

Beyond Liberty Alone

*A Progressive Vision of Freedom
and Capitalism in America*

Howard I. Schwartz, PhD

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To my wife, Carroll,
who brings out the best in me.

into social life and try to help those who need help. Liberty, as we have seen in earlier discussions, implies that we have responsibilities that we bring into the societies in which we live. These responsibilities are the other side of the freedom that liberty provides. And these responsibilities teach us that markets that are unregulated can be vicious, unethical, and ultimately destructive as much as they can be efficient, innovative, and beneficial.

Chapter 10

On Truth and Liberty in Political Democracies

One of the reasons we need liberal societies is because one person's truth is not another's, and one religion's view of the world is not another's. Were we all to agree on what truth is, then we would have a much better chance of agreeing on how to organize life in society. Even when religions agree that there is a God, they do not all agree on whether Jesus was a man or the Son of God, whether the pope is the best source of God's wisdom, or what God wants in particular. And even varieties of Christianity that believe Jesus was Christ were unable to agree on how people should live after the Reformation and still disagree today on what Christ wants of us. The political to and fro between Catholics and Protestants after the Reformation, and the religiously inspired wars that followed, were symptoms of the inability of those in the same religion to agree on how life should be lived or what morals and religious practices should govern civil life. This problem is all the more difficult when more than one religion is represented in a commonwealth.

The inability of religions to come to common truths is part of the background to the birth of liberal societies. There was a growing recognition that somehow we had to live together even when we couldn't agree on the fundamental truths, at least with respect to religion and God. The differences of faith would be set aside for the afterlife and God

(if there was one), and this life would focus on practical approaches to living together without killing one another.

The natural rights thinkers believed and hoped that an appeal to reason could produce agreement on key moral commitments in a liberal society that were not dependent on the traditional revelation from God. Reason was thought to transcend religious differences and provide a means by which all people, regardless of religion, culture, and historical epoch, could reach agreement on basic human morality. The appeal to natural rights was originally an attempt to find a truth that all could agree on regardless of their religion, though some still argued Christianity was the most reasonable religion of all. The early moderns had a belief—an erroneous one—that all reasonable men would arrive at the same reasonable conclusions through the light of reason. (Women were not originally thought to be as reasonable as men.) The conclusions from reason were thought to result in a core set of moral insights that could guide people in how to live with one another, regardless of their differences in religion.

What we have found instead, in this book and from others who have earlier passed down this same road, is that reason fails to produce unanimity on all the core substantive moral commitments that should underlie a liberal society. While the language of rights held promise as a foundation for a universal set of commitments and is still a powerful language for talking about what we care most deeply about, it turns out in fact that there is no substantive agreement on what those rights should mean, even if we are able to agree on what those rights are.

The first point is that reason does not lead all people to the conclusion that societies should be organized around the rights of life, liberty, and property. Indeed, even the variation “pursuit of happiness” points to the fact that the core definition of rights itself is somewhat variable. Some people would urge that health and work be included in natural rights too, as an example. And in some societies, slavery was permitted and thought of as reasonable and natural up until relatively recently in Western history. It has been “natural” and “reasonable” at various points in time to convert heathens to Christianity, kill Jews, enslave blacks,

prevent women from voting, and so on. Even where there is agreement on which rights should be protected, there is no agreement on what substantive commitments fall under those protections. Those who agree on a right to life do not all agree on whether abortion, the death penalty, or euthanasia should or should not be permitted; indeed, what counts as a right to life is still a matter up for grabs. Those who agree on a right to self-preservation do not all agree on the right to carry and bear arms and how far those rights should extend.

