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# 1. Foundations

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## Why Liberty Is Necessary for Morality

*Yuma (Arizona) Sun, March 22, 2003*

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It is often taken to be a feature of a free society that it rests on the belief that no one can tell what is morally right or wrong. That is supposed to be why government doesn't impose a lot of strictures that people are forced to follow. If, however, we could determine what is right and wrong, then, the idea follows, government could just proceed to force everyone to behave right.

A sad result of so explaining the merits of a free society is that it begins to look as if liberty is the enemy of morality. And it is in just this way that a good many people have understood the Western tradition of liberalism. They have come to believe that if you accept the Western idea of a free society, you must not care about morality at all. Arguably, a great many enemies of the West hold such a view. Love the West, reject morality; love morality, reject the West.

Yet this is completely wrong. In fact precisely the opposite is true. The reason the Western idea of a free society makes a great deal of sense is that unless people make their own moral choices and act on them freely, there cannot be anything morally praiseworthy in what they do.

A person who does the right thing because it is commanded, forced upon him, isn't acting morally. Such a person is acting from fear, not from the conviction that what he is doing is right. It is only in substantially free societies that men and women can be morally good. If one is forced

to praise Allah or God, give to the poor, or defend one's country, there is nothing praiseworthy about that. One is then a mere puppet, not a morally responsible agent.

Of course, there have been some who have defended the individual's right to liberty on the ground that no one can tell what is right or wrong. Some very famous people have done this. Yet their defense of human liberty is a weak, ineffectual one. That's because if one cannot tell what is right or wrong, one cannot tell whether violating someone's right to liberty is right or wrong. So a moral skeptic simply has no consistent reason to complain if the right to liberty is violated.

Those, however, who insist that they do know right from wrong have no justification for opposing a free society. For men and women to be morally praiseworthy—or alternatively, blameworthy—for something they do, they have to do it freely, of their own initiative, not because they are coerced to do it.

No one is morally improved by being forced to be generous, just, kind, courageous, prudent, honest, charitable, moderate, humble, or the like. The paternalistic motivation behind many government measures that ostensibly aim to make people good is hopelessly misguided.

I would even question the motivation of those who promote coercive government measures aimed at reducing vice and increasing virtue—since coercion kills personal responsibility and does this very obviously, it is more likely that advocates of forcing people to be good are power seekers, not promoters of morality at all. They use morality merely as an excuse to rule other people. In the name of an allegedly good intention, they perpetrate the most dehumanizing act; they rob people of their liberty to choose.

Of course, the laws of a free society cannot guarantee

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that citizens will choose the right way to act. That choice is in the hands of the citizens themselves and their fellow citizens, friends, community leaders, teachers, writers, and others who urge us all to do what's right, not law officers whose task is keeping the peace, not making people good! But in a free society, where no one is authorized to dump the results of his or her misdeeds on others' lives, people are encouraged to do the right thing more than in societies where personal responsibility is missing because of a lack of individual liberty. So the critics of a free society who want more emphasis on morality than on liberty would do better if they first stood up to defend liberty. In a free society the prospects for a genuine, freely chosen morality are far greater than they are wherever men and women aren't free.

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## Is Human Nature Good or Evil?\*

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As a little Catholic boy, I was taught that we are all born in sin—we inherited it from Adam and Eve who defied God in the Garden of Eden. That is the story of original sin, and in most Christian religions one gets over it by being baptized. The theologians of Christianity, as well as the philosophers on whose thought some Christian ideas were built—Plato, Plotinus, and others—cooked up this idea.

Is it right? Are we really all basically rotten?

The secular version of this story is a bit different, but not that different: we all have some rather low instincts or drives that make us vicious, nasty, greedy, and only when we are properly socialized do we manage to get straightened out. This nonreligious version of the idea gained prominence through the writings of such figures as Thomas Hobbes in the seventeenth century, and Sigmund Freud in the nineteenth and twentieth.

Again, the real question is, are these folks right? Are we all tainted from the start—is human nature basically corrupt?

An alternative view has also emerged, both from religious and from secular sources. For the religious, it holds that the doctrine of original sin doesn't mean we are all base or lowly, only that we are capable of going bad, of getting corrupted. Young ones aren't evil, but they can become so, as well as good—it is a matter of our God-given free will.

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Saint Augustine and Thomas Aquinas taught roughly this idea, as did Aristotle in ancient Greece.

For the secularists, it is a similar story: we are born innocent enough, by no means inclined toward good or evil, but as we grow up, our choices guide us toward one or the other, more or less. It is up to us; we aren't hardwired either way.

Of course, there is yet another idea, pushed by many natural and social scientists, that all this stuff about good and evil is nonsense—we just are what we are, as wolves, birds, whales, or ants are, and all the talk about good and evil is superstition or myth. But this view has its problems since those who hold it pretty much denounce those who don't, thus implying that the moralists are not doing right in holding their crazy ideas.

It looks, therefore, as if we cannot just toss out the notion that human beings can go right or wrong and do so on their own initiative. The only real question is whether they are predisposed to do one or the other or are free to do either.

But wait, isn't this just a question of opinion? Can these matters be settled? Haven't we tried fruitlessly to resolve them, all through human history?

One promising way to look at it is that yes, we have tried and have maybe even succeeded in finding some pretty good answers, but one generation's answers will not hold up automatically for the next. It seems to be a stable part of human nature to want to find things out for oneself, not just be told what others have come to think about basic issues.

So these basic questions, even if they have been dealt with successfully in the past, will recur again and again. Those who are dedicated to tackling them will continue to have jobs, one might say. It isn't like the sciences or technology, where we are always building on the latest advances,

never mind what people did in the past. It's more like getting a job—just because mom and dad did doesn't mean I don't need to get one myself.

Now don't worry, I am not going to try to give some facile answers to all this—I would need volumes to treat the issues, if I were up to that in the first place. But I do wish to suggest something that may be of use.

