shall be free to profess, and by argument to maintain, their opinion in matters of religion.” With religion considered to be the most important set of truths, freedom there meant freedom of expression on virtually all matters of conscience and importance. Such freedom was, in Madison’s view, among “the natural rights of mankind,” and, thus, beyond the reach of any government.

Writing in support of the fullest possible freedom of belief and expression (absent direct harm to others), the English philosopher John Stuart Mill wrote in 1859, in his *On Liberty*, that, in order to establish freedom of expression, he would take the most difficult case of all, the right of those who dissented fundamentally in matters of religion, because if he could win the issue there, he had won it for all lesser instances. In making his plea for freedom of belief and expression, Mill essentially established the pole toward which both public opinion and jurisprudence gradually, fitfully, but powerfully would move.

Most people believe that they favor free speech, Mill argued, but, in fact, almost everyone sets limits at what they believe to be without value, or dangerous, or just obviously wrong. Why should we favor freedom of expression even to what we consider beyond the pale? For Mill, there were four ultimately compelling reasons, confirmed by history, for supporting “freedom of opinion, and freedom of the expression of opinion.” First, the opinion might indeed be true, and “to deny this is to assume our own infallibility.” Second, the opinion, although largely or almost wholly in error, most probably would “contain a portion of truth,” and censorship would deny us the possible “remainder of the truth” that only could be gained by “the collision of adverse opinions.” Third, even if prevailing opinion were the whole truth, if that truth were not “vigorously and earnestly contested,” it would be believed by most not on “its rational grounds,” but only “in the manner of a prejudice.” Only freedom of expression would permit truth to be embraced by conviction, not by memorization. Fourth, if people were not obliged, by liberty of opinion, to defend their beliefs, truth would be “in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct,” becoming merely a formula repeated by rote, “inefficacious

for good . . . and preventing the growth of any real and heartfelt conviction, from reason or personal conviction.” The negative consequences of the suppression of freedom of speech would fall both on the individual and the society deprived of strong and daring individuals. In Mill’s celebrated formulation: “If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.”

It was not until the 20th century that the U.S. Supreme Court, in a set of quite dramatic decisions, brought the interpretation of the 1st Amendment’s speech clause—“Congress shall make no law . . . abridging the freedom of speech, or of the press”—closer to Mill’s sense of such liberty. Originating in cases (and often in minority dissents) involving the rights of protestors opposed to American participation in World War I, a line of Supreme Court jurisprudence vastly broadened the meaning of protected free speech. In *Terminiello v. Chicago* (1949), writing for the Court, Justice William Douglas noted that the

function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.

In *Cohen v. Connecticut* (1971), the Court held that emotively powerful and offensive speech was constitutionally protected because outrage or anger “may often be the more important element of the overall message sought to be communicated.” “One man’s vulgarity,” Justice Marshall Harlan opined, “is another’s lyric.” In *United States v. Eichman* (1990), the Court struck down the Flag Protection Act of 1989, ruling that, although “desecration of the flag is deeply offensive to many . . . the same might be said . . . of virulent ethnic and religious epithet . . . and scurrilous caricatures.” In a free society, citizens were free, in the absence of direct harm, to be offensive and scurrilous in each other’s eyes. In *R.A.V. v. City of St. Paul* (1992), the Court invalidated a city ordinance that sought to protect individuals from expression that “arouses anger, alarm or resentment on others on the basis of race, color, creed, religion or gender.” Writing for the Court, Justice Antonin Scalia stated, “St. Paul has no such authority to license one side of a debate to fight freestyle, while requiring the other to follow Marquis of Queensbury rules.”

The Court, however, has never taken the “no law” provision of the 1st Amendment literally. Obscenity, speech posing “a clear and present danger” of imminent violence, and disclosures of information (such as troop or naval movements) deemed threatening to national security all remain unprotected. Nonetheless, the Court has brought the law closer and closer to the spirit of John Stuart Mill’s



observation about not only freedom of speech, but also the freedom to act on the beliefs we hold and express:

The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental or spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest.

The lessons learned during generations of religious fratricide have found a welcoming, although always threatened, home.

AK

See also Bill of Rights, U.S.; English Civil Wars; Locke, John; Religion and Liberty; Separation of Church and State

### Further Readings

- Bayle, Pierre. *Philosophical Commentary on These Words of the Gospel, Luke 14:23, "Compel Them to Come In, That My House May Be Full."* John Kilcullen and Chandran Kukathas, eds. Indianapolis, IN: Liberty Fund, 2005.
- French, David A., Greg Lukianoff, and Harvey A. Silvergate. *FIRE's Guide to Free Speech on Campus*. Philadelphia: Foundation for Individual Rights in Education, 2005.
- Madison, James. *James Madison on Religious Liberty*. Robert S. Alley, ed. Buffalo, NY: Prometheus Books, 1985.
- Mill, John Stuart. *On Liberty*. New York: W. W. Norton, 1975 [1859].
- Milton, John. *Areopagitica*. Eugene: University of Oregon, 1977 [1644].
- Spinoza, Baruch. *Theological-Political Treatise*. 2nd ed. Samuel Shirley, trans. Indianapolis, IN: Hackett, 2001.

## FREEDOM OF THOUGHT

Freedom of thought is a generic label that includes freedom of religion, speech, press, and artistic creation. It also was affiliated with a tradition of religious skepticism known as "freethinking" and "freethought." It is scarcely coincidental that 18th-century freethinkers were often associated with libertarian causes, such as freedom of speech and press. When dealing with an established church, such as the Anglican Church in England or the Catholic Church in France, to criticize the doctrines of Christianity also was to challenge the political status quo and render oneself vulnerable to potentially severe punishments for blasphemy.

The words *freethinking* and *freethinker* made their first appearance in English literature during the latter part of the 17th century, when they were applied to Pantheists, Epicureans, Pelagians, Socinians, Deists, and others who

dissented from traditional Christian doctrines. Although *freethinker* began as a term of opprobrium because it described a person who preferred the judgments of his or her own reason over the dictates of a religious or secular authority, it was soon embraced by many proponents of intellectual independence.

The most influential defense of freethinking was written by Anthony Collins, a Radical Whig and literary executor of John Locke's estate. In *A Discourse of Free-Thinking* (1713), Collins wrote:

By free-thinking I mean the use of the understanding in endeavoring to find out the meaning of any proposition whatsoever, in considering the nature of the evidence for or against it, and in judging of it according to the seeming force of the evidence.

As defined here, *freethinking* is synonymous with the critical investigation of a belief or doctrine. Collins was calling for more than the *legal* freedom to use one's mind; he was also challenging the widespread belief that some beliefs, whether in religion or politics, are sacrosanct and should therefore be immune to critical inquiry. In other words, Collins was defending the *moral* right to freedom of thought. As he put it, "we have a right to know or may lawfully know any truth. And a right to know truth whatsoever implies a right to think freely."

Arguments for freedom of thought were not confined to religious skeptics or to one particular religious group. The remarkable advances in science during the 17th century, which entailed the wholesale rejection of orthodox scholastic doctrines in physics and astronomy, illustrated the value of unrestrained critical inquiry. Equally important was the development of modern philosophy. René Descartes, for example, employed systematic doubt as a means of arriving at certainty. Although Descartes was careful to exempt essential moral and religious ideas from this methodical doubt, the Cartesian method—which was devoid of any appeals to authority—effectively communicated the message that freedom of thought is indispensable to the pursuit of truth.

The other great pioneer in modern philosophy in this period was Francis Bacon, a severe critic of orthodox doctrines in science and philosophy who called for a new "instauration" of knowledge. Perhaps the most lasting contribution of Bacon was his discussion of various "idols," or prejudices, of the human mind that hindered the pursuit of objective knowledge. The upshot was a stress on human fallibility and the innocence of error. There are various reasons that even well-intentioned people may disagree, according to Bacon. Dissent was not necessarily a result of the deliberate rejection of truth. Knowledge is cumulative; it advances as new information is discovered by empirical means. Intellectual progress (or what Bacon called "the



advancement of learning”) requires a continuous process of criticism, a willingness to examine accepted beliefs and of sorting the true from the false.

Arguments for freedom of thought appeared in various pleas for religious toleration and freedom of speech and press throughout the 17th century. One of the most influential was John Milton’s book, *Areopagitica* (1644), which was cited as late as 1851 by Herbert Spencer in his *Social Statics* as presenting a definitive case for toleration. Milton’s eloquent words—“Give me the liberty to know, to utter, and to argue freely according to my conscience, above all liberties”—would frequently be quoted by later libertarian writers.

Milton was a Puritan in his earlier years, but his fierce love of liberty caused him to repudiate the Puritan claim to a monopoly on religious truth. Thus, when the Puritan Parliament reinstated a law requiring the licensing of books in 1643, Milton responded with his *Areopagitica*, subtitled “A Speech for the Liberty of Unlicensed Printing, to the Parliament of England.”

Although the *Areopagitica* defense of religious toleration did not extend to “Popery and open superstition,” his forceful arguments transcended his own exceptions. Moreover, although his arguments specifically addressed prepublication licensing, they had much broader implications for freedom of thought. The inner logic of Milton’s arguments would later be developed by libertarians and applied to areas other than freedom of the press.

Especially significant was Milton’s statement that “here the great art lies, to discern in what the law is to bid restraint and punishment, and in what things persuasion only is to work.” This attempt to draw a bright line between the proper spheres of state coercion and voluntary social interaction reflected a dominant theme in libertarian political theory.

Much of the *Areopagitica* is devoted to the idea that liberty is the best “school of virtue,” a theme Milton was to take up in another essay. Milton contended that virtue and vice flowed from the same source, namely, the inner dispositions of the individual and that dispositions are ultimately determined by the judgments of reason. Because reason is “but choosing” (i.e., because reason is the seat of man’s moral agency), an action can be deemed virtuous only insofar as it flows from a free, uncoerced choice. Hence, “They are not skilful considerers of human thing, who imagine to remove sin by removing the matter of sin. . . .” The “trial of virtue” requires a free society in which individuals are free to form their own judgments and learn from their mistakes. God does not “captivate [man] under a perpetual childhood of prescription, but trusts him with the gift of reason to be his own chooser.”

During the 17th century, as arguments for free trade became increasingly popular, we find a number of analogies between freedom of thought and commercial freedom. In *Liberty of Conscience* (1643), the English merchant

Henry Robinson discussed “free trading of truth.” Similarly, Milton compared the licensing of books to a commercial monopoly enforced by law, which “hinders and retards the importation of our richest Merchandise, Truth.” By the early 19th century, British liberals explicitly defended freedom in religion (and of ideas generally) as one aspect of free trade. We commonly find expressions like “free trade in religion” and “free trade in Christianity” among foes of the Established Church.

This notion led to a theory of spontaneous order in ideas, one in which truth is most likely to emerge from uncoerced intellectual activity. According to Milton, truth “needs no policies, nor stratagems, nor licensing to make her victorious.” The philosopher Spinoza agreed that “freedom is absolutely necessary for progress in science and the liberal arts: for no man follows such pursuits to advantage unless his judgment be entirely free and unhampered.” John Locke was another who maintained that truth will fare well in the ideological marketplace: “Truth certainly would do well enough, if she were once made to shift for herself. . . . She is not taught by laws, nor has she any need of force to procure her entrance into the minds of men.”

Even after the arguments for freedom of thought and expression had become widely accepted in Europe and America, there was a concern among those philosophers and social theorists who were proponents of freedom of thought that the absence of legal restraints was not sufficient to maintain the intellectual vitality required for a free society. This concern was expressed by Alexis de Tocqueville in his classic work, *Democracy in America*. Tocqueville’s visit to America led him to arrive at a startling conclusion regarding its people: “I know of no country in which, generally speaking, there is less independence of mind and true freedom of discussion than in America.” The majority in America has “enclosed thought within a formidable fence. A writer is free inside that area, but woe to the man who goes beyond it.” Freedom of thought, which despotic monarchs had attempted in vain to suppress, was controlled in America by the power of public opinion. A dissenter with radical beliefs, although he may not have suffered legal punishment, could well find himself a social outcast, a person unable to hold political office and shunned by his neighbors.