Furthermore, the framework of rights and “rights language” that we invoke seems to be most meaningful and intelligible in Western capitalist societies and not necessarily intelligible to all peoples who have not lived in and been acculturated to this tradition of life in capitalist societies. In other words, the very appeal of a rights framework, in the way we think of it in the West, seems to have some of its persuasiveness in part because it fits with the life-forms we are familiar with in postindustrial capitalist societies. What counts as reason itself seems to some extent variable across societies, because what counts as “reasonable” relies on a set of substantive conceptions of what makes sense, and because even what counts as reasonable is to some extent variable.¹ Even if all societies use some language that looks like “rights language,” which is possible, there is no unanimity across peoples on what substantive rights should be included in what are thought to be rights.²

As we have seen, the fact that reason does not lead to a common set of moral conclusions was evident already among the modern rights thinkers themselves, who wanted reason to provide a universal foundation for human morality. Hobbes’s view of reason, for example, led him to assume there was no moral law discernible in nature and that everyone had a right to everything, including each other’s body. Hobbes thus came to the conclusion that reason would lead those who contract together in society to realize they need an all-powerful, absolute sovereign to put an end to the disagreements in practice and in belief among those who live together. Hobbes thought reason alone couldn’t end substantive human disagreements. He was right in that realization.

Locke's understanding of reason, by contrast, relied on the idea of a Creator who established a law of nature that could be discerned even in a state of nature prior to life in a political commonwealth. Even in nature one had rights to life, liberty, and property (and Locke mentions "health," by the way) that were protected. Locke's view of reason led him to conclude that society should be governed by an elected majority, which represented the consent of individuals who comprised that commonwealth. Locke too recognized that reason would not lead to unanimity on everything all on its own, and he solved that problem by letting the majority decide the rules that govern societies. There was disagreement too, among those who turned to reason, about whether or not property was a natural right and how property was originally created, whether by labor or convention. The upshot is that reason did not by itself lead to a universal consensus about what human beings are or how they should live. And it is likely that the natural rights thinkers such as Locke had already begun to discern the limitations of reason to reach a consensus on human morality, as discussed earlier.³

The point I wish to make here is that the very foundation of a society is not completely stabilized by an agreement to appeal to the rights of "life, liberty, and property" or "life, liberty, and the pursuit of happiness." While those commitments rule out others, such as an absolute monarchy, the very meaning of those terms and what they include is debatable in a liberal society. What this means is that the very meaning and interpretation of liberty itself is uncertain and open to debate in a society that embraces liberal principles. Contrary to what liberty-first proponents say, there is no single, stabilized meaning of liberty defined by reason. For the truth is that liberty itself can have many different meanings, and those meanings rest on conceptions of reason, truth, God, and a host of other background assumptions about what it means to be human and to live a good and moral life.

This view and insight have several consequences. First, we should by no means accept as self-evident that liberty always does and always must mean small government, low taxes, free markets, or the host of other claims made by liberty-first interpreters. That is only one interpretation

of liberty, and it should have no privileged position because of the claim by some that that is what the American founders or the modern interpreters of liberty meant. Even if that were what the American founders believed, which is doubtful, as I have discussed elsewhere, the founders' vision of liberty need not necessarily constrain our understanding of liberty.⁴ For the meaning of liberty in a liberal society is itself at least partially in question and dependent on the values of those who define it and make it so. That is part of what it means to live in a liberal society. And the founders' decision that the Constitution itself could be changed, as documented in Article V of the Constitution, points to their recognition that the very nature of what rights are protected and what they mean were not thought to be completely stable. Liberty is entirely consistent with large taxes, regulated markets, and a large government, should a population deem those to make sense. Those outcomes are consistent with a liberal society, because liberal societies have the right and duty to grapple with the question of who owns property and what responsibilities the citizens have to each other, to the human species, and to subsequent generations. Citizens have the right, and the duty in fact, to hold themselves morally responsible for each other and the species as a whole. They have the right and duty to express that moral value in political laws that bind a body of people with commitments beyond their own narrow self-interests.

