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Liberty and the Public Good: Endorsing Suicide and Slavery as Part of a Free Society.

By

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Everyone is talking about liberty lately and how our liberties have been curtailed over the past century by a growing big government which has intruded too far into the private lives of citizens. We need "simple rules for our complex world". A society that embraces liberty should minimize government and maximize free markets, since "economic freedom is part of freedom." Liberty itself is important for maximizing the public good, because freedom empowers individuals to deviate from the norms, and thereby envision new ideas, invent new technologies and thereby advance society in a way that benefits all. Advance for all is conditional on individual liberty. If we try to eliminate deviation, we kill innovation that leads to advance. Liberty itself is justified, not by natural rights, which are "nonsense built on stilts" but by the best way to organize society to maximize the public good. It is the public good that justifies liberty, because a society organized by liberty is one that benefits the most people. Since central planning and human analysis cannot successfully fathom how to achieve the social good, the best way to achieve the social good is to leave things in the hands of individuals, who following their own interests, produce outcomes that are beneficial to all.¹

I completely agree with this utilitarian perspective on liberty but believe its full implications have not been fully understood by those who endorse this view of liberty. As a

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consequence, we have not yet taken this utilitarian view of liberty to its logical conclusions. If we are really to adopt liberty, then we must be strict in adhering to the logic of liberty. If we do so, we have some changes to make to fully implement a society that fully embraces liberty. Today we miss the mark by relying on liberties that derive from the older natural rights justification of liberty. I wish, therefore, to make a modest proposal that takes the utilitarian view of liberty to its logical and necessary conclusion.

My modest proposal is this: that if we really embrace a utilitarian view of liberty, we should change our laws to permit suicide and slavery. Specifically, we should immediately acknowledge that a society that is truly free in this sense allows people to take their own lives, sell themselves into slavery, and therefore allows others to purchase and traffic in slaves, under certain conditions. This sounds on the surface contradictory. How can a free society endorse slavery? But we shall see that if liberty is really founded on utility, then slavery and suicide should be embraced. Moreover, I have a specific proposal about which group of people would make the best class of slaves, a point to which I return later, after first justifying slavery as an institution in a free society.

On the surface, these views will initially strike the ardent defendant of liberty as nonsense. After all, liberty is about the protection of "life, liberty and property" or "life liberty and the pursuit of happiness", depending on whose version you like. So if liberty is about the protection of life, liberty and property, how can suicide and slavery be permissible?

In fact, that original view of liberty was often justified by a notion of "natural rights" and we have since, thanks to Jeremy Bentham, John Stuart Mill, F. A. Hayek, Milton Friedman, Richard Epstein and others, come to understand that liberty cannot be justified by natural rights but is better justified its benefits to society as a whole and the public good. "Natural rights" are nonsense, ideas founded on smuggled in notions of religion and the sacred. And if we

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justify liberty by its benefits to society as a whole, then it becomes clear that suicide and slavery should be permissible by law in a free society. This is obvious to anyone who thinks seriously and consistently about liberty in this way.

To understand this new angle on liberty, let's first see how the original view in the liberty tradition arose that suicide and slavery should be forbidden. As we shall see, these two prohibitions are deeply related to each other in the liberty tradition. Liberty theorists like John Locke and English Whig writers like John Trenchard argued that the suicide and slavery are both forbidden because our lives do not belong to us and we can't transfer or "alienate" what we don't own. Just as our labor belongs to us (and its fruits are our property), the fruit of God's labor belongs to God. Since we are the fruit of God's labor, we are the property of God. We therefore have no right to kill or enslave another person because their lives belong to God, not to us, and we have no right to damage God's property. If one person kills or harms another, he or she is damaging God's property. This same reasoning explains why we have no right to take our own lives. Our lives do not belong to us, but to God. Since we do not own our lives, we cannot kill ourselves or sell ourselves into slavery.²

In Locke's words, "For Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are, made to last during his, not one another's Pleasure (II:6). Or elsewhere Locke writes "No body can give more Power than he himself has; and he that cannot take away his own life, cannot give another power over it (IV:23).³

Adopting a slightly different perspective, John Trenchard, in the *Cato's letters* (No. 60) writes:

Nor has any man in the state of nature power over his own life, or to take away the life of another, unless to defend his own, or what is as much his own, namely, his property. This power, therefore, which no man has, no man can transfer to another. (60)