A single despot, Tocqueville concluded, is able to strike the body, whereas a democracy “leaves the body alone and goes straight for the soul.” “Thought,” he wrote, “is an invisible power and one almost impossible to lay hands on, which makes sport of all tyranny.” Even the most absolute of European sovereigns with an unlimited power to punish the body cannot prevent the spread of seditious and unorthodox ideas within their realms or even within the confines of their own courts. But American democracy, in which the will of the majority is invested with a quasi-sacred status, has been able to control public opinion to a degree that exceeds the power of the most despotic monarch.

This concern with the potentially deleterious effects of democratic opinion on freedom of thought also was expressed in J. S. Mill's "On the Liberty of Thought and Discussion," a seminal chapter in *On Liberty* (1859). In addition to legal freedom, Mill emphasized the need for "diversity of opinion" and the need for personal toleration of unorthodox beliefs in maintaining the social conditions of a free society.

GHS

See also Censorship; Conscience; Freedom of Speech; Religion and Liberty; Separation of Church and State

### Further Readings

- Bacon, Francis. *The Major Works*. Brian Vickers, ed. New York: Oxford University Press, 2002.
- Collins, Anthony. *A Discourse of Free-Thinking*. New York: Garland, 1978.
- Descartes, René. *Discourse on Method and Meditations on First Philosophy*. Indianapolis, IN: Hackett, 1998.
- Locke, John. "A Letter Concerning Toleration." *The Works of John Locke in Nine Volumes*, vol. 5. 12th ed. London: Rivington, 1824.
- Mill, John Stuart. "On the Liberty of Thought and Discussion." *On Liberty*. London: J. W. Parker and Son, 1859.
- Milton, John. *Areopagitica and Other Political Writings of John Milton*. John Alvis, ed. Indianapolis, IN: Liberty Fund, 1999.
- Orwell, George. 1984. New York: Harcourt, 2000.
- Spencer, Herbert. *Social Statics: or, the Conditions Essential to Happiness Specified, and the First of Them Developed*. London: John Chapman, 1851.
- Tocqueville, Alexis de. *Democracy in America*. Harvey C. Mansfield and Delba Winthrop, eds. Chicago: University of Chicago Press, 2000.

## FREE-MARKET ECONOMY

A free-market economy is a complex of voluntary exchange relationships. Some of these relationships are fleeting, as when someone buys a T-shirt from a street vendor, whereas others are more elaborate, as when a company agrees to supply to a customer certain specified cellular telephone services over the course of a year. Common to all voluntary exchanges is each party's belief that his participation in the exchange will make him better off. This conclusion follows from the fact that all exchanges on free markets are voluntary. Because every person has the right to refuse any offer of exchange, each person accepts only those offers that he believes to be in his interest.

All that is necessary for a free-market economy to exist is security of private property rights and its natural twin: contract law to ensure that exchanges of these rights are truly voluntary. Each owner of each bundle of rights can

choose whether, when, and how to use or exchange his property in whatever ways he deems best. The only restriction is that this use or exchange not physically harm others' properties, nor obstruct others' equal rights to use their properties as they choose.

Even with no production, the voluntary exchange of property rights means that parties to these exchanges are made better off. But people go beyond simple exchange; they produce. Producers in a free-market economy assemble various inputs into outputs that are then offered to consumers. If consumers willingly purchase some output at a price sufficiently high to enable the producer to cover all of his costs, the producer makes both himself and his customers better off. The world is materially wealthier as a consequence of this production decision.

At first glance, this conclusion might appear odd because there is no centralized decision maker in a free-market economy. Consumption and production decisions are made individually by each property owner according to his own assessment of how his resources can best be used to promote whatever ends he chooses to pursue. It appears intuitive that the results would be chaotic. However, decentralization of decision making within a regime of private property rights not only does not lead to chaos, but, in fact, generates a coherent and prosperous economic order that would be impossible to achieve otherwise.

The great advantage of the free market is that it maximizes the amount of mutual accommodation at work to satisfy human wants. Mutual accommodation occurs whenever two or more people adjust their actions with respect to each other in ways that make each of them better off. Even if all human wants, resources, and production techniques were unchanging, the immense number of different wants and alternative ways of satisfying these wants implies that no single person or committee could possibly learn all that must be known to direct production as effectively as it is directed by the market. Decision making *must* be decentralized. Different bits of knowledge from literally millions of people are necessary to produce almost any products found in modern society.

Consider the ordinary pencil. No single person or committee can know what kind of wood is best used for the pencil shaft *and* where to find the trees that produce this wood *and* how to make the ax for felling the trees *and* where to find the graphite used for the pencil's center *and* how to build the machines used to extract the graphite from the earth *and* how to refine the graphite *and* where to find and how to mix the bauxite and alumina necessary to make the aluminum ferrule that holds the eraser on securely *and* how to extract the oil from the ground *and* how to refine it so that it serves as the base of the paint to coat the pencil *and* how to accomplish all of the other multitude of tasks necessary for the production of a pencil. A few moments of reflection reveal that the amount of

Opponents of retribution take this admission to be evidence that belief in retributive punishment is inherently statist and antilibertarian.

Can a rights-oriented advocate of retributive punishment escape the charge that his doctrine depends on an antilibertarian belief in the rights of the collectivity? This advocate of retribution can escape this charge if, but only if, he can explain how the extra whack of punishment is part of the justified response to the violation of the rights of individuals. The rights-oriented retributivist seeks to provide such an explanation—an explanation that is grounded in a view about the nature of individual rights and, hence, of what constitutes a violation. According to this view, an individual's right to a particular object involves more than a right to the amount of utility or welfare that is derived from possessing or utilizing that object. The individual's right also and crucially involves the moral authority to determine by one's choice of what will be done with that rightfully held object. Hence, when one's rightful holding is taken, the holder undergoes two distinguishable losses. The victim loses the utility or welfare (if any) that would be derived from a continued possession and use of the object. This loss is the harm that is engendered by the violation. However, that individual also is deprived of the choice about what will be done with that object. This loss is the wrong that is engendered by the violation. The violation of the victim's right both harms and wrongs the victim. Restitution is responsive to the harm; it seeks to annul the harm by bringing the victim back to the level of utility or welfare that would have been attained if one's right to the object had not been violated. But, the retributivist argues, restitution is not at all responsive to the wrong that is inflicted on the victim. The restitution-only stance, in effect, treats a right to an object as nothing beyond a claim to the amount or utility or welfare that the rights holder will derive from possessing or utilizing that object. In this respect, the restitution-only stance is like the doctrine of eminent domain; all that an individual's property right requires is that he be compensated after his property is seized.

In contrast, according to the advocate of retribution, a policy of restitution *and* retributive punishment is responsive to both sorts of losses that are imposed when rights are violated; it responds to both the harm and the wrong. Just as the harming of the victim opens up the rights violator to enforced compensation payments, the wronging of the victim opens up the rights violator to retributive punishment. According to rights-oriented retributivists, the infliction of the punishment annuls the wrong in a way that is comparable to the way in which the extraction of compensation annuls the harm. However, this simply points to the hardest task for defenders of retributive punishment, namely, the task of providing a satisfactory account of how punishment for a wrongful act annuls the wrong. Of course, even restitution does not annul the harm in the sense of rolling the clock back and fully compensating for the harm inflicted.

Thus, retribution cannot be faulted for not rolling back the clock and making it false that a wrong was inflicted. What the retributivist is able to say is that the punishment annuls the wrong in the sense that the punishment vindicates the victim's status as a rights holder. The punishment reaffirms the moral inviolability of the victim in the face of her all-too-actual violability. This vindication is the annulment of the wrong that the victim or the victim's family commonly sees in the conviction and punishment of the wrongdoer. The reason that the failure to convict and punish the wrongdoer is so disturbing is that this failure leaves the wrong in place; it leaves the wrong un-nullified. As the retributivist sees it, when the wrongdoer goes unpunished, the only route to the mitigation of the wrong is foregone.

Such a rights-oriented vindication of retributive punishment seems to be the only sort of justification of punishment that fits comfortably within the libertarian perspective. However, that perspective also reminds us of the complexity of the world of human interaction, the fallibility of our factual judgments, and the mistrust that is so richly deserved by institutions that present themselves to us as vindicators of our rights. Therefore, there is more than a considerable gap between the theoretical justification of retributive punishment and the endorsement of the practice of punishment as it actually exists.

EM

See also Coercion; Common Law; Judiciary; Nonaggression Axiom; Restitution for Crime

## Further Readings

- Acton, H. B., ed. *The Philosophy of Punishment*. London: Macmillan, 1969.
- Barnett, R. E. "Restitution: A New Paradigm of Criminal Justice." *Ethics* 87 (1976/1977): 279–301.
- Barton, C. K. B. *Getting Even: Revenge as a Form of Justice*. Peru, IL: Open Court, 1999.
- Jacoby, Susan. *Wild Justice: The Evolution of Revenge*. New York: HarperCollins, 1983.
- Miller, W. I. *Eye for an Eye*. Cambridge: Cambridge University Press, 2006.
- Murphy, J. G. *Retribution Reconsidered*. Dordrecht, Germany: Kluwer Academic, 1992.
- Pilon, Roger. "Criminal Remedies: Restitution, Punishment, or Both?" *Ethics* 88 (1977/1978): 348–357.
- Primoratz, Igor. *Justifying Legal Punishment*. Atlantic Highland, NJ: Humanities Press International, 1989.

## REVOLUTION, RIGHT OF

The right of revolution, according to classical liberal thinkers, is derived from the natural right of self-preservation. Because the purpose of government is to protect individuals against

assaults on their lives, liberty, and property, governments lack legitimacy if either they fail to offer such protection or attack the individuals they were created to safeguard. In such cases, individuals owe their government no loyalty, have no obligation to bow to its unjust measures, and may choose to dissolve the old regime in order to create a new government that performs its legitimate role. Thomas Jefferson stated this argument most famously when, in the Declaration of Independence, he wrote, echoing Locke, that “governments are instituted” to secure “inalienable rights.” If a government “becomes destructive of these ends,” he asserted, “it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form . . . most likely to effect their safety and happiness.”

The ancestors of classical liberalism writing in the 17th and 18th centuries frequently cited historical instances in which people exercised the right of revolution. In his *Discourses Concerning Government*, Englishman Algernon Sidney mentioned Greek and Roman revolutionaries such as Epaminondas, Publicola, Valerius, and Marcus Brutus, as well as biblical figures such as Moses, Gideon, David, and the Maccabees. In his famous outburst against George III’s sanction of the 1765 Stamp Act, American statesman Patrick Henry proclaimed before Virginia’s House of Burgesses that “Caesar had his Brutus, Charles the First his Cromwell, and George the Third may profit by their example.”

Henry might have added that England’s King John had his Magna Carta. Forced to sign the document when noblemen, clerics, and commoners united in protest of his disregard for the customary obligations of the monarchy, John agreed in 1215 to strict limits on his power to tax, incarcerate, and dispense unequal justice. He also agreed that, were he or his heirs to violate these rules and ignore subsequent complaints, a council elected by barons had the right, “by taking our castles, lands and possessions,” to “oppress us in every way in their power.”

Such historical precedents exemplify the theoretical basis of the right of resistance, which is predicated on the idea of a social contract entered into to achieve certain ends. Writers such as Sidney and Locke developed their ideas within a tradition that included the political philosophies of Thomas Aquinas, Marsilius of Padua, William of Ockham, Juan de Mariana, and Richard Hooker, all of whom maintained that government, authorized by either the governed or their ancestors, exists for specific purposes. They shared the belief that governments existed for the purpose of permitting individuals to collectively secure the safety that was lacking when all lived independently in—as they described it—a state of nature.

Locke wrote that the fundamental “Law of Nature” proscribed anyone from harming another “in his Life, Health, Liberty, or Possessions.” Yet solitary individuals found

themselves open to murder, injury, enslavement, and theft when confronted with superior force. Thus, reasonable, self-interested people joined together and formed governments to protect themselves. As Thomas Gordon, coauthor of *Cato’s Letters*, explained, “What is Government, but a Trust committed by All, or the Most, to One, or a Few, who are to attend upon the Affairs of All, that every one may, with the more Security, attend upon his own?”