This means that liberal societies must invariably grapple with the very meaning of liberty itself in deciding what their societies and their moral commitments are. It is the very essence of what liberal societies do. This is disturbing to many people who would like certainty about what is the proper and moral life to lead. They would like to believe that there is a stable meaning of liberty that was already assumed in the founding of the country and in modernity itself. But in fact there is never unanimity on this question, and this is part of the reason that we need law and a means to enforce some set of laws by which we agree to abide by when we cannot reach that agreement through reasoned discourse only. Power steps in when reasoned discourse fails to achieve consensus. The majority or supermajority ultimately ends up enforcing its view of the world on

the minority. And what does and does not achieve consensus through reasoned discourse may change over time as the norms and mores of a society change. Thus, what the liberal state does when it is working is provide a framework, backed up by law and power, to try to peaceably resolve debates about truth and morality. Inevitably someone's truth and someone's morality may not be represented. What the separation of church and state did was try to ensure that what a particular religion said about the right way to live would not be backed up by power of the state but left to individual choice. But other decisions about morality had to be addressed by the state, particularly around what liberty in a liberal state should mean. It is here that the state has to take a stance. It has to decide all sorts of things. What types of protections to offer for life, liberty, and property? How much tax to raise and by what means? What privileges to offer and to whom? What kinds of help to offer citizens in need? What restrictions, if any, should it put on businesses? What kinds of topics can the state and federal government rule on? How many bodies and of what type should govern the country? What rules should be adopted for interacting with other nations? What the liberal state attempts to provide is a framework that tries to be fair and through which debates over the fundamental moral laws get resolved, even if there remains fundamental disagreement about the foundation of those moral commitments.

Having realized this fact, we then are brought to the question of which vision of liberty we Americans, as a particular society, want to embrace and why. Embracing liberty does not by itself mean we embrace morality. Since there are multiple visions of liberty, there can be liberal societies that are immoral. Being a liberal society does not necessarily mean it is a moral society. So which vision of liberty is moral?

It has been the contention of this book that the answer to this question is one that ultimately matters a great deal. It is the question of which vision of liberty we after all want to implement in our society and what is best for the world and future generations. Not all liberal societies are great by definition. As I have been arguing, there is an alternative vision of liberty that is better than the one that has been put forth and become dominant during the last forty years by those on the Right and among

libertarians. This progressive vision of liberty that I have outlined in this book argues that responsibility is as natural as rights, and thus it places human responsibility at the core of what liberty means. By this definition of natural responsibility, liberty involves much more than a protection of my rights and property. It involves, just as much, my sacrifices and obligations as a human being, which arise from our vision of what being human means.

The notion that we have responsibilities and obligations arises in several different ways from our understanding of what liberty means and what human beings are and should be. We have seen first of all that liberty by its very definition implies restriction. We can only have liberty in the first place by making sacrifices and curtailing our freedoms. Your protection of rights implies restrictions on me, and my protection of rights implies restrictions on you. You have a right to life only if I have a restriction on killing you. And I have a right to property only if you may not take mine. Sacrifice and limitation are the foundations of liberty itself. Without restriction, there could be no rights at all. The very conception of liberty depends on a restriction of what I can and cannot do.

What defines this mutuality of right and restriction is ultimately the sense of and conviction of human equality. It is the value of human equality that gives the notion of rights their intelligibility. Since we are equal against some moral standard, your life is no more valuable inherently than mine and vice versa. Both Locke and Hobbes were saying this in different ways. Locke said we are all property of God, and therefore we have no rights to harm each other. Hobbes said we were all equal in our mortality and vulnerability to death. The notion of equal value is not self-evident in nature. Humans are not equal in talents, intelligence, strength, artistic abilities, and so on. The claim instead is that humans are equal in terms of some absolute value, however that value is defined. This is a modern conviction, perhaps a key founding assumption of modernity in the West, as I have argued. The equal value of human beings is not self-evident in nature but is constructed and imagined by human beings as they reflect upon themselves and their values. One could argue that this conception of equality is part of what breaks us out of our natural state.

If we do not agree with the proposition that humans all have equal value, then we might argue that we could abandon the concept of liberty and return to the view of a natural hierarchy that treats individuals differently based on their inborn characteristics or their accomplishments only. Were we not equal to each other, your life or property might be worth more than mine. Were we not equal to each other, we might return to slavery and monarchy.