All men are born free; liberty is a gift which they receive from God himself; nor can they alienate the same by consent, though possibly they may forfeit it by crimes. No man has power over his own life, or to dispose of his own religion; and cannot consequently transfer the power of either to any body else.⁴

Now one can justifiably argue that this view of life and liberty derived from the earlier Judeo-Christian tradition, which viewed human beings as created in God's image. Locke's early notion was not altogether different, although it was built on what were not very traditional religious conceptions. Indeed, it is important to remember that Locke and others were fighting another religious view, put forward by Filmer and other royalists, that said that the monarchy should have absolute power and sovereignty over individual subjects. This view that derived the monarchy's power from God was also justified by Scripture. The monarch inherited the right and power to rule directly from Adam, who received it originally from God. Like the father to the family, the King had absolute control over the people. They were subjects of his will. Thank God (no pun intended), that Filmer's view didn't win!

Be that as it may, the early conception of liberty justified the prohibition on suicide and slavery based on an assumption that is opposite of a widely held view today, namely, that we own our own bodies. This familiar and common notion today is the opposite of the original assumption justifying liberty: namely that we do not own our own bodies and our lives! In the Lockean view, and that

of Whig writer, John Trenchard, we do not own ourselves. We are not our own property! And therefore we have no right to kill ourselves or sell ourselves into slavery.

In the early liberty tradition, then, the fact that we do not own ourselves, but belong to someone else, namely God, explains why suicide is forbidden and why the institution of slavery should not exist as well. Because we do not possess ourselves we have no right to sell ourselves into slavery. The prohibition on murder is justified in part by the same assumptions. To murder is to damage God's property or at the very least someone else's property.⁵

The quaintness and context-bound nature of such views is readily apparent to many people today, although there are still some traditional religious folk, or new republicans, who might still make such an argument.⁶ Most people today could hardly want to justify liberty on the basis that we don't belong to ourselves! On the contrary, many people would argue exactly the opposite, namely, that we should be free to do what we want because we alone own ourselves. It is our body and life and we should be able to do what we want with it. We have the same rights over ourselves and our bodies that we have over our property generally. Ironically, the very concept of liberty today is often assumed to justify the idea that "we own ourselves." Because we are free, we own our bodies and our labor.

It is thus an irony that one of our most sacred conceptions--"liberty"--partially grew out of a justification that no longer makes much sense to many people who defend liberty today. Indeed, the whole line of natural rights justification of liberty rests on assumptions that are not broadly persuasive to many liberty theorists. This is why a large number of liberty theorists, such as John Stuart Mill, F. A. Hayek, Milton Friedman, and Richard Epstein, base liberty's justification on its utility and do not try to derive it from natural rights. And some who do accept a rights view, like Dworkin, reject the concept of liberty as problematic and unworkable, and prefer to base rights on notions of equality.⁷

The utilitarian justification of liberty in contrast to the natural rights view typically justifies liberty in terms of its social effects and positive consequences. Liberty is not of value in and of itself, but as an end that serves other overall positive social benefits. Let's look at a few examples of this justification of liberty.

John Stuart Mill argues that diversity of opinion and of practice is key to enabling talented people and geniuses to advance new ideas and new forms of life. If conformity is enforced, then new discoveries and advances would be thwarted and society could not advance or improve itself. As he puts it,

The despotism of custom is everywhere the standing hindrance to human advancement, being in unceasing antagonism to human advancement ... but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals.

Mankind are greater gainers by suffering each other to live as seems good to themselves than by compelling each to live as seems good to the rest.⁸

F. A. Hayek argues a similar point In *The Constitution of Liberty*.

We have now reached the point at which the main contention of this chapter will be readily intelligible. It is that the case for individual freedom rests chiefly on the recognition of the inevitable ignorance of all of us concerning a great many of the factors on which the achievement of our ends and welfare depends. If there were omniscient men, if we could know not only all that affects the attainment of our present wishes but also our future wants and desires, there would be little case for liberty. And, in turn, liberty of the

individual would, of course, make complete foresight impossible. Liberty is essential in order to leave room for the unforeseeable and unpredictable;

What is important is not what freedom I personally would like to exercise but what freedom some person may need in order to do things beneficial to society. This freedom we can assure to the unknown person only by giving it to all.⁹