Proponents of the right of revolution had their critics. Thomas Hobbes had a particularly negative view of the anarchic state of nature and was prepared to support even the most absolutist of governments provided they imposed order. Once an individual entered into a society, Hobbes maintained, he could rightfully defy the orders of the sovereign only in defense of his life. In contrast, David Hume rejected the idea of a social contract, although he acknowledged “the agreement by which savage men first associated and conjoined their force.” Hume contended that in nearly every instance this agreement was “so ancient” as to have been “obliterated by a thousand changes of government and princes”—in other words, “it cannot now be supposed to retain any authority.” Regimes, he said, were founded on conquest far more often than consent.

Those who posited that governments rested on the consent of the governed, but denied that a right to revolution existed, rebuked their opponents by pointing out the problems faced by those who accepted an alternative theory. Men could no more permanently give away their liberty, Locke asserted, than they could take their own lives. People who question the right of revolution, he thought, might as well cast doubt on the propriety of men who “oppose Robbers or Pirates, because this may occasion disorder or bloodshed.” In other words, without such checks on political authority, the wolves of government might feed freely on the sheep they governed. In such a scenario, Sidney asserted, “forests would be more safe than cities.” Both Locke and Sidney identified themselves with the opposition to the Stuart depredations on English liberties, and Locke was a firm supporter of the post-1688 establishment. In that year, members of Parliament had deposed James II, who on several occasions had overreached his authority, and installed as monarchs William and Mary. In the tradition of King John, they agreed to new limits on the power of the monarchy. They also recognized a number of civil rights, all of which bolstered the protection of the natural rights to life, liberty, and property.

Advocates of the right of revolution emphasized that governments could not be dissolved, as Jefferson wrote in the Declaration of Independence, “for light and transient causes.” The American Revolution against British rule, he maintained, was a case in which “repeated petitions” for reform had been “answered only by repeated injuries.” Jefferson assured the world that the American revolutionaries

had met the tests of Sidney, Locke, and John Milton, who believed that the overthrow of governments required significant justification, requiring “a long train of Abuses, Prevarications, and Artifices,” as Locke wrote. In such instances, he maintained, people have as much right to overturn their government as a ship’s passengers do to mutiny when the captain of their vessel, despite contrary winds, leaks, and low supplies, steers them into a hurricane.

Because neither ruler nor ruled should be subject to arbitrary action, singular instances of government injustice should be met with personal resistance instead of revolution. Good governments listen to the governed and revise unjust laws. Political authorities “who know the frailty of human nature will always distrust their own,” Sidney contended, “and desiring only to do what they ought, will be glad to be restrained from that which they ought not to do.” Likewise, people tend to restrain themselves from rash action. “*Revolutions happen* not upon every little mismanagement in publick affairs,” Locke maintained, for even “*great mistakes*” of rulers will be endured by the people “without mutiny or murder.” Only when regimes ignore or outlaw all criticism, public protest, and other forms of resistance may the people turn to violent resistance.

If these theorists are correct, then one of the most powerful safeguards of individual rights—as well as of law and order—is a society’s recognition of the right of revolution. The public’s willingness to exercise this right discourages government officials from ignoring their most basic obligations to the governed.

RMD

See also American Revolution; Glorious Revolution; Jefferson, Thomas; Locke, John; Secessionism

## Further Readings

- Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge, MA: Harvard University Press, 1967.
- Brooks, David L., ed. *From Magna Carta to the Constitution: Documents in the Struggle for Liberty*. San Francisco: Fox & Wilkes, 1993.
- Locke, John. *Two Treatises of Government*. Cambridge: Cambridge University Press, 1988.
- Rossiter, Clinton. *Seedtime of the Republic: The Origin of the American Tradition of Political Liberty*. New York: Harcourt, Brace, 1953.
- Sidney, Algernon. *Discourses Concerning Government*. Indianapolis, IN: Liberty Fund, 1990.
- Trenchard, John, and Thomas Gordon. *Cato’s Letters or Essays on Liberty, Civil and Religious, and Other Important Subjects*. Indianapolis, IN: Liberty Fund, 1990.
- Tuck, Richard. *Natural Rights Theories: Their Origin and Development*. Cambridge: Cambridge University Press, 1979.

## RICARDO, DAVID (1772–1823)

David Ricardo was a brilliant classical economist. His policies of free trade and hard money helped propel Britain into its role as “workshop of the world” and as an industrial giant, yet his labor theory of value and antagonistic model of capitalism proved misguided and gave unexpected support to the Marxists and socialists.

Born in London to a large Jewish family, Ricardo made his fortune when a relatively young man as a stockbroker on the London Stock Exchange. He was a speculator par excellence, allegedly making a million pounds sterling in 1 day following the Battle of Waterloo. In 1815, he purchased a large estate called Gatcomb Park in Gloucestershire and devoted the remainder of his life to intellectual interests. In 1819, he was elected to Parliament. Four years later, at the age of 51, he died suddenly of an ear infection.

In the 1810s, Ricardo wrote a series of essays and books promoting laissez-faire. He argued that England’s raging inflationary price spiral was caused by the Bank of England issuing excessive bank notes to pay for the war against France. Ricardo’s hard-money views eventually led to England adopting the classical gold standard and 100% reserve gold backing of its currency, with the Peel Act of 1844. He vigorously attacked the Corn Laws, England’s notorious high tariff wall on wheat and other agricultural goods, which was ultimately repealed in 1846. He made profound contributions to economics, including the laws of comparative advantage, diminishing returns, and the quantity theory of money.

He is considered the inventor of abstract model building in economics, creating a mathematical model with a few simple variables, a technique used later by such diverse economists as Karl Marx, John Maynard Keynes, Paul Samuelson, and Milton Friedman.

But it was this abstract reasoning that also has been called the “Ricardian Vice.” In his work *On the Principles of Political Economy and Taxation* (1817), Ricardo created an oversimplified “corn” model that led to an antagonistic view of capitalism, where values are determined by labor inputs and where wages can only increase at the expense of profits. His analysis of the nature of production concluded that wages tend toward subsistence levels, known as the iron law of wages. Ricardo thought that over time, as the population grew, an increased demand for food would have the natural effect of raising its price, which would lead to an increase in the value of labor. Yet any increase in the value of labor, Ricardo concluded, must invariably lead to a fall in profits. Ricardo’s dismal science, together with the doctrines of his friend, Thomas Malthus, moved economics away from Adam Smith’s invisible hand with its harmony of interests and onto a path of class antagonism and exploitation, giving ammunition to socialist and Marxist causes.

MaS



founders envisioned the Electoral College as a selection committee to choose the president, insulating the selection of the president from direct input from the citizens. The process never worked quite as they intended, and it evolved into a more democratic one by the 1830s, in which citizens nominally voted for the president. Similarly, the Constitution originally provided for Senators to be chosen by their state legislatures, and this process was altered only in 1913 when the 17th Amendment mandated their direct election. Yet as the government was originally designed, only members of the House of Representatives were to be directly accountable to the citizens. If each of the three branches of government were given equal weight, as would be required if a system of checks and balances were to work, then the government would only be one-sixth democratic, with only half of the legislative branch of government subject to direct popular control. However, with the popular election of the president and Senators, it is now two-thirds democratic. The U.S. government is much more democratic and its leaders are much more immediately accountable to its citizens than when the nation was founded.

The 20th century was characterized by a deep ideological divide between oppressive communist dictatorships led by the Soviet Union and freer capitalist democracies, the most prominent of which was the United States. This war of ideologies led many people to equate democracy with freedom. Yet democracies have the potential to be as tyrannical as dictatorships, and the road to freedom is not to move from dictatorship to democracy, but from bigger to smaller government. Although democracies tend to be freer than dictatorships, democracy and freedom are by no means the same thing, and more democracy does not necessarily bring more freedom with it.

RGH

See also Buchanan, James M.; Condorcet, Marquis de; Constitution, U.S.; Public Choice Economics; Tocqueville, Alexis de

## Further Readings

- Arrow, Kenneth J. *Social Choice and Individual Values*. New Haven, CT: Yale University Press, 1951.
- Black, Duncan. *The Theory of Committees and Elections*. Cambridge: Cambridge University Press, 1958.
- Buchanan, James M., and Gordon Tullock. *The Calculus of Consent*. Ann Arbor: University of Michigan Press, 1962.
- Bueno de Mesquita, Bruce, Alastair Smith, Randolph M. Siverson, and James D. Morrow. *The Logic of Political Survival*. Cambridge, MA: MIT Press, 2003.
- Downs, Anthony. *An Economic Theory of Democracy*. New York: Harper & Row, 1957.
- Hamilton, Alexander, John Jay, and James Madison. *The Federalist*. Washington, DC: National Home Library, 1937.
- Holcombe, Randall G. *From Liberty to Democracy: The Transformation of American Government*. Ann Arbor: University of Michigan Press, 2002.

Hoppe, Hans-Hermann. *Democracy, the God That Failed*. New Brunswick, NJ: Transaction, 2001.

Olson, Mancur. *The Rise and Decline of Nations*. New Haven, CT: Yale University Press, 1982.

Tocqueville, Alexis de. *Democracy in America*. New York: Knopf, 1963 [1835].

## DEVELOPMENT, ECONOMIC

Economic progress is a modern phenomenon. For most of human history, growth was stagnant or low, calculated on a per-person basis. Mass poverty was the norm. According to the World Bank, in 1820, about 75% of the world's population lived on the equivalent of \$1 a day or less. Today, that figure is about 15% according to the bank and even less according to leading independent economists.

The modern era of economic growth that began in Western Europe in the mid-18th century and that has since spread unevenly around the world has produced a diverse record of economic development. Western Europe, its offshoots, and Japan have experienced sustained increases in wealth; poorer countries have gone through erratic growth cycles; some have seen declines in income or have merely stagnated; and at least one country—Argentina—went from developed country status in the early 20th century to developing country status. In recent decades, a minority of poor countries have enjoyed economic success by achieving and sustaining high growth.

The varying growth paths, including the West's initial escape from poverty, have prompted a diversity of explanations about what causes prosperity. As far back as 1755, Adam Smith cited the importance of policies and institutions as key determinants of economic progress, factors he would highlight later in his monumental work, *An Inquiry into the Nature and Causes of the Wealth of Nations*. "Little else," he wrote, "is requisite to carry a state to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things."

Smith focused mainly on Europe and the Western world, as did other classical economists. It was not until the closing years of World War II and the postwar era that a strong interest arose among economists and policymakers in the development of what came to be known as the Third World. It was during this period that the field of development economics, a subfield of economics, was born. The promotion of economic development as a policy objective of rich countries became institutionalized through various foreign aid programs.

The early development economists were influenced by the experience of the Great Depression, which they interpreted as a failure of the free market, and by Keynesian



economics, which emphasized macroeconomic stimulation of national demand to reduce unemployment and spur growth. The apparent success of the Soviet Union at industrialization also influenced policy prescriptions for rapid growth. From the beginning, the orthodoxy in this field viewed industrialization and capital accumulation—characteristics associated with advanced economies—as policy goals. The lack of capital was seen as a major cause of poverty. Paul Rosenstein-Rodan and Hans Singer wrote about the “vicious circle” of poverty, in which the lack of savings and investment perpetuated underdevelopment as small markets and limited resources made it unlikely that private investment would rise to a level sufficient to raise growth. Theorists assumed a direct relationship between investment levels and growth rates, and growth models calculated the “financing gap” said to exist in poor countries. Foreign aid was used to fill that gap.

Trade pessimism also dominated the thinking of development economists and Third World governments. Ragnar Nurkse believed that the conditions that helped developed countries increase exports in the 19th century no longer held and that trade would stimulate unnecessary consumption and reduce savings rates in poor countries. Raul Prebisch argued that developing countries faced deteriorating terms of trade—the price of their exports, mainly primary products, fell in relation to the price of their imports, mainly industrial goods from rich countries. Thus, free trade favored rich countries and condemned poor nations to poverty.

The policy response to these analyses was protectionism and development planning. Poor nations erected trade barriers to encourage the growth of domestic industry. The contribution of agriculture to development was considered to be limited, and the rural poor were thought to be unresponsive to price signals in a market economy. Because private capital was seen as unable or unwilling to invest in poor countries, government planning became widespread. Policies included reliance on price and wage controls, state-owned enterprises, agricultural marketing boards, government-directed credit, capital controls, and extensive regulation of the private sector. Gunnar Myrdal recommended “central planning as a first condition of progress.” Countries such as India and Pakistan adopted Soviet-style 5-year plans.