When it comes to whether people are good or bad, originally or of their own making, it does not help any to inject government into the picture. Morality cannot be forced on people; it has to be something people choose on their own. A habitual, reckless gambler isn't going to be a better person if forbidden to gamble, nor will a greedy person become generous if others take his money and give it away. They may change because they become scared of gambling or of losing money but not because they have seen the light.

Another point is even more important. This is that if there is any impetus to wrongdoing, nothing works better to that end than placing extraordinary powers in some people's hands. We know this from common sense: the temptation to become a bad cop is considerable because the means to do it are greater when one is legally entitled to use a gun on other people. Power corrupts, as Lord Acton said, and absolute power corrupts absolutely.

Governments that have too much power become despotic, mainly because they cannot resist using the force at their disposal for misguided purposes—censorship, regimentation, oppression, privileging some at the expense of others, and so forth. The kind of power governments have works well only when properly restricted to certain retaliatory purposes.

So admitting that, for whatever reason, there is going to be bad behavior wherever we find human beings should not

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encourage us to think that this requires empowering certain folks—the government—to try to mend everyone’s ways. Once these folks get the power to attempt to do that, they become the most susceptible to evil.

Evil in most cases can only be fought with social, not political, pressure, with education, with the influence of intimates and neighbors. It is useless to try to do it by making some people rule others—that only makes things worse.



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## What Free Will Is and Why It Matters

*Orange County Register (California), January 4, 1998*

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Free will isn't usually a topic for pundits, but I happen to work also in the discipline of philosophy, so I may be excused for thinking free will important and wishing others did, too. After all, it is vital to how we see human nature and conduct, ethics, law, and even international affairs.

The idea of free will is in deep trouble nowadays. First, this is what it means: we, human beings, have a basic and unique ability to be the primary cause of what we do. We are individually responsible for our conduct, unless we have sustained some serious damage in our brains. But normally, for those able to navigate their lives more or less successfully, free will is a reality.

Second, free will implies that since we cause much of what we do, we can be held responsible for the good and bad outcomes of our behavior. Our system of criminal law still sticks to this, more or less, though attorneys more and more resort to claims that their clients couldn't control themselves, had no free will. The famous defense attorney Clarence Darrow used to argue upfront against free will. Today it is an underlying theme in the defense of most who are accused of crimes – most recently, Theodore Kaczinski, who will probably give as his defense against the charge that he committed the crimes of the Unabomber that he lacked free will. But that defense still leaves open the possibility that others do not lack free will.

In the fields of psychology, sociology, economics, evolutionary biology—and even linguistics—there seems to be a consensus that free will need not even be mentioned when we consider how people think and act. All that we hear is that most of our behavior is caused by our genetic makeup or, alternatively, by our environment. Scientific reports on such debates have made the papers recently, and no attention at all has been paid in them to the possibility that we ourselves produce our behavior, as we choose, not as either our genes or our environment forces us to.

Most of the consensus about free will stems from the belief, embraced about four hundred years ago, that the world operates like a kind of clock. God wound it up, and since then it is pretty much running a predetermined course. Isaac Newton seems to have thought this—certainly many of his students supported the idea. Many philosophers, such as Thomas Hobbes, David Hume, Adam Smith, John Stuart Mill, Karl Marx, and others accepted the position, in some version.

The belief of these philosophers has left us with the view that nature makes no room for freedom. Only religion does, but there it becomes a matter of faith, not something that can be demonstrated.

Well, this view is misguided because nature does not really look the way early scientists thought it did—populated by tiny bits of matter colliding with one another in an infinite daisy chain. Nature is more complicated, made up of varied things, with diverse natures and abilities, so that human beings could very well have the capability, unmatched elsewhere, of causing their own actions. Some rare scientists have actually argued this—the late Roger W. Sperry, the Nobel laureate from the California Institute of Technology, did.

It is also pretty evident that we have free will if we just consider that nothing in nature makes us do the things we do; nor are we hardwired to do them, since many of us do not. Take writing poetry, composing music, devising multibillion-dollar mergers, or writing newspaper columns—or, indeed, almost everything human beings do—to do these things we have to take the initiative. Even to argue against free will or not to consider it is a matter of choice.

For purposes of our brief consideration of the topic, just think that when someone criticizes the free-will position, this means we ought not to hold it, does it not? Well, but that implies we have a choice whether to believe this or that viewpoint, and that pretty much assumes we do have free will. Otherwise why debate the issue?

Perhaps it is worth noting that although so many of the people concerned with how human beings behave give a cold shoulder to the topic of free will, in nearly every waking moment of our lives we assume that free will exists. This is clear from how much we criticize folks: such criticism—of people in politics, education, athletics, entertainment, business, law, science, and even philosophy (say, for misguided thinking about this very topic)—would all be beside the point if people couldn't have acted differently from how they actually did. It would all be “que sera, sera,” and the critics would be uttering total nonsense.

Are they? All the time?

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## What Is the Nature of Self-Interest?\*

November 7, 1997

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*The beauty of free-market capitalism is that it does not require anything more than ruthless self-interest from its most ruthless, self-interested citizens. When the system works properly, they enrich us all by enriching themselves without giving the matter a great deal of thought. If that is no longer true, it is not a sign that people are less moral but that the invisible link between private gain and the public good has been severed.*

Michael Lewis, "Lend the Money and Run,"  
*New Republic*, December 7, 1992

Lewis's observation, made in an essay reviewing books by Nicholas von Hoffman (*Capitalist Fools: Tales of American Business, from Carnegie to Forbes to the Milken Gang* [Doubleday, 1992]), and James Grant (*Money of the Mind: Borrowing and Lending in America from the Civil War to Michael Milken* [Farrar, Straus and Giroux, 1992]), has several questionable assumptions embedded in it. And they are all worthy of scrutiny. For although some economists who champion the free market embrace some version of Lewis's idea, their use of it does not quite fit his characterization.

First, Lewis assumes that we all understand what "self-interest" means. But from the time of Plato there has been serious debate about whether self-interest means "doing what one wants" or "doing what one actually benefits from (by some objective standard of what benefits a person)" or, again, "doing whatever one is doing."