If we accept the fact that the equal value of human beings is our point of departure for our conception of liberty, then we come to the realization that we have come to the place where we are now, in this time and place, through a human and American history that did not live up to this aspiration. On the contrary, history suggests that the human species has had a very difficult time embracing the equal value of human beings. In fact, history suggests that the notion of equal value of human beings may be an impossible ideal.

We have talked about this discrepancy between the ideal and actual history in several ways. Human violence, conquest, and theft have played a prominent role in the distribution of property, wealth, and resources and in the formation of the national entities in which we live. Contrary to the ideal vision of property articulated by Locke, people did not simply spread out across the world and fairly acquire their property through labor. All sorts of violence, conquests, power, and thefts affected the distribution of property and resources over human history. In the founding of America, which is closest to home, there is ample evidence that the rights were themselves founded on a conquest of American land, a view that even the founders articulated and that some found disturbing. The history of conquest and violence of course reaches back as far in time as we can see. Furthermore, accidents of history, such as where the Industrial Revolution began, determined which peoples have benefited the most from human advancement.

The vision of liberty and rights by the “liberty-first” proponents assumes that the history of the past does not matter. Indeed, that view makes the assumption that the effort of my individual labors is strictly my own. This concept, which grounds the notion of property and

supposedly sets the limits on what government can take from me, is the keystone of the liberty-first conception. We have seen, however, that this understanding of labor and property is problematic, for it ignores all the efforts of those who came before me, on which I build. My labor does not take place in a vacuum. I take advantage of all sorts of prior inventions and discoveries that make both my labor and its outcomes possible. On the foundation of our human ability to think, speak, use language, and invent tools, our ancestors discovered fire, learned to hunt, domesticated animals, and invented agriculture and medicines, not to mention paper, the printing press, computers, electricity, the network and Internet, and a countless series of inventions that provide a platform on which I labor. The creators of those inventions did not hold patents and reap the benefits forever, or even at all, of what they gave to humankind. If we assume that individuals own the output of their labor, then they should hold all the benefits that accrue to them from those inventions. Each of us who has benefited from them owes back to those inventors and their heirs. The heirs of these earlier inventors and predecessors of course are the human species itself, since we cannot trace either these earlier inventors or their specific lines of descent. This notion that we owe something back to the past, and to the species as a whole, differentiates the conception of property, labor, and liberty in a progressive view from its alternative. For now, we look at our own labor differently and understand that nothing that we create is ours alone. Investments have been made in us. Our labor stands on top of the achievements of countless other people who have come before us. This view of labor and invention sees our predecessors as having made a “capital” investment in us. They passed on to us a human platform on which we could labor and make advances. Thus, any labor that I perform already leverages and takes advantage of the labor that others have done before it. Just as a manufacturer must obtain the materials and parts needed to produce a product, so too our labor is already operating on outcomes of earlier labors before us. This understanding suggests that we do not labor on a blank page, and that we therefore owe back to the investors who contributed to us. In this view, our labor is not strictly our own. It already

contains within it an investment from our predecessors. And while I make my own unique contributions through my labor, I do so with all the knowledge and investment of others before me. I owe my investors a payment back, just as an entrepreneur must pay back a loan or a homeowner pays back a mortgage. This view helps us to chisel away at that view that sees everything I accomplish as strictly my own. My labor is only partly my own. Part of it belongs to the human species as a whole. And thus we enter life with a debt back to the people who preceded us, for the work they did on our behalf and the platform they bequeathed to us on which to build.