Such planning was supported and encouraged by the World Bank and other aid agencies, which were thought to provide a “big push” to poor nations and, in the view of Walt Rostow, lead to an economic takeoff. The idea that modernity had to be forced on backward societies pervaded the development orthodoxy. Myrdal wrote approvingly about compulsion to make planning succeed.

Dissent against the development consensus arose, but was limited to a few voices in the wilderness. Peter Bauer, the most articulate of the dissenters, criticized the disregard of individual choice, reliance on extensive state

interventionism, and the obsession with capital accumulation. Bauer explained, “To have money is the result of economic achievement, not its precondition.” Thus, he noted that the notions of a vicious circle of poverty and of foreign aid as essential to development were absurd as is evidenced by rich countries that were once poor but developed without outside aid. In Bauer’s view, decentralized decision making in the market led to the best use of resources and limited an increase in “man’s power over man.” Economic progress depended on the complex interaction of policies, institutions, and values, not all of which were easily susceptible to measurement or manipulation.

It would take decades of development experience, however, before some of those views became more widely shared. By the 1960s, inward-looking development strategies were already failing. Protection of domestic industries increased production costs on agriculture and prices on consumer goods, but failed to produce quality products. Agricultural goods also often faced export taxes. The bias against agriculture depressed that sector, perpetuating poverty in rural areas, and reduced its export earnings. Imports of capital goods and even food increased, exchange rates became overvalued, and countries began having balance of payment problems.

Highly protected industrialization turned out to discourage exports and lead to macroeconomic distortions. But not all developing countries followed that model. In the 1960s, South Korea and Taiwan began turning away from import substitution industrialization and toward the open trade policies that characterized Singapore and Hong Kong. In 1979, Ian Little documented the four nations’ reliance on comparative advantage:

The major lesson is that labor-intensive export-oriented policies, which amounted to almost free-trade conditions for exporters, were the prime cause of an extremely rapid and labor-intensive industrialization, which revolutionized in a decade the lives of more than 50 million people, including the poorest among them.

As the four tigers advanced economically, wages rose, poverty fell, and their economies became modern, more service-oriented, and dependent on higher skills and higher technology. Japan’s postwar rise from devastation to First World country within a matter of decades also set an example. Labor-intensive production then shifted to other countries in Asia as, among others, Thailand, Malaysia, Indonesia, and China began opening their economies.

The development orthodoxy, meanwhile, went through various fads and adjustments, emphasizing, for example, government support for agriculture and redistribution to the poor. However, it was not until the outbreak of the Third World debt crisis in the early 1980s and the subsequent collapse of central planning that the failure of state-led development became widely acknowledged.

The debt crisis revealed that a lack of capital was not a problem for the Third World. Rather, economic mismanagement and the domestic policy environment were at fault. Highly indebted South Korea did not experience economic crisis as did highly indebted Latin American countries. Thus, by the early 1980s, Deepak Lal was moved to declare “the poverty of development economics.” A worldwide move to the market slowly began and by the early 1990s accelerated in pace and scope, including most of the formerly socialist countries.

The early liberalizers set a pattern of development that other countries have emulated with varying degrees of success. From 1960 to 2000, the four Asian tigers maintained average annual per-person growth rates of more than 5%, increasing their income by at least seven times, with Hong Kong and Singapore surpassing the United Kingdom. Likewise, reform pioneers Chile and China began liberalizing their economies in the 1970s with notable results. Chile’s per capita income is now more than 3 times greater than in 1975, whereas China’s income is nearly 10 times higher than when reforms began.

The era of globalization has produced other reform successes in countries as diverse as Vietnam, El Salvador, Ireland, and Estonia. Central European nations have succeeded in introducing policies of political and economic liberalization, putting them on a convergence path with Western Europe. Yet other countries—in Latin America and in the former Soviet Union, for example—have had a more difficult time implementing coherent reforms and sustaining high growth. Most of sub-Saharan Africa and much of the Middle East have yet to see significant economic reform. Mainly because of their economic policies, Africans are poorer today than they were 30 years ago.

The era of globalization has also renewed an interest in domestic institutions, such as the rule of law, and other factors that could explain widely different reform experiences. The International Monetary Fund estimated, for example, that if institutions in Africa were brought up to the level in emerging Asia, African long-term per capita income would nearly double. The Fraser Institute’s annual *Economic Freedom of the World* report—the most systematic long-term study measuring policies and institutions consistent with personal choice, voluntary exchange, protection of private property, and freedom to compete—finds a strong empirical relationship between economic freedom and prosperity. Countries that are more economically free tend to be wealthier and grow faster. That relationship remains even after taking into account other factors such as education or demographic indicators.

Poor countries that move in the direction of economic freedom in a significant way, as China and India have done, tend to enjoy fast growth and are thus catching up to rich countries. Annual per capita growth rates of more than 8% since the early 1980s and about 5% since the early 1990s in China and India, respectively, have pulled

hundreds of millions of people from poverty and reversed the centuries-long growth of world income inequality.

Greater economic freedom also is strongly related to improvements in the range of human development indicators—longevity, access to safe drinking water, infant mortality rates, environmental quality, and so on. During the past several decades, the gap in human well-being between poor and rich countries has been closing dramatically and at a faster pace than the gap in incomes. The advantage of underdevelopment today is that poor countries can grow at much faster rates than was the case for rich countries when they were at similar stages of development. Moreover, for a given income level, countries enjoy notably higher standards of living than was the case even 30 years ago. More economic freedom in the world appears to be benefiting even those countries that have done little to reform.

The development consensus now generally favors market-oriented policies and institutions that constrain political power and support market exchange. Although we know that institutions matter, there is no consensus on *how* to promote the right institutional or policy environment. The difficulty that countries as different as Russia, Argentina, and Malawi have had in successfully introducing reforms has generated an awareness of institutional inertia and the role of institutions in shaping political behavior and seemingly enduring power structures.

Development appears to be more a political than an economic challenge. The recognition that institutional change is more complex and occurs at a slower pace than policy change has led to pessimism among some observers about the prospects of development in many parts of the world. Yet precisely because institutional change takes time, such conclusions may be premature. It took about eight centuries for the institutions supportive of market exchange and the rule of law to develop in the West. By contrast, the current era of liberal reforms is still only a few decades old and may already be leading to incipient institutional and cultural change in countries that have recently begun opening their economies. The 21st century will tell whether the case for optimism is stronger than the case for pessimism.

The thinking regarding economic development has matured and has involved a rediscovery of classical liberal insights into the causes of prosperity. Experts have a greater appreciation of the limits of development economics and its ability to forcibly promote growth; of the relevance of the development path of advanced economies to developing countries; of the role of local knowledge and of incentives on individual and entrepreneurial behavior; and of the complex influence that institutions, culture, geography, history, political regimes, and other factors exert on each other and on growth. As such, the study of development has become qualitative and multidisciplinary, drawing on work from economic historians, legal scholars, anthropologists, and political scientists.

Despite those advances, a political push led by international organizations such as the United Nations and the

World Bank and a minority of economists continue to call for massive increases in aid for the poorest countries, especially in sub-Saharan Africa. Old and bankrupt ideas from the 1950s and 1960s have been revived, including the notion of poverty traps, the need for planning, and an aid-financed “big push” that would lead to economic takeoff. Unlike the early postwar period, however, skepticism of such grandiose plans is widespread among academics and development practitioners.

In practice, the rise of aid is likely to continue, but so is globalization and its modernizing effects. In most of the world, where the latter is more predominant than the former, we can expect to see more enduring progress even if it occurs in fits and starts. Liberal advocates of economic progress would do well to promote the ideas of human freedom and keep a modest view of their own influence. The complex process of economic development will continue to be unpredictable and influenced by unique factors, including, as Peter Bauer and Milton Friedman used to remind us, chance events.

#### IV

See also Bauer, Peter; Friedman, Milton; Globalization; Interventionism

### Further Readings

- Acemoglu, Daron, Simon Johnson, and James Robinson. “Institutions as the Fundamental Cause of Long-Run Growth.” *Handbook of Economic Growth*. Philippe Aghion and Steve Durlauf, eds. Amsterdam: North Holland, 2005.
- Bauer, P. T. *Dissent on Development*. Cambridge, MA: Harvard University Press, 1972.
- . *Economic Analysis and Policy in Underdeveloped Countries*. Durham, NC: Duke University Press, 1957.
- De Soto, Hernando, Enrique Ghersi, and Mario Ghibellini. *El Otro Sendero*. Lima: Editorial El Barranco, 1986.
- Easterly, William. *The White Man's Burden*. New York: Penguin, 2006.
- Goklany, Indur. *The Improving State of the World: Why We're Living Longer, Healthier, More Comfortable Lives on a Cleaner Planet*. Washington, DC: Cato Institute, 2007.
- Gwartney, James, and Robert Lawson. *Economic Freedom of the World: 2007 Annual Report*. Vancouver: Fraser Institute, 2007.
- Lal, Deepak. *The Poverty of Development Economics*. London: Institute of Economic Affairs, 1983, 1997.
- Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations*. Chicago: University of Chicago Press, 1976.
- Wolf, Martin. *Why Globalization Works*. New Haven, CT: Yale University Press, 2004.

## DICEY, ALBERT VENN (1835–1922)

Albert Venn Dicey was an influential British professor of law whose book *An Introduction to the Study of the Law of the Constitution* organized ancient and modern theories

of law into a single constitutional principle he termed the *rule of law*.

Dicey was born on February 4, 1835, the third son of the owner of *The Northampton Mercury*, a weekly newspaper. His middle name paid homage to the social reformer and logician John Venn, in whose Clapham Sect of reformers the Dicey family was quite active. Albert was taught at home before entering King's College School, London, and then Balliol College, Oxford, where he took a double first in classics and where he found a circle of friends, among them Algernon Swinburne, T. H. Green, and James Bryce, all of whom would prove influential both in Dicey's life and English thought. In 1860, Dicey wrote a college prize essay on the British Privy Council that sparked a lifelong interest in constitutional law, and he became a fellow of Trinity College, Oxford. The following year, he entered the Inner Temple and was called to the bar in 1863. In 1872, he married Elinor Mary Bonham-Carter, the daughter of an influential Member of Parliament.

Between 1861 and 1882, Dicey lived in London, practiced law, and wrote extensively, contributing articles to a number of newspapers, including his father's, in addition to writing two lawbooks. Although these books were not prominent, they led to his election as Vinerian Professor of English Law in 1882, which took him back to Oxford and to a fellowship at All Souls College. He held his fellowship for more than a quarter century, during which time he produced his greatest works. While a fellow and following his retirement, Dicey became prominent in public affairs. He was frequently in the public eye promoting traditionalist, conservative, and Unionist views. He died in Oxford on April 7, 1922.

While Vinerian Professor, Dicey wrote many articles and gave numerous lectures that placed him in the upper ranks of the Victorian intelligentsia. He wrote several books on legal practice, most notably *A Digest of the Law of England with Reference to the Conflict of Laws* and a half-dozen books presenting his political views, particularly arguing against Home Rule in Ireland.

Dicey's continuing influence comes from two other books, most important his *Introduction to the Study of the Law of the Constitution*, published in 1885, and, to a lesser degree, his *Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century*, written as a Harvard lecture 20 years later and updated in 1919.

*Law and Public Opinion*, his neo-Benthamite polemic on social and legal history, argued that the English law throughout the 19th century had been directly influenced first by toryism, then by individualism, and finally by collectivism. In broad terms, Dicey approved of the reforming influence of Jeremy Bentham, John Stuart Mill, and the economists, particularly Harriet Martineau, and he worried about the collectivist influence of Unionists (those who sought a constitutional union between Ireland and Great

Spain and Portugal, and it may have served as the inspiration for what became the \$15 billion Channel Tunnel in the 1980s, the largest privately financed project to date. During the 1990s, it spread rapidly to the developing countries in the form of numerous toll road, electricity, railroad, and water/wastewater projects in Latin America and Southeast Asia. Many of these projects actually aimed at the expansion and modernization of run-down and inadequate state-owned infrastructure, rather than the construction of entirely new facilities.

In the United States, the 1990s brought a modest revival of the infrastructure franchise idea. Some 15 states passed enabling legislation for private toll roads, although only a handful of projects had been built by the end of the decade. A small number of new water and wastewater treatment plants also had been developed by private firms using this model. In addition, a \$1.2 billion international airport terminal was under construction at New York's Kennedy airport under a 25-year franchise agreement.