There is nothing remotely “ruthless” about doing the second, while the first is tautological, redundant. It amounts to saying no more than that people act because they want to act, so invoking it as a characterization of what they do makes little sense unless those who invoke it smuggle in some objective standard of what benefits oneself. The last way of understanding self-interest is what most technical economists mean: when we see people doing things, they are pursuing their self-interest. In other words, the self-interest referred to in economic analysis is really what Milton Friedman said it was in his Nobel prize acceptance address: “The private interest is whatever it is that drives an individual” (Milton Friedman, “The Line We Dare Not Cross,” *Encounter* [November 1976] 11). By this account, both Michael Milken and Mother Teresa act from self-interest. In fact, however, this just means that both have their own motives from which they act. Their motives may be very different, and to understand their conduct it is this difference that is most significant. Knowing that they both want to do what they are doing and are, indeed, doing something isn’t going to tell us a lot about the character of their acts. Yet that is all that being “self-interested” seems to mean here.

Second, Lewis’s claim assumes that we know what it means for a system of political economy to work properly. But there is a great deal of dispute about that, too. Does a system work properly if it enhances justice? Or economic prosperity? Or equality of well-being? Or stability? Or peace? Or God’s purposes for us as determined by reference to the Scripture, the Torah, or some other good book? Or all of these?

Indeed, those who talk along these lines may well have some hidden idea—hidden even from themselves—of what

“work properly” means, usually, advancing some ideal they hope they share with their readers. But that hope is just what is mistaken, especially in this age of multiculturalism: there are too many competing social ideals, and by some accounts we aren’t even supposed to ask which is better, which has greater validity.

Yet without addressing that issue, there simply is no way to determine what system of political economy works. For example, it needs to be shown that a system that achieves equality of opportunity or aggregate prosperity or protection of individual rights or spiritual enlightenment is better than a system that achieves some other objective. Yet when public discussion ensues concerning what kind of system works, it often seems that these matters are left untouched.

Third, Lewis’s claim assumes that being moral consists of doing things not for oneself but for the public interest, understood in some way or other. We find in his remark a necessary schism between private gain and public good.

Just why are we to believe Lewis’s assumption about what it is to be moral? After all, if the public is worth benefiting, why would not private citizens also be worth benefiting, even from their own actions?

Just because the public is large? But that assumes that mere numbers make something worthy. Yet a lot of scoundrels are worse than one good individual. Indeed, why should it be, even in simple altruism, that benefiting others is good but benefiting oneself is at best morally irrelevant? After all, the agent is also a person who has needs and wants, and why should serving those needs and wants rate lower than serving the needs and wants of others?

There are probably other assumptions involved here, but these are the ones of direct interest to us. The unabashed invocation of the Smithian doctrine, expressed so

aptly by Bernard Mandeville in his *Fable of the Bees*, “private vice, public benefits,” is instructive. It shows that we still embrace the conflict between the individual and the common good that gave rise to many of our troubles.

By this doctrine, people can exonerate themselves morally when doing something that is to their benefit only if this is done so that others also benefit. Moreover, even then one isn’t gaining moral credit, only escaping moral blame. For if one does not benefit others while benefiting oneself, one’s action lacks redeeming moral worth. The reason is that the agent is never taken to be worthy of benefiting from his or her actions, only others are. Yet, that makes very little sense—why should other people be worthy of concern but not the agent who acts?

Not only does this view condemn many people in business as lacking in all moral worth—those who are not guilty of moral wrongdoing but who have not made any positive moral achievement through their business successes—but nearly all artists, scientists, educators, athletes, and so forth, who do what they do because they judge it to be to their benefit, something they themselves value or find fulfilling.

Most great artists and athletes do not set out to serve other people but work because they have a vision they want to realize. The greatest scientists do not usually do their work because they want to benefit humanity but because they are intrigued by some problem.

The same view of morality that condemns people in business to moral irrelevance also condemns nearly everyone who isn’t a martyr or a saint, which is already enough to call this view into question. This is one reason that when people in business try to defend what they do—namely, strive to prosper—they often pretend that it is for the public interest they do it.

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So instead of such a sloppy approach to a vital problem, what needs to be discussed is just what kind of political economic system human beings should establish and maintain. If selfishness is understood as striving to make a good life for oneself, there is nothing to be apologized for. But if selfishness means something else, we really do not yet know what we are talking about since the term is being used ambiguously.

A final note: Just remember that when self-interested conduct is condemned, it indicts what we are, our self or ego. And if that is justified, if we are really no good, then there is no hope because even everything we do for others is done by someone who is morally suspect.



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## Freedom: Local and National

*Orange County (California) Register, December 10, 1966*

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So many of us have one of the fatal political diseases prevalent in our society that it would be of benefit to discuss this disease in detail.

I am speaking of the tendency in most of us to assert a particular political principle in one situation and at one time, while proceeding to deny it in another situation at another time. Conservatives, liberals, Republicans, and Democrats, almost all of us, have given ample evidence of this tendency. Few of us, however, realize that such tendencies, unchecked and unchanged, may lead to the downfall of all rational principles in our society.

The most blatant example of invoking a political and moral principle while denying it in the same breath occurred in 1964 when two propositions appeared on the California ballot, each one dealing with the problems of property rights. Proposition 14 concerned itself with the right of a homeowner to sell his home, directly or indirectly (through a realtor), to someone he chose on any basis he believed relevant. Proposition 14 thereby meant to reinstate the moral principle of the right to property on a legal basis. While it was known by many honest supporters of the proposition that many people voted for it or supported it because of their dislike for African Americans on purely irrational, that is, racist, grounds, they realized that since the principle itself was a valid one, it deserved their continued support

even in the face of having to accept the undesirable fellowship of racists. At any rate, most political advertisement for Proposition 14 was based on the principle of property rights.

