

## **Libertarianism**

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Libertarianism designates a group of positions concerning political institutions stressing the virtue of individual liberty. With more and more confusion about what is liberalism? so that the term is used alternatively to refer to nearly diametrically opposed socio-political systems -- the term "libertarianism" has come to mean the sort of polity in which the right of every individual to life, liberty and property is fully and consistently protected. Libertarianism is the political-economic theory whereby a community is just if and only if each member has his or her basic negative rights respected and protected.

Libertarians hold that everyone in a community must be accorded his or her sovereignty regarding choices, decisions and actions that do not violate the negative rights of anyone else. A legal system must prevail in which everyone's civil liberties, including the rights to free expression, religious affiliation, commercial associations, and procedural justice in the case of litigation are to be upheld. In short, regardless of what the goal, no one may be made subject to involuntary servitude. Even the funding of government must be secured by means of voluntary payment, not taxation.

There are different arguments in support of the libertarian legal system. And there are some differences as to how libertarians conceive of that system, with some (e.g., Rand) actually eschewing the term entirely. But the central tenet of libertarianism is that the highest public priority is to defend the right of everyone to life, liberty and property.

Some libertarians conceive of law as a system of competing legal and police services. Following the writings of F. A. Hayek, these libertarians believe that law is itself a service to be developed spontaneously, with no agency having a monopoly on its supply. But the bulk of libertarians believe that the constitutional protection of individual rights must be provided by a government that is undivided, so that a court of last resort may be available to citizens who find themselves disputing over rights violations, the central source of legal trouble in a free society.

Different libertarians see the source of constitutional provisions grounded differently. Some believe that objective morality, based on human nature and the conditions facing people in communities, must underlie a bona fide legal system. Others believe that bona fide law rests on no more than the conventions identified by reference to the will of the people. Still others think that the way the common law has developed in various regions over the globe most sensibly models the nature of just law.

Furthermore, some libertarians embrace a utilitarian moral foundation in their defense of the free society, holding that the free society, especially the free market, will best promote the greatest happiness of the greatest number. Others lean toward a natural law/natural rights approach to defending the free society, holding that the moral nature of human beings, their individual responsibility to do well in life as a function of their own sovereign choices, serves to provide the basis for the libertarian polity. Yet others eschew all reference to ethics or morality and hold that libertarianism most faithfully reflects the natural, evolutionary development of human social life. There are also those who defend libertarianism because of its supposed concordance with a religious idea of human existence. Some libertarians rely on a thoroughgoing moral

skepticism, following, for example, the Chinese philosophical school of Taoism (mainly Lao Tzu), claiming that since nothing about right and wrong is knowable, no one could ever justify exercising any inherent authority over another.

In a libertarian polity a most basic legal protection would be accorded to the right to private property, mainly because all other rights could only be exercised fully if this right is respected and protected. Freedom of religion, artistic expression, the press, or of political participation is possible only if none is authorized to take what one owns, including one's labor and other assets. The law of property would provide the basis for identifying each individual citizen's personal sphere of authority and any violation of this sphere would not be officially tolerated. Yet the law of property would not be a static, for what can be owned can change over time. Thus, for example, ownership of segments of the electromagnetic spectrum has become possible only in recent times, as has ownership of computer programs.

Moreover, the precise limits of ownership can also vary, depending on the context. Owning a huge bolder on a mountain top, in a region plagued by earthquakes, would not imply the freedom to secure it lightly, for that would amount to a clear and present danger to people living on the mountain side. Owning a bazooka would also imply different liberties from owning a vase.

It would be the role of the courts of a libertarian polity to arrive at sensible answers to questions that arise in the course of a dynamic community life. It would be the role of legislative bodies to develop laws for new problems based on the basic principles of the libertarian constitution.

If this all appears familiar, the reason is that libertarianism is mostly the purified version of the political, legal and economic system established in the United States of America. Libertarians would maintain that they are carrying out to its rational implications the political ideal identified by way of the Declaration of Independence or, more precisely, the in the political, legal and economic works of John Locke, Adam Smith and other classical liberals. Accordingly, libertarians either propose a government that is required to protect, maintain and promote the basic negative rights of all members of society or a system of competing law enforcement and adjudication that has the same objective.