The United States leads the world in outsourcing public service delivery to private firms. Tens of thousands of such contracts are in effect at the municipal level, for everything from ambulance service to zoning inspection. The practice began in the 1960s and 1970s, generally in newly incorporated cities in the Sunbelt with populations less than 100,000. During the 1980s, it spread to larger and more-established cities and to a wider range of services. By the 1990s, competitive contracting was being practiced even in large, heavily unionized cities like Chicago, Cleveland, Milwaukee, Philadelphia, and New York. Some mayors used outsourcing selectively, in part, to threaten unionized workforces. But others used it systematically, as a basic change in *modus operandi*. A case in point is two-term Indianapolis mayor Steve Goldsmith, who put more than 75 city services through the competitive process, saving taxpayers some \$400 million in the process. Many state governments became practitioners of outsourcing in the 1990s, in areas ranging from inventory management to highway maintenance to prison operation.

Outsourcing has gradually spread to other countries. The Thatcher government mandated outsourcing for certain local public services, and reforms that encouraged outsourcing were adopted in Australia and New Zealand. In selected public service fields (e.g., water supply, jails and prisons, and garbage collection), outsourcing can be found in cities in other European countries and, increasingly, in Latin America.

The final broad category of privatization is vouchers, in which government designates a certain subset of the population as eligible and provides those people with a piece of paper that they can use to purchase the service in question. Food stamps are a classic example: Recipients can make their own selection from a large variety of private providers. For several decades, the federal Department of Housing

and Urban Development has provided housing vouchers as a partial alternative to providing a larger supply of public housing projects. Ever since the end of World War II, the federal government has offered higher education vouchers to veterans under the GI bill and its successors. Additionally, a growing number of counties and states make use of vouchers for a variety of social services, where a variety of providers make it more likely that individual clients can find a match that meets their needs.

It was only in the 1990s, when serious efforts were made to implement vouchers for K–12 education, that vouchers became highly controversial. Pilot voucher programs were established in Milwaukee, Cleveland, and Florida—in every case subject to court challenges on a variety of grounds. The underlying idea of injecting competition into the delivery of K–12 schooling expanded into the charter school movement, under which nominally public schools are largely deregulated and, in some cases, can be operated by private (nonprofit and for-profit) organizations.

RWP

See also Civil Society; Education; Private Property; Socialism; Welfare State

### Further Readings

- Donohue, John D. *The Privatization Decision: Public Ends, Private Means*. New York: Basic Books, 1989.
- Drucker, Peter F. *The Age of Discontinuity*. New York: Harper & Row, 1969.
- Eggers, William D., and John O'Leary. *Revolution at the Roots*. New York: Free Press, 1995.
- Goldsmith, Stephen. *The Twenty-First Century City*. Washington, DC: Regnery, 1997.
- Hudson, Wade, ed. *Privatization 1999*. Los Angeles: Reason Public Policy Institute, 1999.
- Pirie, Madsen. *Dismantling the State: The Theory and Practice of Privatization*. Dallas, TX: National Center for Policy Analysis, 1985.
- Poole, Robert W., Jr. *Cutting Back City Hall*. New York: Universe Books, 1980.
- Savas, E. S. *Privatization and Public-Private Partnerships*. New York: Seven Bridges Press/Chatham House, 2000.
- Vickers, John, and George Yarrow. *Privatization: An Economic Analysis*. Cambridge, MA: MIT Press, 1988.
- Walker, Michael A. *Privatization: Theory and Practice*. Vancouver, BC, Canada: Fraser Institute, 1980.

## PROGRESS

According to the eminent historian J. B. Bury, the idea of human progress "is based on an interpretation of history which regards men as slowly advancing . . . in a definite

and desirable direction, and infers that this progress will continue indefinitely." Bury contends that progress, in this sense, is a distinctively modern notion—one that does not begin to take shape until the 16th and 17th centuries, whereas other historians, such as Robert Nisbet, attribute the idea to Greek, Roman, and Christian writers long before the advent of the modern era.

A libertarian theory of progress is one that stresses the role of liberty in the progressive improvement of humankind. Whatever position we may take in the historical controversies about the origin of the idea of progress and its relationship to other ideas (such as the belief in an Arcadian golden age, original sin, and divine providence), there can be little doubt that the link between individual freedom and progress was forged by post-Renaissance philosophers, historians, economists, and social theorists.

In *The Idea of Progress*, Bury divides modern theories of progress into two types, which he characterizes as socialist and liberal. The socialist version he describes as "a symmetrical system in which the authority of the state is preponderant, and the individual has little more value than a cog in a well-oiled wheel: his place is assigned; it is not his right to go his own way." Liberalism, in contrast, views individual freedom and social diversity as essential to progress. Unlike the closed system of socialism, in which the ultimate goal of progress is foreseeable, having been mapped out in advance by central planners, classical liberalism was historically affiliated with a theory known as "indefinite progress." In this approach, no limits can be set to progress, nor can we predict the exact path or form that progress will take. "Individual liberty is the motive force" of indefinite progress, and this decentralized, spontaneous process generates rapid innovations that cannot be predicted or controlled by any individual, group, or institution, including government.

Theories of progress are typically concerned with three spheres of human activity: intellectual, moral, and economic.

Libertarian theories of intellectual progress emerged during the 17th century, as John Milton, Benedict Spinoza, and John Locke, among others, argued that freedom of thought, discussion, and publication are essential to the advancement of knowledge. Often grouped under the collective label of "liberty of conscience," these freedoms came to be widely accepted as indispensable to the pursuit of truth in religion, science, and other spheres, and they played a crucial role in the struggle for religious toleration.

We do not find this near-unanimity, even among libertarian thinkers, on the subject of moral progress. It has often been pointed out that knowledge can be used for good or evil purposes, and some liberals, such as Adam Ferguson and Joseph Priestley, warned against the enervating effects of luxury and other vices, which they believed would lead to the corruption of those moral virtues necessary to sustain a free society. Other liberals disagreed. In the writings of

David Hume, Edward Gibbon, Adam Smith, and others, we see various arguments in defense of luxury and other personal vices (i.e., those that do not violate the rights of others) based largely on their unintended, but beneficial, consequences to society as a whole. Many of these arguments are variations on a theme first presented by the Dutch philosopher Bernard Mandeville in his notorious book, *The Fable of the Bees: Or, Private Vices, Publick Benefits*, first published in 1705 as *The Grumbling Hive* and greatly expanded in subsequent editions.

Another internal debate among classical liberals addressed the possibility of moral progress, a topic that received a good deal of attention during the 19th century. W. E. H. Lecky, J. S. Mill, Herbert Spencer, and many other liberals maintained that progress in the moral sphere (especially the "sentiment of justice") is as evident in the historical record as any other kind of progress, and they point to advances in religious toleration, the repudiation of torture, and the abolition of slavery to buttress their case. But other liberals, most notably H. T. Buckle and others influenced by the positivistic sociology of Auguste Comte, presented a different analysis.

In the first volume of his best-selling *Introduction to the History of Civilization in England* (1857), Buckle defends the thesis that moral sentiments and motives, unlike knowledge, are "stationary" and do not progress from one generation to the next. As Buckle put it, "the sole essentials of morals . . . have been known for thousands of years, and not one jot or tittle has been added to them by all the sermons, homilies, and text-books which moralists and theologians have been able to produce." True progress occurs in the realm of knowledge as people become more cognizant of the long-range consequences of their decisions and actions.

Perhaps the most important contribution of libertarian thinkers was in the sphere of economic progress. The growth of commerce, or what was sometimes called the *commercial spirit*, was widely regarded by liberals as a lynchpin of socioeconomic progress.

In Book III of *The Wealth of Nations*, Adam Smith discusses "the natural progress of opulence." The motive of self-interest, when confined within the sphere of justice, naturally leads to a division of labor that is "advantageous to all the different persons employed in the various occupations." This natural economic order—which develops spontaneously, without foresight or central planning—is called *natural* because it is "promoted by the natural inclinations of men" in a "system of natural liberty," in which the equal rights of every individual to life, liberty, and property are secured by a just system of law and government.

Free-market liberals agreed with Montesquieu that the "natural effect of commerce is to lead to peace" because trade creates a mutual dependence among nations, and "all unions are founded on mutual needs." Progress, in this view, is best achieved during periods of peace.



Although many liberals—such as the physiocrats Turgot, David Hume, and Adam Smith in the 18th century and H. T. Buckle, Frédéric Bastiat, Richard Cobden, and John Bright in the 19th century—emphasized the connection between free trade and peace and the resulting progress these made possible, the most systematic exposition of this theme appears in the voluminous writings of Herbert Spencer. Elaborating on a distinction made by H. S. Maine between societies based on status as opposed to those based on contract, Spencer dubbed two basic types of social organization *militant* and *industrial*.

According to Spencer, it is primarily due to the growth of commerce that the despotism and “compulsory cooperation” of a militant social structure evolve into the individual freedom and “voluntary cooperation” that characterize industrial society. The contractual relationships of commerce, “in which the mutual rendering of services is unforced and neither individual subordinated becomes the predominant relationship throughout society,” as its perceived benefits are extended to other forms of social relationships. “Right of private judgment in religious matters gradually establishes itself along with the establishment of political rights,” and coercive uniformity gives place to “a varied non-conformity maintained by willing union.” Hence, the growth of commerce naturally tends to generate progress “through stages of increasing freedom,” and this progress is accompanied by an ideological development of “sentiments and ideas,” such as the principles of individual rights and limited government. Certainly if mankind’s progress is causally related to the extension of individual liberty, there is less reason today to believe that this progress is, over the long term, inevitable. There appears no reason to accept the view that individual autonomy will inexorably flourish and expand and that the free and peaceful interactions among people will play an increasingly greater role in social life. Indeed, given the history of the 20th century, there is ample evidence to point to the fragility of free and peaceful societies.

GHS

*See also* Development, Economic; Enlightenment; Industrial Revolution; Mandeville, Bernard; Spencer, Herbert; Wealth and Poverty

### Further Readings

- Baillie, John. *The Belief in Progress*. London: Oxford University Press, 1950.
- Bury, J. B. *The Idea of Progress: An Inquiry into Its Growth and Origins*. New York: Dover Publications, 1955.
- Condorcet, J. A. N. de Caritat. *Selected Writings*. Keith Baker, ed. New York: Macmillan, 1976.
- Nisbet, Robert. *History of the Idea of Progress*. New York: Basic Books, 1980.

Spadafora, David. *The Idea of Progress in Eighteenth-Century Britain*. New Haven, CT: Yale University Press, 1990.

Spencer, Herbert. *Essays: Scientific, Political, and Speculative. Library Edition, containing Seven Essays Not before Republished, and Various Other Additions*. 3 vols. London: Williams & Norgate, 1891.

---

## PROGRESSIVE ERA

---

At the close of the Civil War in 1865, the United States was still primarily a rural and agricultural society. Business was conducted in local or regional markets by family farms, and small firms were owned and operated by single individuals or small groups of partners. The scale of production was modest, consumption for most was limited to little beyond life’s necessities, and, among white Americans, wealth, with some notable exceptions, was distributed without great gaps separating rich from poor. But by 1890, huge manufacturing corporations employing a succession of revolutionary new machines and processes had begun to create the modern American economy of mass production and consumption. Millions of farm workers had left the countryside for the cities to labor for the new industrial giants, and vast quantities of material wealth were being produced by American businesses and consumed by ordinary people across the country. With these rapid economic changes came an array of new conditions and problems that alarmed and confused Americans of the time: unprecedented disparities in the distribution of newly created wealth; the transformation of previously independent, entrepreneurial artisans and merchants into wage-earning workers in large, hierarchical organizations; a growing industrial proletariat increasingly composed of immigrants crowded into urban slums; and the disproportionate, often corrupting influence of wealthy industrialists in the political system. The political reaction provoked by these economic and social changes in the years between 1890 and the First World War defines the Progressive Era, a quarter century of reform in which Americans attempted to adjust their traditional system of political economy to the new realities of the industrial age.