There was, at that time, another issue on the ballot that concerned the principle of property rights, even though it did not directly affect homeowners or raise issues of racism. Proposition 15, which asked the voters to refuse the right of subscription television to enter the marketplace, was also on the 1964 ballot. This proposition was not similar in content to Proposition 14, but the principle by which one would have supported or opposed it was the same. While Proposition 14 asked the voters to affirm a citizen's legal right to act freely in the marketplace, Proposition 15 asked just the opposite. It asked the voters to deny a corporation's legal right (i.e., the right of a voluntarily combined group of people) to act freely in the same marketplace. Both propositions concerned property rights, that is, the right of a citizen or group of citizens (corporation) to use or dispose of property as the owner sees fit, so long as no one is harmed through that act.

As we all know, the voters approved both propositions, though they asked for the establishment of diametrically opposite measures. From this it should be clear that many of those who voted had no idea concerning the principles that were involved in their choice. Some may have simply chosen to ignore them. Thus, distressingly, one may conclude that many of those who voted for Proposition 14 did so without regard to property rights—having ignored or avoided the question of property rights as they came to a decision concerning Proposition 15.

Now, it is disturbing enough to realize that fundamental moral and legal questions, such as whether a man has a right to his property and whether one may enter the “free” market

as a businessman, are decided through majority rule; one would have thought that fundamental principles (basic rights, such as the right to life, liberty, and property) constitute the foundation of a legal system and are not open to the democratic process (just as the right to one's life is not periodically decided by majority rule). But not only is this not true at this time in our legal history, the fact is that the same group of people at once affirmed and rejected the very same fundamental legal principle within the context of the democratic process. Considering that the notion of the right to property ownership (property rights) is fundamental to the legal, economic, and political history of the United States, the fact that at this time its affirmation and denial happened with such candor and in such magnitude is that much more appalling.

Of course, these are but two instances in which people—which means, of course, a number of individuals—have acted or voted without regard for moral or political principles. Some other instances include those when people have opposed or supported zoning laws, blue laws, local ordinances which restrict some people from doing what harms no one at all (except that some consider it a “menace to the community”), and so forth. More frequent and far more intensive is the support of some people for the censorship of movies, magazines, and books that they believe are a “menace to the community.” In every one of these instances, the people who support zoning laws, censorship, blue laws, and so forth, are affirming the rule of the majority over the minority. If, then, some of those who are violent supporters of such dictatorial measures have the audacity to cry out against “big government” or “centralized governmental power” when it comes to state or national issues, they are

clearly rejecting the very principles they have supported. Accordingly, they have themselves among others to blame for the realization of such governmental power and size since they, in their ardent support of majority rule, have legitimized the principle of majority rule in all areas of public and private life—be it zoning, blue laws, censorship, eminent domain, public works, prayer in public schools, public accommodation, provisions under the guise of “civil rights,” or whatever is put up for political decision.

The practice of complaining about the very thing that one has brought about or supported is so widespread that it transcends most ideological and political boundary lines. Republicans complain about government spending in the national government while they brag about it in state government, as if the two did not both spend the taxpayers’ money; conservatives decry the power of Washington while they would love to gain power themselves and enact the laws that would bring about the “moral reform” of society; liberals complain about discrimination against African Americans while they themselves have for years discriminated against all of their ideological opponents in not giving them a hearing and in dismissing them as extremists; the left wing opposes the draft because it forces people to fight a battle they do not want to fight while the same left wing supports every government decision that contributes to the “Robin Hoodism” of distributing any person’s wealth to those who did not produce it, that is, by forcing some to do something they might not want to do; the right wing supports the free enterprise system of economics with “the less, the better” government, only to turn around and ask for the prohibition of certain political groups’ right to freely say or publish what they want, and so forth.

In the face of all the disturbing evidence of irrationality among this nation's political participants, what sort of lesson should one draw? Well, perhaps not all of us can learn from fact and from the evidence of the past. Some—and perhaps most—are not disturbed by the fact that in the area of freedom of action, be it intellectual or economic, this nation is on the downhill path and has been for several decades. That the country has not suffered uniformly from all this is due, mainly, to the initial momentum of this nation's economic success and technological achievement. Just as a very healthy man will not experience immediate disaster from having contracted a serious virus, so the United States has been successful in withstanding, in the main, the continuous attacks that it has suffered from within, attacks affecting its most vital properties, such as its legal system, which was designed to secure economic and political freedom for all citizens. The question is, how long can it keep on in this way, and how might we ensure that the health of the patient will take a turn for the better?

The most important thing that a person can do to achieve this purpose is to act in accord with the most fundamental principle of a free society. This principle is that no one may initiate force for any purpose whatever. If one were to follow this principle consistently, one would never vote for a measure that aims to suppress free action; one would never write to urge one's representative to vote for giveaway programs; one would act and urge others to act in whatever legal way possible to eliminate subsidies (which use taxpayers' money to support members of industries), to eliminate tariffs (which protect some business people against other, and often better, business people who offer better and less expensive goods), to eliminate public projects (which use some peoples' money to build parks, roads, industries, etc.,

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and maintain forests, beaches, etc., for others), and to eliminate all foreign aid (which distributes the taxpayers' money abroad to support goals considered wise by some people in Washington and elsewhere).

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## Principles and Flexibility

*Orange County (California) Register, June 3, 2003*

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In contemporary American and, indeed, world politics, it is often considered a good thing to be flexible. Principled politics is dismissed by many as “ideology.” Rather than ideology, we all ought to embrace pragmatism.

The term “ideology” has several senses. One is tied to Marx’s claim that principled economic and political thinking is nothing but a rationalization for class interest. Those, for example, like Adam Smith and David Ricardo, who proposed a substantially laissez-faire, free-market system as being best suited to a community’s economic organization, were supposedly doing this merely to promote the interest of capitalist, wealthy people who were well served by such a system. So, Marx believed, the principles of laissez-faire were a facade for class interest and were not held up on the grounds of their soundness at all.

Another meaning of “ideology” is simplistic political philosophy. In this sense, ideology provides knee-jerk responses, not genuine solutions, to complex problems. That is what critics of principled thinking suggest about people whose ideas they do not like, not that these people honestly develop and use political principles in an effort to understand what ought or ought not to be done by public officials.

