

"Natural Rights, Natural Limitations"¹

By

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Americans are particularly concerned with our liberties because we see liberty as core to what it means to be American. After all, the United States was founded with a vision of liberty as articulated in the Declaration of Independence and institutionalized in the American Constitution. To embrace liberty is to embrace what it means to be American.

But what does liberty mean and from whence does this commitment to liberty come? Over the last several decades we have been given one particular perspective on these questions. Liberty, we have been told, is synonymous with the rigorous protection of our individual or natural rights. Any constraints on those rights are compromises of our cherished liberties, an abandonment of the original American way and vision, and ultimately destructive to our country.

Those who promote this view of liberty point in particular to the size and bureaucracy of the American government as the source of the most threatening compromises and dangers to our liberties. In their view, liberty by definition means that government should be small and stay out of our lives. The bigger government becomes the more invasive it is and the less liberty we have. Why is this so?

Big government by its very nature oversteps its boundaries in countless ways: it meddles in our lives and tries to make rules, such as laws about gun control and smoking, that curtail our individual liberties and violate our natural rights to be free. Big bureaucratic government also invariably creates programs that require higher taxes and that thereby rob us of our hard earned dollars which are siphoned to programs that we have never endorsed such as abortion clinics. Big government also invariably steps into policy areas where it doesn't belong, like trying to mandate health care or the type of health care we choose. In addition, big government also inappropriately intervenes in economic markets with laws and taxes that try to shape economic behavior. Over and over again, big government oversteps its bounds and infringes our liberties or takes our property. For those who hold this view of liberty and the corresponding view of government, the crusade to make American government smaller is analogous to the vision of the founders and the original Boston Tea Party that wished to end Great Britain's control over American economic trade.

In what follows, I insist there is another tradition of viewing liberty that does not understand the role of liberty or the role of government this way. Instead of thinking of liberty as a set of natural or individual rights that must be protected no matter what, this other tradition sees liberty as including a set of obligations, duties, sacrifices and

responsibilities that come into being as members of social communities. Liberty in this view means living justly as part of and within a social community.

With this understanding of liberty comes a corresponding shift in the understanding of government. Rather than seeing government as a threat to our liberties, government emerges as the mechanisms through which we try to implement and live out our mutual responsibilities to one another. This alternative perspective sees government as a positive force and an instrument in helping us achieve our liberty, rather than an evil empire stealing it away.

I will argue that this shift in thinking about liberty is authentic in various ways. It is rooted in the great insights of modernity; it is consistent with the views of the American founders, and is a logical conclusion from both traditional and modern religious understandings of God. Moreover, this view of liberty can also resonate for atheists, who do not root their understanding of liberty in religious understandings of God.

It is also my contention that this alternative vision of liberty allows us to restore America's heart and soul. Liberty ceases to be a selfish egocentric concept that it has become. Instead, we can see our liberties as ways in which we promoting the benefits and well-being of other human beings, not just protecting what is rightfully ours. What we think of as "rightfully ours" changes and emerges out of engagement with other human beings who also share our society and planet that we inhabit. Liberty is about how we manage to live justly as human beings.

To understand and uncover this other tradition of liberty, we must go on an intellectual journey, teasing out the underlying assumptions that inform the now dominant and distorted myth of liberty. We shall learn that much of what we have come to think about liberty --and by extension what we call "America" and even "modernity"-- is either mistaken, lacking nuance, or simply wrong-headed. And what we uncover is something far more ennobling, enriching and ultimately better for us all on this collective journey we make.

The Paradox of Liberty

Most people think that the meaning of liberty is self-evident. They will tell you that liberty refers to a set of "natural" or "individual" rights that must be protected. Yet, if we probe deeper and ask what "rights" mean, people often stumble and have a hard time explaining what "rights" are, though they are certain they are "natural," "self-evident" or "God-given."

People who are more articulate may explain that rights are protections of that which legitimately belongs to them (such as their Life and Property), as well as the actions or activities they are entitled to perform without interference (such as free speech or freedom of conscience). "Rights" then are legitimate protections of what we own and what we may do. We have rights in the same sense that we have things. Liberty is the collection of these legitimate rights.

There are a number of limitations with this popular understanding of liberty. First and foremost, it misses the fact that liberty does not refer only to protections of what is mine. Liberty paradoxically also implies limitations on what I can do. Liberty is not just my protection but other people's protections too. Just as I am protected from them, they are protected from me. The popular understanding of liberty that emphasizes my rights and privileges misses the fact that liberty implies restrictions and limitations. When we emphasize what protections liberty gives me, we are thinking from an egocentric view of liberty. When we see liberty from a broader context and understand how your liberties mean my restrictions and vice-versa, we are taking a "birds-eye" or social view of liberty. When seen only from an individual's vantage point, liberty looks like protections of what belongs to me. When seen from the vantage point of multiple people at once, liberty emerges as a set of tradeoffs and compromises.

This point is so basic and important that it bears repeating: My liberty implies your restriction. My right to my property means you can't touch it. My right to life, means you have no right to take life from me. Every one of my rights implies your corresponding limitation. This double-sided nature of liberty can be thought of as the paradox of liberty. My liberty implies your lack of liberty or your liberty implies limitations on mine. The bigger my liberty is, the larger the set of restrictions on you. My rights are carved out only by setting limitations on yours.²

There is something incredibly profound about this insight that liberty implies limitation and not just protection or privilege. This restrictive side of liberty is often overlooked because the word "liberty" itself tends to be associated with the word "freedom." Yet "liberty" as is now evident implies something more complex. It refers to both freedom and restriction or, to put it another way, liberty refers to the *freedoms that are made possible by living together*.

