

# Libertarianism

Comparing and Contrasting Libertarianism and  
Rawlsian Liberalism

# Source

- All material explaining Libertarianism is provided by Dr. Scott Arnold.
  - He teaches a course in Libertarianism and is a Libertarian.

# Preface

- The two Libertarian authors in your textbook are Nozick and Hospers.
- You are required to read Hospers only.
- Nozick is in the Natural Rights camp.
- Hospers is in the Utilitarian camp.
- This module will focus primarily on Hospers.
- The criticisms of Libertarianism presented apply to Hospers and/or Nozick specifically, *not Libertarianism more broadly*.

# Misc. Caveats

- I want to stress that only *some* Libertarians hold that the State can provide *some* public goods.
  - Nozick and Hospers both are on the dissenting side.
- Libertarians and Rawlsian Liberals both agree that people are, on the whole, rational.
- All Libertarians reject the Principle of Impartiality.
- Nozick rejects the Principle of Fairness.

# History

- Nozick is considered the father of contemporary Libertarian theory.
  - *Anarchy, State, and Utopia*
    - Draws out Lockean political theory to its logical conclusions.
    - Argues in favor of the minimal State (government):
      - The only legitimate functions of the State (government) are to provide police, military, and courts; nothing else.

# Lockean Political Theory

- Locke defined freedom (liberty) as “self-ownership”. In order to be free, a person must be “self-owned”.
  - Property ownership is a necessary means for self-ownership.
  - Without property, a person lacks the means to pursue his/her own ends (such as happiness).
  - Locke defined property ownership as “mixing one’s blood and labor with the land”.
    - Property is the means by which capital is produced:
      - Money
      - Food
      - Goods (such as computers)
      - Services (such as hotels)
    - If a person lacks property, a person lacks the *capacity for*
      - Housing
      - Business enterprise
    - A person who lacks property is reliant upon those with property just as a tenant is reliant upon the landlord; the same holds for employment.

# Lockean State of Nature

- According to Locke, the state of nature—the state of humanity without government—is:
  - All people are intrinsically equal (towards one another).
    - Humans are the property of Yhwh.
  - Prior to government humans are subject to the moral law and natural law:
    - Both come from the deity and so are above and independent of humanity.
  - People are generally peaceful and rational.
    - Contrary to Hobbes, Locke thought people were generally altruistic rather than self-interested.
  - Locke thought all property, food, etc. was *distributed* equally in the state of nature.

# Secular Libertarianism

- Lomasky has attempted to ground Lockean natural rights in a secular foundation:
  - Humans formulate and pursue short-term goals.
    - Locke stated, “People come to own property.” This is a descriptive claim, not a prescriptive claim. Property-ownership, for Locke, Lomasky, and Libertarianism in general is foundational for normative claims.
- Problems:
  - 1. Humans often formulate and pursue long-term goals.
    - The next American Idol, CEO of the company, Olympic Gold Medalist, etc.
    - Long-term goals can be regulatory whereas short-term goals are often, though not always, end-state goals.
  - 2. Non-human animals formulate short-term goals.
    - My cat clearly demonstrates a desire to play ball and even in different ways.
    - Some birds not only build nests but decorate them as a means of attracting mates.
  - 3. Non-human animals have concepts of territory and territorial rights.
    - Alpha (fe)males and mating rights.
    - Hunting grounds “owned” by packs and protected from competitors of the same species but belonging to different packs (out-groups).

# Secular Libertarianism v2.0

- Larry Arnhart has recently attempted to ground Libertarianism (rebranded as “classical liberalism”) in “Darwinian evolution”.
- A practicing biologist has criticized this maneuver.

# Libertarian Government

- Exclusive valid function of government is to protect people's natural rights.
- Accepts the Harm Principle:
  - Only legitimate role for social coercion is to prevent harm to others.
- Services performed by government:
  - Military for defense from external threats.
  - Police for defense from internal threats.
  - Courts for adjudicating disputes, particularly contractual disputes, and assessing and redressing harms.
- Precepts of Common Law
  - Maximize (private) utility:
    - People own themselves
    - People come to own property
      - Again, property is necessary for full self-ownership.