Of course, people embrace different ideologies, and their own is usually construed as the result of long and hard

thinking and observation of community life, issuing in judgments and evaluations based on such thought and observation. Others, with different ideologies, are, in contrast, thoughtless propagandists for simple, rigid, and unworkable answers and lack the flexibility that would produce realistic solutions.

Politics, in fact, requires both principled thinking and proper flexibility in the way principles are applied. Just as in law, there is a need in political thinking for basic ideas that serve as the foundation for understanding how human communities ought to function. But in law, it is also vital that cases that arise be considered in the light of the facts, many of which may be new and might even need modification of the principles that guide legal decision making. Is it in fact possible to develop principles about such matters as long-term public policy, or can we only handle problems case by case? Indeed, our Supreme Court, interestingly enough, prefers the second approach, seeing the first as involving dogmatism and rigidity.

Actually, principled thinking is indispensable. Just think of it—when one learns to drive, one needs to learn the principles of, say, defensive driving so that one can be ready to cope with the challenges of the road. Scientists strive to identify principles, in physics, chemistry, biology, and economics, and do not leave it all to learning piecemeal, bit by bit. Doctors are trained in the principles of medicine and good health and do not just look at a case as if it were brand new. And in ethics and politics, too, what we learn from history and human nature are principles.

It is pretty unrealistic to think, however, that only flexibility, case-by-case assessment, or that only rigid dogmatism, the unthinking application of various ideals, has a role in guiding personal conduct or public policy formulation.



Today the principled approach is largely avoided by prominent intellectuals because of the strong influence of America's homegrown philosophical school, pragmatism. Yet the attitude of these intellectuals is unrealistic, as my earlier points make clear enough.

What needs to be noted, however, is that there are those people in public life who find it useful to construe every problem as unique, thus leading to public policies and legal decisions that need not be adjusted to serve basic principles. This makes the people who administer law and public policy the ultimate arbiters of how things should go. This, in other words, defeats the ideal of the rule of law, an ideal that makes sense when the alternative is the rule of arbitrary human will, be it that of the majority, the king, or a single ruling party.

The ideal of the rule of law allows everyone to be in on the assessment of legal and public policy decision making—we can all check out whether our lawmakers and policymakers are doing the right thing. If, however, no principles are available, then anything goes, and usually the most emotionally appealing choice is accepted, leaving those who express these emotions most effectively the purveyors of demagoguery.

Consider that in some areas even those who prefer flexibility draw back from this approach when it comes to certain issues. No one would think that when a man forces a woman to have sex with him, the act should be considered on a case-by-case basis, rather than declared as in principle criminal, or rape. The principle behind this classification is that a person has the right to choose with whom he or she will have sex. To dismiss such a principled approach implies a case-by-case approach, making it likely that unprincipled decisions, resting on the emotional appeal of perpetrators

or victims, would rule. It is easy to imagine how juries, told to be flexible and to avoid rigidity, would base their decision not on the principles mentioned above but on whether the perpetrator was otherwise a nice person, had appealing attributes, served the community vigilantly, promoted economic prosperity, or painted well. A flexible approach would leave such decision making unimpeachable. But a principled approach, while still requiring attention to the details of the particular case, would ensure that in the end it was a violation of basic human rights to rape someone.

Is this mere ideology? Is it simplistic? Is it lacking in flexibility and pragmatism? No. Nor would it be mere ideology, simplistic, and lacking in flexibility and pragmatism, to judge various, say, political or economic matters by reference to certain tried and true principles, ones we have learned over the many years of human experience in community life.

Thus, for example, when someone objects to government intrusion in the market place, thinking it a violation of our economic freedom, this is not merely ideology but the application of arguably well-developed and established principled thinking to an understanding of public economic policy. Criticizing restraint of trade because, well, it amounts to interference with people, a violation of their private property rights and freedom of contract, is no less based on tried and true principles, not as they apply to one's sovereignty over one's sexual life but to one's sovereignty over one's property and liberty.

I would urge all the realists, pragmatists, and champions of infinite flexibility to consider that if they applied their view to all of what we do, there would be no basis for condemning lying, cheating, fraud, rape, murder, assault, kidnapping, or the other ways people damage their fellows. In

politics, no less than in ethics or morality, there are some general principles that must come into play as we evaluate how people conduct themselves. It is a matter not of whether we need principles but which principles we in fact need.

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# The Proper View of Government

*Navigator. Poughkeepsie (New York), December 1, 1998*

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As free-market champions make increased headway in the political and cultural arena, conservatives and neoconservatives have been taking more and more potshots at them. William Kristol and David Brooks of the *Weekly Standard* have been especially keen on denigrating the libertarian idea of a government with properly circumscribed powers and scope. Among the many charges lodged against that idea, the following seem most common: (1) Limited government is not inspiring. (2) Libertarianism provides no basis for patriotism. (3) Libertarianism provides no basis for a national leader.

## Inspiring Government

The first allegation states that limited government is not sufficiently inspiring to rally the support of its citizens. Conservatives say that a government looked on with suspicion — thought of as a necessary evil — has little chance of surviving, let alone flourishing. Even the ordinary operations of government, they observe, require a modicum of respect from citizens. And in times of crisis, government must command devotion as well as respect.

Now, let it be admitted that, in the heat of debate, libertarians sometimes say things that do not bear close scrutiny. Thus, libertarians have at times made the claim that

government is a necessary evil, and, in fact, that theme occurs in the writings of the American founders. But others in the libertarian tradition have advocated a strictly limited government without any suggestion that government, properly understood, is an “evil.” John Locke, for example, assigned government an honorable role, even while insisting that none of its powers should violate basic individual rights.

Libertarians, then, can have a positive idea of the state, though their attitude to it will always be a demanding one. As the Declaration of Independence declares, it is to secure the rights to life, liberty, and the pursuit of happiness that governments are instituted among men, deriving their just powers from the consent of the governed. And what are those just powers? Only the powers needed to secure the rights in question—no more, no less. The task of the state is akin to that of a police officer: to apply the force needed to protect citizens, while avoiding unnecessary force. It is a tall order and a delicate one. And those governments that succeed in fulfilling the task are entitled to respect and devotion.