The first and most important of these reforms was the Sherman Act, passed in 1890 in the midst of an impassioned national debate over whether and how government should be used to rein in the trusts, as the huge corporations came to be called. Some, pointing to the ever lower cost at which the trusts could produce enormous quantities of goods, argued that they were the inevitable outcome of technological progress and should be allowed to grow as large as necessary to efficiently meet the demand of consumers in the market. Others cited the growing market power accumulated by the trusts as they swallowed smaller firms, the deadening effects of hierarchical corporate

by which “circuits” are formed for the application of energy across time and space. Surveying history from ancient Carthage to modern America, she analyzed the philosophical assumptions and political devices that have enabled people to create and maintain “the long circuit” of energy, by which the work of the modern world is done. She described the devices by which governments short-circuit innovation and the dynamic creation of wealth.

*The God of the Machine* characterizes the engineering principles of a free society as utterly different from the principles of social engineering, which assumes that people can be treated as if they were machines. To Paterson, it is clear that “a machine economy cannot run on a mechanistic philosophy.” The great example of correct engineering principles is America’s original constitutional system, in which government functions mainly as a brake on invasions of liberty. The constitutional system allowed for the existence of laissez-faire capitalism, which includes its own self-controlling features and which has produced the greatest extension of the long circuit of energy. Subsequent progress depends on people’s willingness to understand the principles of a liberal society and the errors of its conscious or unconscious opponents—errors that *The God of the Machine* relentlessly exposes. The book’s most famous chapter, “The Humanitarian with the Guillotine,” argues that “most of the harm in the world is done by good people,” people willing to violate both rights and reason to realize their allegedly “high ideals.” As she had said in her column, “The power to do things for people is also the power to do things to people—and you can guess for yourself which is likely to be done.”

Paterson influenced many leaders of the emerging anticollectivist movement, such as her friends John Chamberlain, Rose Wilder Lane, and Ayn Rand. Rand apparently derived much of her knowledge of American history and political philosophy from her close association with Paterson from 1941 to 1948. But Paterson’s uncompromising individualism was too far in advance of its time to permit her to retain her wider public influence. In 1949, she was “retired” from her job at the *Herald Tribune*. She contemptuously rejected payments from the “‘Social Security’ Swindle” and showed that she could manage to live comfortably without them. She spent the remainder of her life thinking, writing (another novel, still unpublished, and occasional published articles), and indulging her taste for books.

SC

See also Capitalism; Collectivism; Lane, Rose Wilder; Rand, Ayn

## Further Readings

- Cox, Stephen. *The Woman and the Dynamo: Isabel Paterson and the Idea of America*. New Brunswick, NJ: Transaction, 2004.  
 Paterson, Isabel. *The God of the Machine*. Introduction by Stephen Cox. New Brunswick, NJ: Transaction, 1993.

———. *The Golden Vanity*. New York: Morrow, 1934.

———. *The Singing Season*. New York: Boni & Liveright, 1924.

## PAUL, RON (1935–)

Ron Paul is a member of Congress and was the 1988 U.S. Libertarian Party presidential nominee. For much of the period from 1976 onward, Paul, a physician from Texas, has been the only consistent libertarian in the U.S. Congress. He served briefly in 1976, from 1979 to 1985, and returned to Congress in 1996. He has always insisted that he never votes for anything that is not authorized by the U.S. Constitution, and he never votes for any bill that would increase taxes or government spending. He is an outspoken opponent of the Federal Reserve Bank, the United Nations, and most foreign wars. In 1979, he prodded Congress to create the U.S. Gold Commission to study the feasibility of a gold standard. As a member of the commission, he coauthored with Lewis Lehrman a minority report that was published as *The Case for Gold*. In 1988, he was the Libertarian nominee for president, receiving 432,000 votes, about half of 1%. Back in Congress after 1996, he has been a leading opponent of a national identification card, the proposed “Know Your Customer” banking regulations, the hastily passed USA-PATRIOT Act of 2001, and the war in Iraq. In May 2007, Representative Paul announced his candidacy for the 2008 Republican nomination for president. He participated in the presidential debates held during 2007 and generated a surprisingly strong level of fundraising and intense support on the Internet and in other venues.

DB

See also Constitution, U.S.; Money and Banking; War on Terror

## Further Readings

- Doherty, Brian. *Radicals for Capitalism: A Freewheeling History of the Modern Libertarian Movement*. New York: Public Affairs, 2007.  
 Kelley, John L. *Bringing the Market Back in: The Political Revitalization of Market Liberalism*. New York: New York University Press, 1997. 191–192.

## PEACE AND PACIFISM

Although relatively few libertarians are pacifists, libertarians tend to be substantially less bellicose than the average citizen. Modern libertarianism has deep roots in classical

liberalism, an ideology that looks at war as a reactionary undertaking at odds with the social progress that springs, in large part, from the unhampered movement of goods, capital, and labor across national borders and from international scientific and cultural cooperation. Moreover, libertarians strongly support individualism, which flourishes during peacetime, but clashes with the collectivism, regimentation, and herd mentality that war fosters. They favor reduction in the size, scope, and power of government, an objective that cannot be attained during wartime. They favor private enterprise, but war, the biggest socialist venture of all, fetters or displaces private enterprise, bringing high taxes, many kinds of economic controls, and sometimes the conscription of labor. If “war is the health of the state,” as writer Randolph Bourne famously declared, then peace is a necessary condition for individual freedom to flourish.

Preeminent classical liberals, such as Adam Smith, Richard Cobden, John Bright, William Graham Sumner, and Ludwig von Mises, condemned war as fatal to economic and social progress. Smith famously taught that “little else is requisite to carry a [society] to the highest degree of opulence from the lowest barbarism but peace, easy taxes, and a tolerable administration of justice: all the rest being brought about by the natural course of things.” Mises observed that

the [classical] liberal . . . is convinced that victorious war is an evil even for the victor, that peace is always better than war. . . . The progressive intensification of the division of labor [the process at the heart of sustained economic development] is possible only in a society in which there is an assurance of lasting peace.

Although most people, including many professional economists, now dispute these classical liberal tenets, having been misled by Keynesian fallacies, ill-constructed national-income-and-product accounts, and a mistaken economic interpretation of World War II, libertarians generally still subscribe to these timeless maxims. If they support a war, they do so only because in the prevailing circumstances they perceive it to be the lesser evil, not because they perceive any positive good in it.

Libertarians who oppose the state’s very existence, such as Lysander Spooner and Murray N. Rothbard, also naturally oppose war and view it not only as the most menacing of all state projects, but also as, at root, the product of con artists. Soon after the U.S. Civil War, Spooner wrote that

on the part of the North, the war was carried on, not to liberate slaves, but by a government that had always perverted and violated the Constitution, to keep the slaves in bondage; and was still willing to do so, if the slaveholders could be thereby induced to stay in the Union.

He maintained that northern businessmen had supported the war for self-serving economic reasons, a claim that

modern scholarship has confirmed. Similarly, Rothbard held that “the objective of the libertarian is to confine any existing State to as small a degree of invasion of person and property as possible. And this means the total avoidance of war.” He argued that war depends on the state’s inculcation of the false belief that the state is defending the people, whereas in reality they are defending it, at the cost of their own lives, liberties, and treasure, for the profit of the munitions makers, financiers, and other special interests that constitute the state’s critical supporting coalition. For Rothbard, the military-industrial complex comprises not patriotic enterprises whose operations are necessary for the people’s defense, but “boondoggles . . . every bit as wasteful but infinitely more destructive than the vast pyramid building of the Pharaoh.”

In U.S. history, opposition emerged before or during almost every war, although it assumed much greater proportions on some occasions than on others. These historical episodes serve as lessons for contemporary libertarians, nourishing their pacific proclivities and inspiring their resistance to the unnecessary wars that the state continues to launch with distressing frequency.

As early as the War of 1812, war resisters gave strong voice to their opposition, especially in New England. In December 1814, delegates to the Hartford Convention from the New England states considered actions as extreme as secession from the union. Soon afterward, news of the U.S. victory at New Orleans and the signing of the Treaty of Ghent took the wind out of the dissidents’ sails, and nothing substantial came of their proposals, except possibly the demise of the Federalist Party.

Three decades later, during the Mexican-American War, the many opponents included a young congressman from Illinois named Abraham Lincoln and most of his fellow Whigs, joined by such strange bedfellows as a Democratic senator from South Carolina, John C. Calhoun, who agreed with Lincoln that the war was unnecessary and unconstitutional and that it had been undertaken under false pretenses. A memorable upshot of the dissent on this occasion was that of Henry David Thoreau, who, after being briefly jailed for refusing to pay a tax in support of the war, was inspired to write his famous essay *Civil Disobedience*, to which libertarians still pay homage.

The U.S. Civil War gave rise to considerable resistance on both sides, and opposition grew as the war dragged on, causing hundreds of thousands of casualties on each side. Implementation of conscription in the Union provoked tremendous outrage and sparked riots in many places. The largest draft riot, in New York City in July 1863, was violently suppressed only with the aid of 4,000 troops drawn from the battlefield at Gettysburg. Partisan opposition to the war by northern Democrats, whom war supporters smeared as “Copperheads,” prompted the Lincoln administration to censor the mails and the telegraph, to suppress

hundreds of newspapers, and to arrest and imprison thousands of civilians, denying them access to the writ of habeas corpus. In 1864, northern Democrats nominated George B. McClellan as their candidate for the presidency on a platform that called for immediate negotiation of an armistice and restoration of "the Union as it was."

In the South, civilian and military authorities often used the imposition of martial law and other harsh measures to suppress war resisters. According to historian Jeffrey Rogers Hummel,

only military force, mass arrests, and several executions for sabotage held the strongly Unionist eastern part of Tennessee in the Confederacy. In other sections bordering upon the North, the authorities imposed loyalty oaths and arrested those who refused to comply. . . . Fed up with inflation, impressments, conscription, and arbitrary arrests, secret peace societies flourished. . . . The German areas of Texas, the mountains of Appalachia and the Ozarks, and the swamps of Louisiana and Florida became centers for deserters and other armed opponents of the war.

The Spanish-American War prompted the creation, in June 1898, of the Anti-Imperialist League, an organization that included many notable classical liberals. Former president Grover Cleveland; businessmen Edward Atkinson and Andrew Carnegie; writers Mark Twain, Ambrose Bierce, and William Dean Howells; philosophers William James and John Dewey; and sociologist and economist William Graham Sumner were members. In 1899, Sumner wrote a tract called "The Conquest of the United States by Spain" to show how the U.S. embrace of imperialism undermined the nation's best traditions as a limited-government republic and presaged higher taxes, bigger armed forces, conscription, and conquest. As if to demonstrate the accuracy of Sumner's warning, the government immediately undertook to defeat the Filipinos who sought self-rule, savagely suppressing their insurgency during the Philippine-American War (1899–1902).

The outbreak of war in Europe in 1914 shocked most Americans, who wanted nothing to do with it. Afterward, as President Woodrow Wilson moved steadily closer to seeking direct U.S. engagement in the war, many sorts of opposition were expressed. Millions of Americans and resident aliens of Irish and German ethnicity ardently opposed U.S. actions to assist the Allies—on whose side alone the Wilson administration, saturated with Anglophile sensibilities and English connections, might conceivably enter the fray militarily. Most socialists and many liberals joined the opposition, including such notable classical liberals as Oswald Garrison Villard of the *Nation* and writers Randolph Bourne, Albert Jay Nock, and H. L. Mencken. A small group of Progressives led by Wisconsin Senator Robert A. LaFollette spearheaded the opposition in Congress, where LaFollette risked his good relations with

congressional colleagues, his influence with the executive branch, and his political future by waging a heroic stand against the folly of U.S. entry. Despite his valiant efforts, only 6 senators and 50 representatives ultimately voted against the declaration of war.

Once the war had begun, the Wilson administration created a draconian, multifaceted system to repress resisters, based, in large part, on the draft laws and on the Espionage Act of 1917 and its notorious amendment, the Sedition Act of 1918. Under its oppressive statutes, practically any form of resistance to or any criticism of the government, its actions, or its symbols exposed the critic to felony prosecution. The government summarily deported more than 1,000 alien critics and arrested thousands of persons, alien and citizen alike, who ventured to speak or act against the war or were suspected of doing so. Frequent presidential candidate and Socialist leader Eugene V. Debs was sentenced to 10 years in prison for making a speech whose content the government disapproved. State and local authorities and vigilante groups joined forces with the national government in effecting a virtual reign of terror against antiwar and radical organizations and individuals. This officially generated "patriotic" hysteria during and immediately after the war ranks as one of the most shameful episodes in U.S. history.