There is another way too in which the original ideas behind labor and property were clearly mistaken. The notion that labor should create property assumed that there was an unlimited abundance of land and that one person's labor or acquisition of property would not hurt another's. Even though the world was thought to be given in common and to belong to everyone equally, by the theory of original equality, it could be removed from common property, it was thought, because no one would be harmed, since there was unlimited abundance. We now know that this assumption of unlimited abundance was mistaken. Natural resources and land can be exhausted. Where there is not an everexpanding pie, the piece that one person takes means there is less for others. For this reason, arguing that property derives from labor is in tension with the ideal of original human equality and resources shared in common. Historically speaking, to be sure, early humans likely did not hold the view that the world was given in common. Humans spread out over the earth, formed communities, settled lands, and conquered and murdered each other without having envisioned that they were all equal or that the resources were given in common. History is at odds with the ideal that we cherish, and the question becomes what, if anything, we must or should do about it. The view that our labor creates property therefore hides the fact that history was not fair and that labor was not the mechanism by which property was allocated across the human population and species. In other words, human communities developed without any of the ideals about liberty that we have been discussing.

The argument here is that as individuals we can't reasonably say that everything in our possession was fairly earned by our ancestors or ourselves as individuals. It is much more complicated, and behind every piece of property and land ownership is a history of the human species, both its contributions and its violence. Locke perceptively discerned how even a loaf of bread depends on the contributions of many dozens or even thousands of other peoples to get it to my dining-room table. It is not just the farmer who planted the wheat, but the manufacturer who made the tractor, the person who harvested latex from trees or petroleum from the ground for the tires, the manufacturer of the ship or truck that transported the bread to market, and so on and so forth. There are countless hands, an entire supply chain, that potentially are involved in the creation and delivery of any one product. The same is true from a historical perspective, where countless contributors made possible the developments of each of these inventions that are taken for granted in the making of my bread. This is why some of the natural rights thinkers thought property was a human convention and not a law of nature. The notion that everything that we own is ours rests on the assumption that history does not matter or we cannot correct the past.

While we cannot possibly fathom how to correct all the unfairness of the past, we have the opportunity to allow the idea of fairness to enter into our actions in the future. What we are talking about here is a different conception of liberty than the one that we are being offered by the liberty-first proponents.

Let us imagine some of the principles that could guide us and by which ultimately we could interpret our Constitution. This could be thought to be a new kind of Declaration of Independence or vision by which we reinterpret our commitments to liberty.

When in the course of human events, it becomes necessary for a people to dissolve or reconfigure the government that they have previously made and refound those institutions in better accordance with the liberties and values by which they and humans should be entitled to live, a decent respect to the opinions of

humankind requires that they should declare the causes which impel them to do so.

We hold these truths to be self-evident, that all people are born equal in value, and they are endowed in their birth with certain inalienable rights and responsibilities, among them life, liberty, the pursuit of responsibility, and the duty to care for each other. To secure and operationalize these rights and duties, governments are instituted among people, deriving their just powers and obligations from those of the governed and from the human species. Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness and fulfill their duties as human beings and citizens of the world. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience has shown that humankind are more disposed to suffer while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed.

But when a long train of abuses and usurpations pursuing invariably the same object evinces a design to destroy either the liberties of its citizens or the moral foundation in equality from which their liberties derive, it is their right, it is their duty, to try to alter such government and to provide new guards for their future security and that of their children and human beings everywhere. Such has been the patient sufferance of these United States; and such is now the necessity that constrains them to alter their former systems of government.

The history of the present United States is a history of repeated injuries and usurpations, all having in direct object the establishment of an immoral order and intolerable consequences over these states and their citizens. To prove this, let facts be submitted to a candid world.

The United States, under the banner of liberty, has increased inequality dramatically, justifying the rich getting richer and the poor getting poorer.

The United States, under the banner of liberty, has squandered and destroyed natural resources, both at home and abroad, that belong in common to all, as founded on our vision of equality.

The United States, under the banner of liberty, has reduced the moral obligations on the management of businesses and markets, letting them operate without sufficient regard to the impact on the environment, on the lives of peoples in other countries, and on our own citizens.

The United States, under the banner of liberty, has reified markets and economists, letting efficiency and the invisible immoral hand replace our conscience and determine what moral values, if any, infuse our commerce.

The United States, under the banner of liberty, has forgotten history and the obligations we carry from the past and the reparations we owe to the descendants of those who came before us and on whose backs our efforts started.