Consider the moral virtues such a government must have: vigilance, valor, honor, and most of all, integrity. These are values people greatly admire when embodied in soldiers, police officers, and judges. Suppose legislators and administrators embodied such virtues as well. Would they not earn the respect of the people, as statesmen once did? Certainly, they would earn more respect than they do by seeking power at all cost, legislating without regard for principles and the Constitution, meddling in all our concerns, and paying off contributors and constituents with subsidies and privileges. If those who love liberty are today uninspired by government, it is not because their view of government

is too limited but because existing government has become degenerate.

### Libertarian Patriotism

Recently, conservatives and neoconservatives have come up with another taunt against libertarians: what basis does their philosophy offer for patriotism? Again, libertarians have sometimes provided the Right with ammunition.

Consider the following incident. In 1987, Kris Kristofferson starred in a very bad miniseries called *Amerika*, which concerned a Russian takeover of the United States. Four years later, when speaking at the Republican Leadership Program Retreat, Cato president Ed Crane cited the miniseries in some amusing and profound remarks.

At one point Kristofferson steps out of character and is about to say something intelligent. He's attempting to arouse the dispirited masses (not to mention the television audience), and he says, "America is not the land. America is not the flag. America is. . . ." And suddenly he has my attention, America is what, Kris? Here's what he says: "America is not the land. America is not the flag. America is the people. . . ." What Kristofferson should have said is that America is not the land; America is not the flag; America is an idea. And the idea is a fairly simple one. It's the idea of human liberty.

Now, that sounds good—until one realizes that ideas have no homeland. Walter Berns, the conservative constitutional scholar, has come at the same point another way, in an article entitled "On Patriotism" (*Public Interest*, Spring 1997): "There is, of course, nothing peculiarly American about those [the Declaration's] principles. On the contrary, they are abstract and universal principles of political right, a product of political theory; any people might subscribe to

them, and Jefferson himself expected that, in the course of time, every other people would do so. ‘All eyes are open, or opening, to the rights of man,’ he said on the eve of the Declaration’s fiftieth anniversary. This has not happened, but were it to happen, America would lose its distinctiveness, and, along with it, any claim on the affections of its people.”

Surely, that is not true. Surely, it is too abstract. For it is not just the principles of liberty that inspire American patriotism but the ways in which those principles have shaped the country’s history and culture, including the attitudes of, yes, the American people.

For instance, in dealing with others, most Americans have a certain casual confidence, a relaxed manner of social intercourse, and an uncomplicated individualism. And Americans like that about their countrymen. In that sense, there is after all something to the remark that “the people” inspire our love of country.

Of course, libertarianism has not yet been put into practice in enough places to offer us a true database of cultural anthropology. Yet a bit of imagination would suggest that love of country within a libertarian framework amounts to a combination of reverence for certain basic principles of freedom and an attachment to a set of shared beliefs, attitudes, and practices that either further those principles or (at the least) are compatible with them.

### National Leadership\*

The last trendy charge of conservatives, a charge usually associated with “TR Republicans,” is that libertarianism has no conception of a national leader, as opposed to a top executive-branch functionary. Of course, if Theodore Roo-

sevelt is their model, one can only say, “Thank God libertarianism excludes such a leader.” A free country has no need for a leader who sets about running the country according to his own idea of the good life. Quite the contrary, a free nation’s leader should remind citizens how noble it is to set one’s own goals. Perhaps that is why generals have typically made bad presidents.

Still, a country does need a leader, at base because it needs someone to serve as the final guarantor of national security (although other symbolic roles accrue to such a leader). Were America suddenly attacked by nuclear missiles, the president would and should have it within his prerogative to launch a retaliatory strike, even if that brought utter destruction to the United States. It would and should be within his prerogative, despite Congress’s power to declare war and despite the Supreme Court’s power to declare presidential acts unconstitutional. The president alone is and should be vested with the ultimate power to act, when necessary, on behalf of the nation. Locke, in particular, spends much ink on spelling out how such a prerogative is part and parcel of the executive branch of government, even though the government must be held accountable once the emergency has passed in which the prerogative was exercised.

As a result of this fundamental leadership role, the president also takes on the role of serving as the symbol of our national values and as the voice of our national sentiments.

It is true that in libertarian political philosophy, because of how much emphasis is placed on simply showing that there is merit to its basic principles, these special areas of concern have yet to be fully developed. Still, if the American experience is a reliable clue, there should be no great difficulty in envisioning a robust sense of patriotism and loy-



alty, as well as a basic respect for, even devotion to, a libertarian administration. Few people in political history have inspired as much diligent study and respect as the founders of the American republic, especially on the part of those who have experienced the devastating effect of tyranny. An idea of government that stands as history's greatest bulwark against such tyranny is anything but dispirited. Conservatives in America, of all places, should not be tempted to think so.

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## The Merits of the Slippery Slope\*

May 26, 2002

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In the study of arguments, the slippery slope has a dubious reputation. If, for example, one argues that, after government acquires the legal power to censor, say, sex and violence on television, it can in time begin to acquire the authority to censor even political ideas, this is often scoffed at as alarmism, nothing really worth worrying about. Why? After all, the logic isn't bad. When government gains legitimate power over the content of movies, books, or magazines, why should it matter what the content is? Any content is threatened, even if at some particular time only some of it is actually targeted.

Well, for one, the slippery slope argument isn't about what is likely to happen, only about what can happen. In America, for example, the tradition of freedom of speech is pretty strong for political speech and weak for commercial speech; so even though by the logic of the law it is possible to extend censorship to what people write on politics — this is speech, after all — it isn't likely to occur, at least not just yet. But, should people start losing their attachment to this tradition of political free speech, the law may no longer stand in the way, protecting us against censorship. And that is because the slippery slope is, in fact, a motive force of public policy.