# Types of Laws

- 1) laws protecting individuals from themselves
  - Laws criminalizing adultery
  - Laws mandating abstinence
- 2) laws protecting individuals against harms perpetrated by others
  - Murder, theft, fraud
- 3) laws requiring people to help one another (laws mandating altruism)
- Hospers rejects 1 and 3.

# Libertarian Rights

- For the libertarian, persons possess three natural rights:
  - Life
  - Property ownership
  - Liberty (self-ownership)
- This is a necessary hierarchy. Without life one cannot be free (self-owned) and property ownership is the means by which one is free (self-owned).
- All other rights—free speech, etc.—are re-interpreted as types of property—intellectual property, for example—or are civil rights only.

# The Homestead Act

- After the civil war, emancipated slaves lacked the means of self-ownership; they lacked property ownership unless property was given to them by their former slave owners (which a small few did).
- Even after emancipation, slaves were not “self-owned”.
  - (Under Locke’s definition slaves owned the plantations more so than the legal owners; property *ownership* came about by “mixing one’s labor with the land”.)
- The Homestead Act gave ownership of *public* land to emancipated slaves if they could demonstrate a “viable use for the public good”.
  - Remember the USA was still heavily agrarian at this time. So lacking property means slaves lack the means to be self-employed or start businesses of their own, or even have housing.
  - The Homestead Act accepted the Lockean definition of property ownership.

# Affirmative Action and other policies

- On a side note, both Libertarians and Rawlsian liberals agree with affirmative action laws but on somewhat different grounds.
- However, they disagree over anti-discrimination laws such as:
  - Americans with Disabilities Act<sup>1</sup>
  - Family Medical Leave Act
    - Both laws are rejected by Libertarians.
  - (See Appendix I for other policies not supported by Libertarians)

<sup>1</sup>The Americans with Disabilities Act includes exceptions that nullify Rand Paul's example: <http://www.access-board.gov/adaag/html/adaag.htm>

# Types of Goods

- Public goods
  - Non-exclusionary *and* jointly consumable
- Private goods
  - Exclusionary *or* not jointly consumable
- Discretionary goods
  - Goods that may be desirable but are not necessary for survival.
- Non-discretionary goods
  - Necessary for survival

	Public	Private
Non-discretionary	Sanitation?	
Discretionary	Public Television/ Radio?	Movies on the big screen

# Public Goods - Libertarian

- A public good is one that is both non-excludible and jointly consumed.
  - Joint consumption
    - The use of a good or service by one individual does not restrict usage by any other individual.
      - Going to a movie
      - Walking around a park
  - Non-excludability
    - A good or service anyone can participate in.
      - Broadcast television
      - Fishing/hunting
- Libertarians focus exclusively on property.
  - (Property ownership is a private good as it is not jointly consumable in most cases, and is exclusionary.)

# Public Goods

- 1.  $P$  is a public good for some group  $X$ .
  - $P$  is jointly consumable and non-excludable for some group  $X$ .
- 2. Each person in  $X$  believes the benefits of  $P$  outweigh the individual costs of acquiring  $P$ .
- 3. The good is so costly no individual, or very few, could acquire it alone.
- 4. The costs of acquiring  $P$  is distributed enough that if any one individual failed to contribute, that contribution would not be missed.
  - (i.e., group  $X$  is large enough to make costs negligible for all.)
- 5. Contribution is voluntary.
  - Follows from autonomy.

# Public Goods Problem

- A Public Goods Problem arises when group  $X$  contains too many free riders.
  - A free rider is a person who fails to share the costs in a scheme of cooperation.
- Solutions to the Public Goods Problem (aka Free Rider Problem):
  - Make participation compulsory.
    - Libertarians reject compulsory participation as it violates autonomy.
      - (See Rousseau's "forced to be free")
  - Tie public goods to private goods people would voluntarily acquire.
    - Virginia funds education (supplemental) through the alcohol tax.