The United States, under the banner of liberty, has at times protected inequality and allowed racism, sexism, and other forms of discrimination to fester and become acceptable.

The United States, under the banner of liberty, has allowed businesses, which are not persons, to have rights, but not responsibilities, thereby undermining the representation that citizens have in their government and offering profit more protection than values. We, therefore, the people of the United States of America, though not hereby assembled, appealing to our conscience for the rectitude of our intentions, do, in the name and by the authority of the good people of these United States, solemnly publish and declare that these United States are and of right ought to be not only a free but a moral state, that individuals who live herein are held morally responsible for their allegiance to a government that uses liberty to cloak misdeeds and are accountable for a view and

33. For documentation in the fast food industry, see Schlosser, *Fast Food Nation*. Recently, labor abuses have been reported in Apple manufacturing plants, Associated Press staff, “China labor watchdog accuses Apple supplier of worker abuse.” <http://www.nbcnews.com/business/china-labor-watchdog-accuses-apple-supplier-worker-abuse-6C10783106>.
34. Bowie and Lenway, “H. B. Fuller in Honduras.”
35. See case studies documented by Pfeffer.
36. Friedman, “The Social Responsibility of Business.”
37. See, for example, the various critiques in Ferber and Nelson, eds., *Beyond Economic Man*, and *Feminist Economics Today*.
38. On stakeholder theory, see Freeman, “Stakeholder Theory,” and Goodpaster, “Stakeholder Analysis.” See, for example, Benioff, *Compassionate Capitalism*.
39. In this sense, I take Friedman’s argument about the purpose of business to be for the shareholders as a description of how things in reality are, but not as a description of what they morally should be, though Friedman believes this is the way it should be as well. For the complexity of trying to see the relationship between corporate executives, board members, shareholders, and class, see the discussions in Barrow, *Critical Theories of State*.
40. It is difficult to see how one can get to all of these values from a utilitarian account.
41. See Friedman, *Freedom and Capitalism*, 108–118.
42. Grotius, *Rights of War and Peace*, book 2, chap. 3:1–16, 32–39, on the air and sea. For a discussion, see Tuck, “Introduction,” *Rights of War and Peace*.
43. On use of term “externalities” by economists, see, for example, Flynn, *Economics for Dummies*, chap 14. For a sustained alternative perspective, see books by Hawken.
44. For discussions of how future generations should figure into ethical calculations, see the discussion in Velasquez, *Business Ethics*, 308–312, and references there.
45. I take this to be one of the original points of Garrett James Hardin in his original essay on “The Tragedy of the Commons,” and one point I agree with. In my reading of Hardin’s original essay, his point is that the commons becomes a tragedy *only if it is not regulated and that regulation is needed to protect it*. One example he gives is the national parks, which are owned in common (public property) but must be regulated to protect them. His point is that without regulation, things cannot be owned in common successfully. It is beyond the present context to discuss the extensive subsequent scholarship and popular discussion of whether the commons always ends in tragedy or not, and I do not agree with some of Hardin’s subsequent moral conclusions, such as his moral conclusions about preventing immigration in his metaphor of “Living on a Lifeboat.”
46. See on this point Hawken, et al., *Natural Capitalism*, and Hawken, *Ecology of Commerce*.

Chapter 10

1. See Wilson, *Rationality*. This was already noted as a problem by Locke and others as they reflected on why non-Europeans did not all come to the same reasoned assumptions about social life. This remains a key problem that is unresolved by liberal societies.
2. In other words, even if we argue there is shared rationality in modes of thinking, the substantive conclusions of rational people are not always the same. On the argument that there is a universal understanding of right and wrong, see discussion in Tierney, *Idea of Natural Rights*, 2–3, and Gewirth, *Reason and Morality*.
3. See my discussion earlier on this point, in chapter 4 and notes to that chapter.
4. Whether it is possible to discern the founders’ intent and whether that should govern or dictate what we believe and do is itself an interesting question that I take up in *Liberty in America’s Founding*, 309–323. See also Levy, *Original Intent*.

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