The law, for example, attests to this in how precedence works: if certain areas of human conduct have come to be

subject to government regulation, similar ones can also become subject to it. Most recently, for example, after the tobacco companies were made subject to lawsuits and government regulation because they supposedly caused people to become addicted to smoking, a good many state prosecutors began experimenting with lawsuits against gun manufacturers and even food producers. There have been efforts afoot, in Connecticut for example, to use the same strategy against food manufacturers on the grounds that they supposedly cause people to become obese and should be held responsible for this.

But, and this is where slippery slope arguments lack full conviction, although something in them may well be logically compelling, people are not always willing to follow the logic. They will not allow some matters to be swallowed up by what is called the logic of the law or public policy, simply because people do not want to go that far.

In America, for example, government has the power to regulate commercial speech—at least the courts, including the Supreme Court, have been ambivalent and have often permitted legislatures and regulators to limit advertising and other commercial speech. Of course, strictly speaking, if government may do this, there is no principled reason that it may not regulate other forms of expression, such as what is put on the wide screen or even in publications. For a while the Securities and Exchange Commission (SEC) even wanted the power to regulate the content of financial newsletters, never mind that this was a clear case of regulating written expression, something most of us figure is protected from regulation by the First Amendment of the Constitution. But once exceptions are made, the zealots will take it as far as they can—they believe they are good enough and wise enough to regiment our lives, so once a foothold

has been gained, they certainly will not hesitate to exploit it if they can. The same trend is now in the works for the Internet. Only cultural tradition, expressed in some measure of public opinion, stands in the way.

Often, for example, there is an unabashed, unapologetic call for censoring movies for their violent or sexual content, and politicians, sensing that the public often feels appalled by this kind of content, are willing to test the waters. Some courts have resisted, but others haven't—in some local communities censorship has been rampant and, without a sustained legal challenge, has remained in force. Now, a good many Americans share the puritanical sensibilities behind this effort at censorship, which is why there has been considerable success on that front for the censors, even if it hasn't reached national proportions. (In France, which many intellectuals believe is such an open society when it comes to sexual mores, many sexually explicit movies are banned outright, mainly because the French have no constitutional protection akin to the First Amendment. And European Union courts have also censored books critical of, well, the bureaucracy in Brussels that guides this union!)

But there is a lot besides sex and violence that is quite offensive in movies. What about really off-the-wall ideas, paraded before audiences, day in and out, both on the wide screen and on television? Some shows promote lying, adultery, laziness, or sexism, no holds barred. And sure, this could quite possibly influence many who are watching. Other films promote the idea of how it is OK to ruin one's life if one's parents have brutalized one as a child. Many similarly dangerous ideas are treated as perfectly acceptable in movies, plays, and novels, not to mention popular music. Or consider movies that even quite recently treated communism as, well, just a misguided ideal, not a vile system

such as Nazism. NPR regularly features Soviet recordings of famous music but would never do this with similar Third Reich recordings. HBO's recent movie on Churchill gave excuses for Stalin while condemning Hitler in no uncertain terms. Offensive and dangerous ideas are rampant in many highly praised films, as well—Woody Allen's *Crimes and Misdemeanors* pretty much suggests that murder is no big deal if you don't get caught!

In a free society men and women are officially taken to be trustworthy, mature enough to deal with dangerous ideas, be these about sex, violence, or political ideology. Once that belief is given up, even for some extreme cases, the slippery slope process can start. It may not always be followed through, because different traditions and social practices may slow it down or even stop it. But the law and public policy will have been corrupted in the process.

At that point, all that is needed for the further erosion of individual liberty and other principles is for a large part of the population to get all riled up about something, enough to match the force of tradition, so the slide to tyranny will not be far off. It is thus important to heed the slippery slope and not worry about those who debunk this argument as alarmist. Those who are wary of the slippery slope are, instead, prudent and responsible.

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## The Right to Post One's Sign

*Yuma (Arizona) Sun, December 28, 2002*

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The basis of nearly all freedom is the right to private property. If I am to be free to publish, I must be free to own printing presses and such; otherwise, my freedom has no meaning—if the government owns the presses, it has the power to revoke my liberty by simply denying me permission to use them. Just ask the journalists who worked for *Pravda* in the old USSR!

Indeed, whenever you own something, you are supposed to be free to do with it anything peaceful you might want. And by “peaceful” is meant whatever doesn’t violate anyone’s right to do as he or she sees fit in his or her sphere of authority, a sphere identified by one’s right to private property.

Several years ago, in a canyon across from my home in Orange County, California, the owners of a pretty big plot of land built three white crosses. The crosses have been standing there above the canyon in the plain sight of all, be they Christians, Jews, atheists, or agnostics. No one to my knowledge has made any fuss, although some may find it annoying to have to look at a religious symbol they do not honor in their own worldview.

Why no fuss? Well, because we all seem to realize that when you have come to own something—either through your hard work or because you inherited it—it is up to you how you make use of it. It’s an extension of your indisput-

able ownership of your self. Indeed, this is the basis of self-government, of the idea that in a free society the consent of the governed is required in order to have legitimate authority to govern!

Sadly, these days such reasoning has lost nearly all of its appeal in our “free” country. For example, in a recent court ruling about a citizen’s right to place a sign on top of a surf shop in San Clemente, California, the issue wasn’t settled on the basis of whether the citizens had ownership of the shop. That wasn’t in dispute.

Instead the issue was whether the city authorities in San Clemente had banned the display of signs clearly and unambiguously enough. The judge declared that since the city’s ban was vague, the surf shop owner was permitted to display his ten-foot wooden cross for the time being.

The implication is that if the city authorities had only drafted their ordinance more precisely, it would have been fine for them to prohibit the display of the cross on top of the shop. Yet one of the main reasons we want to own things is that we supposedly can then do with them as we choose, not as others choose.

Those folks across from my home who own the land there ought not to be told whether they may or may not place three white crosses on their property—they have a right to do so and should need no permission from a bunch of politicians or bureaucrats or even neighbors. Indeed, who are such folks to dictate to their fellows, as if they were little children, what they are allowed to display on their property? This to me is most puzzling. “Just who do you think you are?” should be the question these folks are asked. Indeed, they should ask themselves that question.