Now my argument is that when the basis of liberty shifted from a natural rights to a utilitarian framework that the concept of liberty did not quite catch up. That is, some untenable assumptions about the substance of liberty covertly entered into the utilitarian position from the earlier tradition. By this I mean that utilitarian advocates took over earlier assumptions about what liberty meant that could not be justified by the new utilitarian reasons given for defending liberty in the first place. Before utilitarians defended liberty, there was already a very clear notion and tradition of what liberty included: such as the prohibition on murder, suicide, slavery and the protection of property. But when utilitarians gave a new justification of liberty, basing it on the social utility and public good, they only changed the justifications for liberty, but did not fully rethink the substance of liberty. The justification of liberty in terms of its public good was after the fact, a way to preserve a value that they regarded as important but whose original justification no longer made sense. But in giving liberty a new justification they did not completely rethink the nature of liberty. They "smuggled in" substantive conceptions of liberty that did not belong in the idea of liberty that they justified based on the social good. If we indeed base liberty on its benefits to the public or social good, then we have to change the content or substance of what liberty includes. Let's see how this is so.

Take first the question of suicide. When we abandon a tradition of natural rights, we can no longer rely on the claim that God owns our bodies, as did John Locke. Nor, can we make the more "modern" version of the same claim that "life is sacred." That starting assumption would be a kind of generalized religious assumption that has no place in a purely utilitarian approach. Nothing is sacred in the utilitarian approach. A strictly utilitarian view would have to abandon any notions of rights or conceptions that smack of religion. "Life is sacred" is one such "religiously tinged" concept.

On the contrary, the utilitarian view of liberty has to start with an interest in overall social good, not the individual at all. The benefits to the individual of living in a free society "fall out of" the goal of maximizing the public good. They are not the origins of liberty, but the result of seeking the public good. The objective of a utilitarian view would be to maximize the overall benefit for the most people, regardless of what individual or religious values were. That objective then would be the goal of a utilitarian view of liberty. No religious-like notions that sanctify the individual or life could be smuggled in to shape how liberty is implemented.

Suicide Should be Permitted

With this starting point clear, we can now turn to our main point and see that suicide should certainly be permitted in a liberal society, at least in a liberal society of our own day. Why do we say this? Since there is no longer any special sacred status of life to appeal to, the only real question is whether suicide has a social utility. The answer, at least for the present generation, is clearly "yes". And the reason it is "yes" has to do with the burden of overpopulation and resource depletion. We live in a world in which resources are clearly dwindling and insufficient to meet current and future human demands. Our social problems today are clearly caused in part by overpopulation

and by over utilization of resources through ways of life that have developed in certain advanced parts of the world. The environmental crisis in general, and global warming in particular, are caused at least in part by too many people competing for resources and the way our current levels technology utilize these resources.

Now if a person does not want to live, and wants to commit suicide, should we have a law that prohibits them from doing so? One less person on the planet would be a benefit. Many fewer people on the planet would be even better. Any person who commits suicide creates more resources for other people who do want to live. Why should resources be wasted on a person who does not want to live anyway?

Some utilitarians might argue that we never know whether that individual who killed him or herself could have created the next great invention. By allowing suicide, we prevent a possible future good. But this argument doesn't wash because we don't know how this person's existence, were it to continue, might impact directly or indirectly on the life of some other person who could conceivably have made an even more beneficial contribution had this person committed suicide. Indeed, this person who wants to commit suicide might even commit murder if we revive him or her. We don't know. Since we can't know what the impact of preventing a suicide would be, now or in future generations, we should not intervene.

Note that we are not arguing that the State should go out and reduce the population actively, although, arguably, in the future we might have to follow China's example and do that too, for the benefit of all. We are simply arguing at this stage that because of resource allocation, we should permit suicide. Why try to revive a person who has slit their wrists or taken an overdose?

Some might argue that if people are trying suicide that they are acting irrationality. But who gets to decide what is irrational and what is rational? Don't we consider that behavior irrational only because we still have this

problematic notion that "life is sacred." In any case, that argument is not about the liberty to commit suicide but about the question of who decides what is rational. If we agree that a person was fully rational when wanting to commit suicide, in that case we should all agree the action should be permissible by law. Some people are arguing for just such a position for the "right to die." But the right to die is currently applied only to terminally ill people. By a utilitarian view, a person should not have to be ill and near the end of life to make such a decision. And a utilitarian doesn't like the language of rights anyway. Anytime a person decides they have had enough and life is no longer worthwhile, the State should allow them to commit suicide and perhaps even assist them in their goal. After all, it would be better for society as a whole: one less person to compete for resources; one less person who might need to be supported by therapy and hospitals. Why invest resources in supporting people who don't want to live? For the benefit of all, we should let these people go. Put them out of their misery and maximize the resources for people who do want to live. It is hard, in other words, to justify a prohibition on suicide from a strictly utilitarian view of liberty.