# Appendix I<sup>2</sup>

- Most Libertarians: oppose any form of government sponsored healthcare including Medicare and Medicaid.
  - Tea Party Libertarian Rand Paul supports Medicare and opposes cuts in Medicare payments to doctors because doctors have a right to live lavish lifestyles.
- Oppose the Civil Rights Act of 1964 and any other anti-discriminatory laws such as the Federal Fair Housing Act.
- Oppose any form of wage laws and any form of regulation on corporations including prohibitions against monopolies.<sup>3</sup>
- The full Libertarian Party Platform may be found here.

<sup>2</sup> Most examples are of Rand Paul, Tea Party Libertarian Senate candidate for Kentucky. However, all laws listed in this appendix are taken from Dr. Scott Arnold just as the rest of the information in this presentation. Rand Paul is simply a convenient example. There are key differences; the Libertarian Party *endorses* environmental protection laws but Rand Paul seems to oppose them: <http://legalplanet.wordpress.com/2010/05/21/rand-paul-and-the-environment/>

<sup>3</sup> Strictly speaking monopolies are not prohibited; rather, aggressive monopolistic behaviors combined with a monopoly held by a corporation is prohibited. (<http://www.slate.com/id/2250083>) So the Libertarians either endorse the allowance of monopolistic behaviors or they misunderstand the law.

# Appendix II

- Here I outline specific points on which Rawlsian Liberalism disagrees with Libertarianism.

# Liberal Rights

- Rawls argues that each person has three natural rights:
  - Liberty
  - Equality
  - Reward for contributions to the common advantage
- Equality
  - Rawls defends equality in opportunity, or, to put it another way, equality *in access to social* (aka public) goods and services.
    - “The Constitution only gives people the right to pursue *happiness*. You have to catch it yourself.” ~ Benjamin Franklin
- Reward for contributions to the common advantage
  - Here Rawls is explicitly addressing equality in just desserts.
- Other factors are a necessary means for “life, liberty, and the *pursuit of happiness*”:
  - Like property ownership, education is a necessary means for being free (self-owned).
  - Healthcare is a necessary means for the *capacity* to have life, liberty, and happiness.

# Liberalism on property rights

- Rawls' principles of distributive justice *do not* disagree with the libertarian position on property ownership.
- However, liberals and libertarians disagree on eminent domain laws, in theory.
- Rawlsian Liberalism on eminent domain:
  - Private land may be bought by the State *only* at a “fair market price” for *public use* benefitting society as a whole (such as constructing bridges, roads, sewer and power grids—infrastructure).
    - FYI: Eminent domain laws, in execution, often do not conform to Rawlsian principles.
- Libertarians object, in theory, to all eminent domain laws (see reading assignment).
  - (Incidentally it was the self-proclaimed libertarians that ruled in the majority in *Kelo v. City of New London* whereby the government may now transfer private property to another private party who expects to maximize its public economic output (taxes) coupled with private economic growth for the new property owner (profits). The liberals voted against it.)
  - Keep in mind Libertarians will reject Singer's version of the Principle of Utility.

# Utility

- Rawls thinks rational people would reject the Principle of Utility if it leads to reducing one's own well-being for the sake of others, and if the Principle of Reciprocity is also rejected.
- Libertarians accept the Principle of Utility but applicable to individuals only.
- The two groups might agree on this point; however,
  - ...contemporary Utilitarianism is a social, not individualistic, normative theory. Therefore, both groups (even utilitarian libertarians such as Hospers) disagree with contemporary Utilitarianism as endorsed by Peter Singer.

# Public Goods - Rawls

- A public good is synonymous with the common good/general welfare.
  - “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.” ~ Preamble to the Constitution of the United States of America
- Common good:
  - The common good or general welfare is that which promotes the well-being of society writ large, as if society were a singular unit.
    - “There is often a great deal of difference between the will of all and the general will. The latter (the general will) looks only to the common interest; the former (will of all) considers private interest and is only a sum of private wills.” ~ Rousseau

# Public Goods – Rawls (continued)

- Any inequality must result in a scheme whereby those at the bottom *are at minimum no worse off* than in any competing scheme.
- Any scheme that *creates inequality* must include compensating benefits.
- The common good is a scheme whereby the *opportunities* within it are:
  - open to everyone equally (no discrimination based upon accidents of circumstance), and
  - are to *everyone's* benefit such that without the scheme *opportunities* are reduced.

The End