The freedom of living in society and human community is of a different sort of freedom than that which could theoretically exist were we to live alone on a desert island or in an uninhabited area, though fewer and fewer of such places exist anymore. Were we to live alone, we would be totally free to pursue all our desires because we would not have constraints placed on us that arise from living with other people. The constraints we would face would come from limitations of our environment and our bodies as living human creatures. We would be totally free to do as we wished. But our freedom would be within a constraint of having no other humans around and therefore being limited by a lack of what other people might produce. Our liberty would be constrained by what we could not produce or imagine. Our desires are limited by our own capacity for invention.

We thus both gain and lose something when we live in human communities. We gain the benefits of human companionship and we reap the many rewards of life in society. We can socialize, have friends and families, and we benefit from what other people have produced and invented. Living with other human beings enlarges our liberty in the sense that we now have an opportunity to take advantage of new experiences, opportunities and products that did not exist before. Our liberties are enlarged in the sense that our environment has been expanded with new ideas and products that we would not have thought of or developed on our own.

Yet these benefits of living in a human community come with a theoretical cost and sacrifice. To live together we have to curtail some of our desires. We can't do whatever we want, because we don't want the other guy or gal to do whatever he or she wants either. We give up something or limit ourselves to get something in return. We make compromises so that others will make concessions as well. Liberty in society is thus different than a theoretical liberty that would exist were we alone on an island or in nature.

This "social liberty" is really the only kind of liberty we as human beings have ever had. Very few people have ever lived completely alone and even they began their lives originally in families, learning language and culture, before they isolated themselves. "Natural liberty" or the liberty outside of all social life is thus a theoretical construct that really does not exist. Most of the time liberty is a short hand for "social liberty" which means the kinds of liberty that are possible in society and communities.

In the last several decades, we have tended to hear a lot about the benefits and protections liberty gives us. Yet, we have rarely heard or read about this other side of liberty in which we give up freedom in order to make social life possible. The rhetoric has all been on the side of our rights, and very little on the side of our sacrifices, compromises and responsibilities.

To step back for a moment, I have reframed the question of liberty from a discussion of "my rights" to a discussion of what it means to be social beings and the compromises we make because we are human. I am saying that the two questions are really part of the same question. What should our rights has to be answered in terms of what does it mean to be human and to be social animals. This is a very different way to approach the discussion about our liberties and our rights. Instead of asking "what's mine?" we ask about "how we can live together?" and "what is the nature of being human?" Instead of talking only about rights, we talk about compromises and sacrifices we make. Sacrifice is also at the heart of what it means to be human. We implicitly make a deal. We limit our desires in exchange for benefits that we receive from a human community.

This limitation of desires is one of the first things we are taught as children: that we can't act on all our desires and must abide by rules in the family. Our desires must be channeled into socially productive behaviors and shaped by our cultures. That is at the heart of what the family does as it raises children. The limitation and shaping of desires is core to what it means developmentally to "grow up" and ultimately become an adult. We are taught to "share" and to channel our desires into productive types of activities. We are given the status of adult when we have matured enough to know what is expected of us. The arbitrary age that every society decides we pass into "adulthood" means that we now share all the benefits and burdens of being a full member of society. The difference between a new born and a two year old and between a two year old and a five year old is both a leap in cognitive functioning but also in how we handle our desires. This restriction of our desires is somehow core to what it means to become and be a human being. This dimension of being human is rarely talked about in political discussions these days in favor of "our rights."

Indeed, discussion these days hardly even asks at all about whether we have obligations and responsibilities as human beings.

There is something core to the human experience of learning to limiting desires. Why is it we have to sacrifice in order to be social? Why can't everyone have everything that he or she wants? The answer is that there is limited supply of what people want. Furthermore, our desires grow and expand in the context of our cultures and economic settings. Human beings are not innately desirous of cars or jewelry or computers. Those are desires that develop around core natural or basic needs such as desire for food, shelter, health and companionship. Desires expand because we live in societies that produce goods and opportunities. The problem of rights therefore is the same as the problem addressed by economics. How do and should we manage scarcity? What do we do with the fact that there is not enough to go around?

To summarize the first criticism of the liberty-first position it is this: Liberty contains a paradox. To be social and therefore human is to put certain limits on our desires and our liberty. Why has this language of limitation and sacrifice disappeared from our political discussions? Discovering the absence of such language is the first "chink" we will put in the "liberty-first" armor. For when we recognize that social life means limitation and that we benefit only because we sacrifice and compromise for it, we have to end up with a different notion of rights. At issue is not only our protections or "rights" but what kinds of sacrifices should we be making to live in communities. Who should make those sacrifices and how are those sacrifices justly shared? I will take up those issues in a subsequent discussion.

¹ This essay continues the thinking described in my earlier essay, "Beyond Liberty: In Search of America's Heart and Soul," published on <http://freedomandcapitalism.com> (December 2011).
http://www.freedomandcapitalism.com/uploads/BeyondLiberty_2011_20_v1.pdf

² I have described a similar view of liberty in John Locke's writing in my essay, "Liberty Is Not Freedom To Do What You Like: How Notions of Public Good Constrain Liberty In John Locke and the Early Liberty Tradition." Published on <http://freedomandcapitalism.com>. August 2007.
<http://www.freedomandcapitalism.com/uploads/LibertyIsNotFreedom.pdf>