It is important to note that from a utilitarian perspective suicide is fundamentally different than murder, although the two are not that different from a right's viewpoint. From a natural rights viewpoint, suicide and murder are both prohibited because one's life belongs to God, one's life is a gift from God, or one's life is sacred. But from a utilitarian perspective it is possible to distinguish the two. If we permitted murder, the result would be social havoc caused by insecurity and the undermining of the social cohesion that is beneficial to all. Society itself and the public good would be threatened. But suicide does not have any of these effects and therefore cannot be justified in the same terms.

What About Slavery?

Now if the true utilitarian theorist of liberty agrees that one can take one's own life, what about slavery? The original prohibitions on slavery were based on the fact that our lives belonged to God or were divine gifts and therefore one could not treat someone else like property. For the same reason one couldn't voluntary become a slave. Since we don't own ourselves, but are God's property, we cannot sell ourselves into slavery. But what do we say now that we are putting aside the notions of natural rights? Can a prohibition on slavery be maintained?

Let's first distinguish between a different ways in which one might be enslaved. There is first “forced slavery” whereby one group or individual enslaves another. This should be distinguished from “elective slavery” where one chooses to be a slave. In this discussion, let us start with the question of elected slavery. What if a person wants to enslave him or herself? No one would make that choice, you might say. But if that is true than we should not prohibit slavery since we would have no worry about elective slavery anyway. The fact that we have to prohibit it is evidence that without the prohibition people may in fact choose slavery.

One can think of some circumstances so dire that slavery would be better than freedom. Perhaps, I don't know, some homeless people might choose slavery over living in the streets, although many would likely prefer poor freedom to slavery in a rich person's home. And perhaps some incredibly poor people in India would choose slavery in an American's home to staying ravishingly poor in their own country. Should we not allow slavery in those kinds of conditions? On what grounds do we deprive them of that option to sell themselves, if we don't believe life or freedom is sacred? If we own our own lives and labor, why can't we dispose of them as we wish? If we can sell our labor, why can't we make this contract permanent and sell ourselves?

One might argue of course that being so poor people can't make a rational decision, as they are living in

circumstances that prevent them from making a “free choice.” Such a situation we might say is like putting a gun to someone's head and giving them the choice of sex or death. That is called rape because there is no real choice involved. The conditions make the decision unethical. But this argument is like the argument that a person who wants to commit suicide is by definition irrational. Does that mean that a poor person can't make a rational decision? And what solution is there except to raise the poor person's economic condition so that they can make a rational decision about slavery. But that is impractical. If we could do that, we could eliminate the circumstances that generate the problem in the first place.

I suppose we could allow people to apply to “become slaves.” And then before we allow them to execute the transaction, we could enforce a two years waiting period of enforced wealth, like we do before allowing people to have a sex change. If at the end of that period they still choose slavery over poverty, we could permit the transaction to proceed. In any case, utilitarian minded thinkers should not be in the business of worrying about what are rational and irrational decisions. The way to answer the question is simply to ask what is best for the public good.

In this case, of course, one might say “which public good” are we talking about? Now that question is an interesting one in general, but here it is quite clear. It would be to the public good and in the national interest to allow slavery. Take first the case of the poor person living on the streets of San Francisco who would prefer slavery to homelessness. If we allow him or her to elect slavery, that solves a problem of poverty in the city. At the same time it frees the “slave adopting” home from having to do mundane tasks. More human potential is released and more human misery is solved. And all through free human choice.

The same is true in trans-national situations. Elective slavery would be better for both the “slave-adapting” country and “the slave donating” country. In the original country, the elimination of a person who is too poor to

support him or her self is a burden on the public. In the adapting country, there is no harm; the owner of the slave is better off because he or she can now accomplish more and have a happier life. The poor person who opts for slavery is better off too, especially as he or she chose slavery as an option. Elective slavery therefore should be permitted. It has no deleterious effects on society and has only positive distributed benefits.

Indeed, there is even another benefit of elective slavery: individuals in poverty are often deprived of the opportunity to utilize their creativity and imaginations to benefit society. Their talents are lost through poverty. Since the utilitarian goal is to maximize public good, it is likely that elective slavery will actually empower many individuals to contribute more than they otherwise would to society. Living in a rich person's home, instead of the streets, they may learn piano, read books, write poetry, or develop new ideas. At the very least they will free up their masters to contribute more of their talents to society, instead of having to worry about child care, cleaning house, and cooking dinner, activities that drain the overall productivity and imagination of many of our finest talents.