One may ask what is to happen with other vital human objectives governments of most countries vigorously pursue. These include, even among Western type liberal democracies, such tasks as providing financial ("social") security for retired workers, medical care for the indigent or elderly, unemployment compensation, primary and secondary education for all, building and upkeep of roads, as well as some parks, forests and beaches. The libertarians argue that all these and others not involving protection of rights and adjudication of serious claims of rights violation are better and more justly provided by way of the personal initiative and voluntary cooperation of members of society apart from the arm of government. Government has its hands full simply attempting to protect individual rights from criminals and foreign aggressors. Furthermore, some libertarians claim that governmental provision of these other objectives, since it must involve coercing citizens for funds and thwart the contribution of non-governmental bodies (by means of unfair competition), is a violation of individual rights, no different from censorship or the establishment of religion.

In more general terms, libertarianism implies an unrestricted protection of individual rights as opposed to the familiar selective protection of some human activities such as joining a religion, publishing one's ideas, speaking one's mind.

Also, as regards some general philosophical issues, libertarianism is a minimalist theory, not explicitly addressing many topics of significance of human community life. Libertarians recognize that these topics require treatment but not by means of politics, which disintegrates from having to be spread so thin and wide when used to handle all the social problems other political theories lump under the public sector. Still, in the main libertarians tend to embrace an individualist idea of human social existence, contending that social wholes are never concrete beings, only convenient conceptual summaries. The initiative of the individual person is, in the last analysis, the most vital feature of human community life, for better or for worse. Since the best way to secure excellence from individual effort is to hold every person responsible regarding the results of his or her conduct and prohibit all involuntary transfer of such responsibilities -- dumping, in the context of environmental affairs -- the problems of community life are more likely to be solved via a libertarian than some alternative legal order.

Thus, libertarians favor privatization and the legal means of tort or product and service liability suits as blocks to malpractice in any sphere of human community life. Prior restraint, in the way of government regulation, is thought to be unjust, since it imposes burdens on individuals they have not chosen to assume, so that they are permitted to embark on some professional or commercial undertaking (excepting only religious leaders, members of the press, artists, writers and most entertainers).

A couple of examples of legal measures favored or not favored by libertarians will help to further grasp the position. It rejects the legitimacy of right to work laws, of prohibitions against racist hiring practices, of blue laws and any kind of (government) censorship, of antitrust laws (aimed at monopolies created within free markets), and of similar intrusions on free action. Libertarians may, however, approve of legal judgments against firms that fail to disclose racist hiring and related practice. (A restaurant would be free to restrict entry but would need to disclose this up front, lest it violate reasonable man provisions of market practices.)

Libertarians are at odds on many issues. For example, there are pro-life and pro-choice libertarians, depending on matters more fundamental than can be dealt with in politics alone. Some regard subpoenas rights violating, others hold that consent to be governed implies consent to provide testimony where rendering justice requires it. Some embrace, others oppose the doctrine of animal rights. Some are ardent feminists, others simply endorse universal individual human rights, whether for men, women, blacks, whites, or others. Some think children are owed parental care, others regard the relationship between parents and children akin to a voluntary contract. Some think democracy, restricted to selecting the administrators of government, is part of libertarian politics, others see this as just one possible option.

As with all seriously developed political (and indeed any) theories, the implications of libertarianism are complex and constantly emerging and being refined. What is constant is the central idea that free adult men and women, who are not under the jurisdiction of others whom they haven't *chosen* to follow, are better suited to live a decent human life and to solve the problems faced by us in our communities, than are people who are even just a little bit enslaved, made beholden to others against their own will. This view has been challenged by many, mostly

for being naive, ahistorical, or unfeeling toward those who are unfortunate. The literature of libertarianism has by now addressed most of these challenges. The theory is, thus, a serious contender for the minds and hearts of the most political of animals, human beings.

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