It was Abraham Lincoln who said, “No man is good enough to govern another man, without that other’s con-

sent” (*Collected Works*). That principle is the very foundation of a free society. But if one has no right to one’s property, and a bunch of citizens can elect some blokes who then can tell others how their property may be used, then those others can legally be governed against their will, in defiance of their consent. And that is rank injustice.

In a free society people will, of course, have wishes about the composition of their neighborhood—whether, for example, advertising or religious signs are to mar the view. But in a free society the way such matters are decided isn’t by imposing the will of some on the will of the rest, even if the former are the majority. That would simply mean a version of tyranny, that of the majority, which is hardly an improvement over the tyranny of some dictator or single political party.

No, in a free society one’s wishes are supposed to gain support only voluntarily, through the consent of others. That means that if some do not want to see a sign placed on the property of another, they must use persuasion to get the sign removed, pay off the owner to get it removed, or, if none of that works, just turn their gaze away. They may not forcibly remove the thing, as if the property belonged to them, or send the police out to do the deed for them.

Alas, such principled thinking is not fashionable. Too many Americans have become unrestrained democrats who believe that simply being in the majority renders whatever they decide to do perfectly acceptable. That this belief would have justified slavery at one time, or the lynch mob, or the destruction of democracy itself (for example, in the Weimar Republic, which elected Hitler and imposed his dictatorship democratically on Germany) seems to escape those who cling to the myth that majority rule is sufficient to justify some policy. Indeed, if we generalized that idea,



most Americans would become the slaves of majorities abroad!

The bulwark against the tyranny of the majority, no less than against one party or dictatorial rule, is the institution of a vigilantly protected system of private property rights. Sure, it may mean some cumbersome maneuvers in deciding issues in our communities. Yet, that's a small price to pay for the liberty it would secure for all citizens to live by their own judgment instead of being forced to kowtow to others when they do not want to.

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## Follow-up to the American Revolution: Abolish Taxation

Mises.org, April 13, 2000

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The only good tax is no tax. Why? How would we fund government without taxes? These are good questions to ask. But first let's understand what taxes are.

Throughout most of history, governments—usually monarchies headed by kings, emperors, pharaohs, or other tyrants—actually owned everything under their rule, including, believe it or not, the people. In those regimes the people were regarded as subjects, not citizens. That means that people were treated as underlings, subject to the will of the ruler.

In these social systems, the institution of taxation was a cruel measure of outright subjugation, imposed by rulers on their subjects. Because the rulers owned everything, when the subjects lived on the rulers' land, the subjects had to pay for this privilege. No, they had no legal right to the land they worked; they had no legal right to their own labor; and none of their basic rights were given legal protection. The law affirmed the full power of the rulers, period, until gradually this absolute power began to be checked and contained.

In time the idea gained prominence that those who made up governments were human beings, not gods. Thus it dawned on many that they had no (divine) right to rule anyone at all other than themselves. The idea began to gain headway—between the eleventh and the eighteenth cen-

tures—that every person had the basic, natural right to his or her life, liberty, and property. Anyone wanting to gain the benefit of another’s work or other assets would have to ask for it. Sovereignty lay with individuals, not with governments—that is the central point about being a citizen as distinct from a subject.

This is the significance of the well-known phrase “consent of the governed.” Consent must be obtained to govern a citizen, unlike a subject. And in a fully free society there are no exceptions. John Locke, the English political philosopher, went the farthest—though still not all the way—toward the development of this idea and its implications.

All the while, of course, the point had been resisted vehemently by those who felt they knew how others ought to live their lives (i.e., conduct themselves and make use of their property) and insisted that they could know it much better than the people on whom this “knowledge” was to be imposed. They fought tooth and nail, with force of arms, with references to tradition, and, of course, with fancy but mostly sophistic arguments. And the debate is still going on.

But not widely enough, and there is a reason for this. Like all extortion, taxation is difficult to fight. Moreover, in taxation the very people we call on to resist criminal extortion are the enthusiastic, loyal extortionists.

Judges, politicians, police officers, the agents of different branches of government—all those parts of the system that the founders of the American republic called on “to secure these rights”—have remained, as in feudal times, the very people who perpetrate the extortion: they have, as a matter of fact, become worse than extortionists, who, after all, know they are criminals. Those in government and their supporters who defend its supreme role in society often

believe, sincerely, that their institution is a necessary, albeit coercive, agency, akin to a parent or guardian of children.

These folks are convinced that what they provide is so vital to us all that they do not have to ask for permission to provide it, so long as a sizable number of citizens—through some kind of democratic process (but one to which not all have consented)—back them up. No, they may impose their public services, never mind whether consent has been obtained from all those who are to be benefited and from whom payment, or taxes, are confiscated.

If the American founders had all along been preached to by the intellectuals who enthusiastically defend the institution of taxation, well, there would be no United States of America, the bastion of individual liberty in the world, and no glimmer of the hope of extending its ideas to further regions of human life. That is because from the start the leaders of this country had the revolutionary gall to call for more liberty for its citizens than those in other countries had. This call has been seriously eclipsed by the call of our current leaders, who do not even see the point of mentioning, let alone expanding, the protection of individual liberty as one of government's central tasks.

Of course, calling for liberty didn't always suffice, which is why slavery had to be abolished, for example, and why there is so much more work to be done along the lines laid out in the Declaration of Independence. All in all, despite compromises and failures, the call for more individual liberty has been one of the cornerstones of America's uniqueness.

The call for abolishing taxation, heard only here and there, mostly in demands for tax cuts, is just a further step in the direction of living up to the promise of the American Revolution. Ultimately, taxes need to be replaced with a

form of payment for government services that is fully, uncompromisingly consistent with the principle of “the consent of the governed.” Barring such a development, all we have is the chance to press the point: reduce taxes, privatize services, and through these acts, make us all more free.