Not long after the war ended, disillusionment set in; as a result, the interwar period witnessed perhaps the greatest mass dedication to peace in U.S. history. Popular writers condemned the "merchants of death" and the international investment bankers, especially those connected with the House of Morgan, and blamed them for propelling the country into the war solely for their own profit. Authors such as Ernest Hemingway and John Dos Passos gave a literary gloss to the disillusionment, and revisionist historians such as Harry Elmer Barnes and Charles Callan Tansill debunked the war's official story line in heavily footnoted treatises. In the mid-1930s, North Dakota Senator Gerald P. Nye convened extensive hearings on responsibility for U.S. engagement in the war, and a major upshot was the passage of important neutrality acts in 1935, 1936, and 1937 aimed at prohibiting international transactions that might entangle the country in a future war, as U.S. loans and arms sales to the Allies were believed to have done in the Great War. In 1938, the proposed Ludlow Amendment to the U.S. Constitution, which required approval in a national referendum before the government went to war, except in case of an actual invasion of the United States, came close to passage in the House of Representatives before being rejected under heavy pressure by President Franklin D. Roosevelt.

After war broke out in Europe in September 1939, a fierce debate ensued between those who supported and those who opposed U.S. involvement in the war. According to public opinion surveys and other evidence, the great majority of Americans favored well-armed neutrality. The Roosevelt administration, however, as Anglophile as the

Wilson administration had been, ardently desired U.S. entry to aid Great Britain, and the president worked relentlessly, if often deviously, to bring about conditions that would justify entry—for example, by carrying out a series of increasingly stringent economic warfare measures against Japan in hopes that a war provoked with Japan might open a “back door” for U.S. entry into the European conflagration. Opposing the government’s maneuvers, the leading pro-peace organization was the America First Committee (AFC), formed in September 1940. A broad coalition of ideologically diverse antiwar people, the AFC included such notable proto-libertarians as writer John T. Flynn, who headed its New York City chapter and whose 1944 book, *As We Go Marching*, is a libertarian classic.

After the Japanese attack on Pearl Harbor, antiwar sentiment practically disappeared. Isolated individuals who persisted in opposing or speaking critically about the war were not only investigated by the FBI, but also shunned, fired, blacklisted, and otherwise rendered impotent for purposes of public debate and often for purposes of earning a living. The only notable war resisters who stood firm were the members of certain small religious sects, such as the Jehovah’s Witnesses. When the young men in these groups refused to obey the draft laws, they were rewarded for their dedication to the Prince of Peace with long terms in prison and with especially vile treatment while they resided there.

After the early 1950s, the bipartisan commitment to the cold war, the further decline of classical liberalism, and the smearing of formerly antiwar people and organizations as isolationists and appeasers pushed pro-peace activity onto the outer fringes of politics and ideological debate. In 1965, escalation of the U.S. military engagement in Vietnam revived mass antiwar activity, but New Left, religious, and left-liberal organizations led the way, notwithstanding attempts by Rothbard and a few other libertarians to nudge the antiwar movement in a libertarian direction.

Opposition to the Vietnam War, however, did create a diverse coalition of people dedicated to seeking peace, and libertarians, whose own modern movement sprang from the turmoil of the 1960s, have continued, for the most part, to treat peace as the proper default setting for international relations and to oppose the U.S. government’s persistent efforts to remake the world at gunpoint. When U.S. forces invaded and occupied Iraq in 2003, most libertarians opposed the action, and as the occupation dragged on amid increasing sectarian violence, some libertarians who had initially supported the action came to oppose it and to regret their previous support.

Libertarian insistence on every individual’s right of self-defense does not require anyone to exercise that right, of course, if religious or other scruples go against a resort to violence, even in self-defense. Of the relatively few libertarians who also were pacifists, perhaps the most notable was the great Russian writer Leo Tolstoy. A former soldier

who had seen a great deal of combat, he came to oppose violence. He also came to understand that governments consist of stationary bandits who induce their subjects to submit to robbery and other crimes by a combination of threats and propaganda. “Governments,” he wrote,

not only are not necessary, but are harmful and most highly immoral institutions, in which a self-respecting, honest man cannot and must not take part, and the advantages of which he cannot and should not enjoy. And as soon as people clearly understand that, they will naturally cease to take part in such deeds—that is, cease to give the governments soldiers and money. And as soon as a majority of people ceases to do this the fraud which enslaves people will be abolished.

RoH

*See also* Collectivism; Conscription; Imperialism; Nationalism; War; War on Terror

### Further Readings

- Cole, Wayne S. *America First: The Battle against Intervention*. Madison: University of Wisconsin Press, 1953.
- Ekirch, Arthur A., Jr. *The Civilian and the Military: A History of the American Antimilitarist Tradition*. New York: Oxford University Press, 1956.
- Hummel, Jeffrey Rogers. *Emancipating Slaves, Enslaving Free Men: A History of the American Civil War*. Chicago: Open Court.
- “Lyoff N. Tolstoy.” *Liberty and the Great Libertarians*. Charles T. Sprading, ed. San Francisco: Fox and Wilkes, 1995 [1913]. 204–217.
- Mises, Ludwig von. *Liberalism: In the Classical Tradition*. 3rd ed. Irvington-on-Hudson, NY: Foundation for Economic Education, 1985 [in German, 1927].
- . *Nation, State, and Economy: Contributions to the Politics and History of Our Time*. New York: New York University Press, 1983 [in German, 1919].
- Radosh, Ronald. *Prophets on the Right: Profiles of Conservative Critics of American Globalism*. New York: Simon & Schuster, 1975.
- Richman, Sheldon. “New Deal Nemesis: The ‘Old Right’ Jeffersonians.” *The Independent Review* 1 no. 2 (Fall 1996): 201–248.
- Rothbard, Murray N. “War, Peace, and the State.” *Egalitarianism as a Revolt against Nature, and Other Essays*. 2nd ed. Auburn, AL: Ludwig von Mises Institute, 2000 [1974].
- Stromberg, Joseph P. “Imperialism, Noninterventionism, and Revolution: Opponents of the Modern American Empire.” *The Independent Review* 11 no. 1 (Summer 2006): 79–113.

---

## PHILOSOPHIC RADICALS

---

John Stuart Mill once said of Jeremy Bentham that he “has been in this age and country the great questioner of things



- . "The Proper Sphere of Government." *Political Writings*. John Offer, ed. Cambridge: Cambridge University Press, 1994.
- . *Social Statics*. New York: Robert Schalkenbach Foundation, 1954.

## SPONTANEOUS ORDER

Spontaneous order theory is properly located in the history of social science. Indeed, the only part of social theory that can genuinely be said to be scientific derives from it. This scientific nature is seen in microeconomics, where the theory of the market describes how the voluntary actions of discrete individuals produce a predictable order from which we explain all the paraphernalia of modern economics. The main features of such an order are not designed by any one person or institution, but emerge spontaneously once individuals are left to pursue their private interests. Attempts to design an economic order, as in socialism, are condemned by Hayek as constructivist rationalism.

The theory of spontaneous order goes beyond economics because it seeks to explain how a range of phenomena, including law, emerged in a similar manner. There is little the government needs to do because essential institutions have been provided, seemingly by nature. The theory derives, however, from a novel distinction between nature and convention. Certain phenomena, like the weather, are purely natural and unalterable, whereas others are conventional and readily changeable, as is a statute. But there is a third range of phenomena, like the market, that are not entirely natural, but are by no means conventional and cannot be easily cast aside.

What is particularly significant for spontaneous order theory is its economical use of reason. Its theorists are anti-rationalists in that they explain effective social order not as a result of conscious planning, but by reference to instincts, habits, experience, and, most important, evolution. These theorists argue that traditional ways of doing things, which have developed gradually, are superior to any schemes conceived a priori. A key element of the theory is the conceptual distinction between law and the state. Law develops spontaneously, whereas the state is entirely artificial. The theory of spontaneous order does not depend on any special qualities of the person for the production of social stability and predictability. Whereas classical republicanism asks individuals to subordinate their private interests to the common good, spontaneous order theory concludes that the common good emerges from self-interested motives: It is an unintended consequence of human actions. These unintended consequences, which emerge almost by accident, are beneficial and are then imitated.

Although freedom is of great social significance, it has no necessary moral value. In spontaneous order theory,

liberty is a mechanism through which the coordination of divergent human purposes is achieved. The same holds for individualism, which also is a mechanism for achieving divergent human purposes. Thus, although spontaneous order theory embraces individualism, it remains methodologically rigorous in that it is neither arbitrary nor nihilistic.

The theory of spontaneous order resolves all social action into individual action. Concepts such as *society* are shorthand expressions for multiple individual actions. Thus, although the doctrine does explain social aggregates, these aggregates are reducible to individual volitions. Although all libertarians accept the theory of spontaneous order, disagreement exists about the extent of this theory's explanatory power and whether at times its antirationalism may undercut the natural law tradition, which requires the use of reason to determine which actions are morally permissible and which are not.

The origins of the doctrine of spontaneous order are commonly thought to lie in the 18th-century Scottish Enlightenment and the beginnings of modern market economics, but the earliest reflections on the idea that a society could be conceived of as a natural process that required little in the way of central direction long predate this era. The ancient Chinese philosopher Chuang Tzu was perhaps the first to write of such a possibility. He said that "Each individual should pursue his own predilections. . . . One is led to the ideal of non-governing and to the method of letting the world alone."

In ancient Greece and Rome, the political was considered the highest human achievement, and the emphasis on the public sphere as the realization of liberty precluded their social theories from meeting the standards of spontaneous order. Indeed, much of spontaneous order theory involves a rejection of the classical ideal of "public spirit."

In the late medieval period, the first sophisticated expressions of the idea of spontaneous order were suggested in the writings on economics from the school of Salamanca. These 16th-century Jesuit priests, although Aristotelian in intellectual origin, were able to adapt that unpromising doctrine to the features of a market economy. Their theory of spontaneous order derives almost entirely from an understanding of a market economy, characterized by the price mechanism, subjective value, and supply and demand. Against the prevailing cost-of-production, or labor, theory of value, derived from Christian natural law, the Salamanca school was convinced that all economic value emanated from subjective choice and concluded that cost-of-production theories of value provided a bogus rationale for raising prices above market clearing levels. Writers like Molina identified the "just" price with the competitive price. Although there is no notion of the margin among these writers, their theories had enough basic market economics to explain, and evaluate favorably, the spontaneous self-correcting processes of free exchange.

A major achievement of the Salamanca school was its discovery of the quantity theory of money. Sixteenth- and 17th-century Spain had experienced a massive inflation, a result of the influx of gold and silver from the New World. Molina and other Salamanca writers developed a theory of inflation that, in turn, led to their justifying banking; profits on exchange dealings were not usurious, they argued, because they contributed to production and were not against natural law—despite the fact that both canon and civil law forbade usury.

It has always been a strong theme of spontaneous order that the automatic coordinating and self-correcting mechanisms in society extended not just to economics, but to other areas. In the 17th century, it was extended to a theory of common law by Sir Matthew Hale, who concluded that law did not derive from abstract reason, but rather required a kind of practical reasoning. Law depended on the application of general principles to particular cases, and this elaboration was largely a function of experience. It is better to rely on a body of stable and known rules “though the particular reason for them appear not.” Hale attacked Hobbes’s theory of sovereignty. While conceding that the final authority of law rested on the King or Parliament, he did not think that they should be unconstrained. He was writing in an English tradition that regarded common law as superior to statute, a battle that the judiciary eventually lost after 1688 when the British constitution became associated with the unlimited power of a sovereign Parliament. It is, of course, true that the common law system has survived, but that raises a fundamental problem regarding spontaneous order theory—namely, whether it simply celebrates the unaided survival of a social order or whether it also protects the liberty of the individual. It might not prove sufficient to ensure a free society to solely rely on institutions that are the result of social evolution. It is possible that a written constitution determined by an abstract reason may be needed for the preservation of the spontaneous order. Moreover, was not the sovereignty of Parliament the result of spontaneous order inasmuch as it was established in Britain by a series of common law decisions that are consistent with Hale’s jurisprudence?

Spontaneous order theory proposed that orderly societies could emerge from the self-interested actions of decentralized individuals who had no direct concern with the common good. Yet political philosophy had always assumed that the pursuit of the common good depends on the suspension of self-interest. Therefore, what is needed is a theory that makes self-interest consistent with socially valuable action. The foundations for that approach were laid down by Bernard Mandeville. He was the author of the “amoral” “Fable of the Bees,” published in 1714. Mandeville was writing at a time of moral fervor when egoism was condemned and people were urged to act altruistically by sacrificing their self-interest in favor of the public interest. Mandeville contended that this

endeavor was vain and pointless and that self-interest unintentionally generated social well-being. The “bees,” when acting egoistically, he observed, produced the division of labor, the free market, and international trade. This object lesson led him to contrast virtue and commerce and to praise egoism: “Thus every part was full of vice/ Yet the whole mass a paradise.” The actions of the vilest contributed something valuable. “The worst of all the multitude/ Did something for the common good.”

However, Mandeville did not offer a broader explanation of how self-interest could generate social harmony in economics and society. That problem was solved by David Hume, who, while destroying the rational foundations of ethics, was yet able to produce a compelling morality and one appropriate for spontaneous order. His claim was to “whittle” down the claims of reason. He maintained that “it is not contrary to reason to prefer the destruction of the world to the scratching of my finger,” but this paradox did not preclude a demonstration of spontaneous order. Further, Hume conceived of self-interest as more or less constant: “As it is impossible to change or correct anything material in our nature, the utmost we can do is to change our circumstances and situation and render the observance of the laws of justice our nearest interest and their violation the most remote.”

Hume observed that we learn the laws of justice by constant interaction, often through trading with others, which quickly leads to the establishment of three social rules whose origins are in convention—the stability of ownership, its transference by consent, and the performance of contract. Whereas Hobbes saw the social game as a once-and-for-all experience in which desperate people surrender all their rights to a sovereign, Hume envisaged repeat games in which people learn the advantages of cooperation. However, the nature of these rules does not change; they are derived from “the confined generosity of man, along with the scant provision nature has made for his wants.” The conventions that develop through repeated social interaction are artificial, but still natural to man. Men also develop the capacity for reciprocity by which selfish men can advance their interests by occasionally acting generously: “I learn to do a service for another,” he wrote, “without bearing any real kindness because I foresee that (the other) will return my service.”

Adam Smith, like Hume, was highly skeptical of the role of reason in human affairs, especially of attempts to make society conform to an abstract plan divorced from experience: The legislator, he maintained, would not have the knowledge of time and place that individuals, with their natural liberty, employ to coordinate human actions. Most valuable social institutions are not the product of reason. The division of labor is not the effect of human wisdom, but is the necessary consequence of “a certain propensity to truck, barter and exchange one thing for another.” In general, if

people are permitted to exercise their natural liberty, a social order will emerge that is far more complex than anything deliberately designed. Indeed, Smith was alert to the fact that social well-being was the product of unintended action. He famously wrote of man that “by pursuing his own interest . . . he frequently promotes that of society more effectually than when he really intends to promote it.” He observed that the market coordinated human action spontaneously and the state could not improve on its efficiency: “No regulation of commerce can increase the quantity of industry in any part of society beyond what its capital can maintain.”

However, spontaneity—without conscious intervention—was not sufficient for Smith. He thus offered an elementary theory of public goods, those it would not profit any private agent to produce. Smith also modified his antirepublican individualism when he suggested that an obsessive concern with commerce might undermine communal loyalty and produce antisocial effects. People might become alienated and fail to internalize those rules that are necessary for the maintenance of spontaneous order. In addition, Smith never saw the advantages of certain spontaneously generated commercial institutions, such as the joint stock company. Yet, despite the qualifications set forth, Smith presented a compelling case for spontaneous order.

In addition to Hume and Smith, the Scottish social philosopher Adam Ferguson wrote firmly in the antirationalist tradition. He viewed society as coterminous with man and its bonds arising “from the instincts, not the speculations of men.” Societies, he noted, progress by a process of evolution, and “nations stumble upon establishments, which are indeed the result of human action, but not the execution of any human design.” An especially important factor in the evolutionary process was the development and protection of private property. After Smith and Ferguson, the Scottish school declined in significance for spontaneous order theory partly because they became associated with the labor theory of value, which found its fullest expression in the work of David Ricardo and, ultimately, Karl Marx.

Among more recent writers, the notion of spontaneous order was taken up by many modern economists, most notably among the writers of the Austrian School. Carl Menger’s *Problems in Sociology and Economics* sought to refute the claims of the German historicists who denied the validity of abstract, universal laws of economics, claiming that economics concerned itself with historical truths limited by time and circumstance. Menger employed spontaneous order theory to support his conclusions regarding the universal laws of economics. He used the method of abstraction to explain the emergence of money, markets, language, and law. They were what Menger called *organic phenomena* because they were the results of almost natural processes. He contrasted them with pragmatic institutions that are the result of human deliberation: “Markets, competition, money and numerous other social structures are

already met with in epochs of history where we cannot properly speak of purposive activity of the community . . . directed towards establishing them,” he wrote. In one example, money, Menger showed how actions that resulted from self-interest led to the establishment of one good (e.g., gold, as a medium of exchange, which was useful in many transactions and had none of the inefficiencies of barter).

Menger, however, never dogmatically claimed that organic institutions were superior to pragmatic ones. Explaining common law, for example, he wrote that it “proved harmful to the common good often enough . . . and legislation has just as often changed common law in a way benefiting the common good.” Still Menger provided the methodological materials with which Friedrich A. Hayek constructed a systematic normative theory of spontaneous order.

Hayek’s theory of spontaneous order derives from his philosophical assaults on rationalism and scientism. Hayek rejected the idea that the social world was governed by laws analogous to physical laws and that reason can uncover them, thus allowing society to be reorganized according to rational principles. We lack the knowledge to make the predictions on which such planning depends. The future is unknowable because knowledge is dispersed across possibly millions of actors and is not available to any one person or institution, but has to be coordinated by the market. Hayek describes a spontaneous market order as a *catallaxy*. Unlike an economy, which has a designed purpose, a catallaxy has none. It is simply a network of individual agents, households, and firms each pursuing its own ends and purposes. However, their decentralized actions are coordinated through the exchange system. A catallaxy rests on “the reconciliation of different purposes for the mutual benefit of the participants.” Such an order produces a tendency to equilibrium primarily through competition and entrepreneurship.

The postwar period became dominated by Keynesian economics, which held, in sharp contrast to the idea that there existed a spontaneous economic order, that a properly functioning economic system required substantial government intervention. It was the inflation of the 1970s that eventually brought some kind of change to views of the market. The gradual reduction of government intervention in many areas of the economy and the adoption of a tighter monetary policy that slowed inflation gave the idea of the spontaneous market order some respectability.

During the Second World War, Hayek realized that the case for a free society could not be made on the basis of economics alone, and in *The Road to Serfdom* he extended the theory of spontaneous order to cover law, politics, and the constitutional structure of nations. He maintained that, under the rules of just conduct, a complex social order will be generated by free action. He described these rules in two major works, *The Constitution of Liberty* and the three-volume *Law, Legislation and Liberty*. In *The Constitution*

of Liberty, Hayek suggested that, although it was possible that a deliberately designed code of law could provide rules for a free society, evolution was a most appropriate mechanism for the formation of these laws. This evolutionary development was the case with the English common law, which was never consciously designed, but developed in a case-by-case manner with no purpose beyond meeting the immediate needs of the contending parties. The result was an unintended order that was compatible with a free society. The design of a code, he contended, was an example of constructivist rationalism, doomed to failure inasmuch as men did not possess sufficient knowledge to formulate such rules.

The theory of spontaneous order serves as a crucial underpinning to any libertarian theory of society because it dictates that ordered arrangements and cooperative endeavors do not require an orderer and that, in fact, such attempts to plan social institutions, such as the economy, are doomed to failure.

NB

See also Common Law; Ferguson, Adam; Hayek, Friedrich A.; Hume, David; Mandeville, Bernard; Menger, Carl; Smith, Adam

### Further Readings

- Barry, Norman, P. "The Tradition of Spontaneous Order." *Literature of Liberty* 5 (Summer 1982): 7–58.
- Constant, Benjamin. *The Principles of Politics Applicable to All Governments*. Dennis O'Keeffe, trans. Indianapolis, IN: Liberty Fund, 2003.
- Ferguson, Adam. *An Essay on Civil Society*. Edinburgh: Edinburgh University Press, 1966.
- Grice Hutchinson, Marjorie. *Early Economic Thought in Spain*. London: Allen & Unwin, 1993.
- Hamowy, Ronald. *The Scottish Enlightenment and the Theory of Spontaneous Order*. Carbondale: Southern Illinois University Press, 1984.
- Hayek, Friedrich A. *The Constitution of Liberty*. Chicago: University of Chicago Press, 1960.
- . *The Counter-Revolution of Science: Studies in the Abuse of Reason*. Indianapolis, IN: Liberty Classics, 1979.
- . *The Mirage of Social Justice*. Chicago: University of Chicago Press, 1976.
- . *Monetary Theory and the Trade Cycle*. New York: A. M. Kelley, 1933.
- . *Rules and Order*. Chicago: University of Chicago Press, 1973.
- . *Studies in Philosophy, Politics and Economics*. Chicago: University of Chicago Press, 1964.
- Hume, David. *A Treatise of Human Nature*. L. Selby Brigg, ed. Oxford: Clarendon Press, 1987.
- Mandeville, Bernard. *The Fable of the Bees*. F. B. Kaye, ed. London: Oxford University Press, 1924.
- Menger, Carl. *Investigations into the Methods of the Social Sciences with Special Reference to Economics*. New York: New York University Press, 1985.
- Smith, Adam. *An Enquiry into the Nature and Causes of the Wealth of Nations*. R. H. Campbell and A. S. Skinner, eds. London: Oxford University Press, 1976.

## SPOONER, LYSANDER (1808–1887)

Lysander Spooner was a political and legal theorist, a writer, and an abolitionist. Born in rural New England, he was raised as one of nine children and left home to live in Worcester, Massachusetts, where, in 1833, he began studying law. He served his apprenticeship in the offices of John Davis, a prominent Massachusetts politician who shortly thereafter served as governor and then senator. In Davis's absence, Spooner also studied with Charles Allen, a state senator who eventually served as Chief Justice of the Massachusetts Supreme Court.

At the time, the rules governing Massachusetts courts required a student to study in a lawyer's office before admission to the bar. College graduates were required to study for 3 years, whereas nongraduates were required to do so for 5 years. Spooner's first act as a lawyer was to challenge what he thought was a rule that discriminated against the poor. After just 3 years of study, with encouragement from both Davis and Allen (who had graduated from Yale and Harvard, respectively), Spooner set up his practice in Worcester in open defiance of the rules. In 1835, Spooner published a petition "To the Members of the Legislature of Massachusetts" in the local newspaper and sent copies of it to each member of the state legislature. He argued that "no one has yet ever dared advocate, in direct terms, so monstrous a principle as that the rich ought to be protected by law from the competition of the poor." In 1836, the legislature abolished the restriction.

Spooner's writing career began at about the same time as his legal one, with essays criticizing Christianity from a deistic perspective. Possibly in part for this reason, his law practice did not flourish. In 1836, he left Massachusetts to make his fortune in "the West"—in this case, Ohio. While there, Spooner vied with other speculators to buy land where future cities would spring up. He purchased a tract along the Maumee River for a town called Gilead, which today is named Grand Rapids, Ohio. But Gilead lost out to better-connected rivals and a general real estate collapse, so that by 1840, Spooner returned to his father's farm.

After writing about how the banking system should be reformed to avoid the kind of speculative collapse he had experienced, Spooner struck out in an entirely new direction. In 1844, he founded the American Letter Mail Company to contest the U.S. Post Office's monopoly on the delivery of first class mail. Postal rates in that period were notoriously high, and several companies arose to challenge the government's monopoly. As he had when he confronted restrictions on entering the Massachusetts bar, Spooner vigorously defended his action with a lengthy pamphlet titled "The Unconstitutionality of the Laws of Congress, Prohibiting Private Mails" (1844).