Of course, there are some additional questions we have to think through. What about the children of the slave? Are they to remain enslaved? In other words, should there be a slave class? I think we might reasonably argue that children of slaves have to go free. But then we would likely need to put an obligation to provide for the education and opportunity of the child by the slave's master. And should a person who has entered slavery be able to choose to leave slavery and under what circumstances and conditions? What if he or she becomes a great writer or master pianist while in slavery and can now leave poverty and stand on his or her own two feet? Does the owner still “own their bodies and labor?” In other words, we would need to have a whole set of regulations, a regime, around slavery to ensure that it remained beneficial for the public. Indeed, as all good utilitarians know, the best way to regulate anything is

through the market itself. For the most part, the invisible hand of the market can take care of managing the slavery institution. There should be no objection then to elective slavery from utilitarian adherents of liberty.

Elective slavery, of course, is fundamentally different from forced slavery. Elective slavery allows people to opt into the system. And therefore it does not create the social havoc that murder does, where the threat to security undermines social confidence in public institutions and thus undermines the achievement of public goods.

But what about “forced slavery?” It is fair to say that forced slavery within a given society could be a lot like murder, leading to disintegration of society where one group attempts to enslave another. But how about between one country and another, like in the African slave trade? Couldn't one country invade and enslave inhabitants of another country? When we talk about “the public good” are we worried about humanity overall or rather a discrete public, such as the state or national entity? Typically, we have to localize “the public good” in an entity—such as the nation state. If so, then our pursuit of the public good, should be focused on the benefits to our national good and should not worry about the public good of another country, except as this may impinge on our public good directly. This leads to the logical conclusion that when the enslavement of other people will do more good than harm to our public good, we should pursue it.

While instinctively we might recoil in horror from this view, it is not self-evidently forbidden from a utilitarian viewpoint. If we are to pursue our national interest at the expense of others, then there is no moral prohibition on our invading weak countries and enslaving their populations. Now if this is the case, then we have discovered one scenario in which enforced slavery should permissible. Were we to invade another country, we could take a slave class. As an example, I propose we do this with al-Qaeda, since they provoked us and there is no reason not to enslave them. I suggest further that we support the expansion of the

Iraq war and make slaves of all the insurgents. Why debate their legal rights in Guantanamo Bay? The question is how to achieve the best public good? There is no harm to the United States or the United Kingdom through this kind of enforced enslavement. I'm surprised no one has thought of it yet.

If the first form of forced enslavement focuses on intra-national situations, there is another form of internal enforced slavery that should be acceptable in a society founded on a utilitarian view of liberty. The first include individuals who seriously violate the laws. Murders, rapists, pedophiles should be enslaved. By their actions they no longer count as part of the community and therefore no longer share in the public good. Since they are no longer counted as part of the public good, they should not be protected by laws that seek the public good. Instead of throwing them in jail, we should simply enslave them. They would be more productive members of society, and less of a social burden which would be good for all. We should create a lottery among people who want a slave and sell criminals to the highest bidders. This would solve the problem of prison space, which is a ridiculous problem since we are investing good money and taxes in keeping people unproductive. Clearly that does not help the public good. To ensure that these dangerous persons not affect civilized society, we should revive some of the techniques used in the South before the civil war. They developed sophisticated practices for controlling the slave population.

There is another second form of forced slavery that possibly should be endorsed. I am thinking of forced slavery for minority groups that are destroying the fabric of society. Now if the goal of liberty is to enlarge the public good, the mistaken view of earlier utilitarian thinkers is to assume we can't make a decision about which people make the most beneficial impact on the social good. It is clear that not all individuals or all groups make equally positive contributions to society. Earlier utilitarians like Mill and Hayek assumed that by letting the market work freely, and allowing

individuals the most freedom possible, that we would maximize the public good. They argued that we don't know which person and which ideas are likely to have the most positive impact on society. And therefore we should maximize individual freedom to encourage geniuses and other non-conformists to have the opportunity to develop new ideas and practices.

But I would suggest an alternative model of progress that is known from nature: this is survival of the fittest. In nature, we know that progress occurs through survival of the fittest, and the effects of competition. Nature is brutal. Only the best adaptations survive. This was true even of the forms of life. Not all early forms of human beings survived. Those that were most fit survived. Now if the goal is really maximizing progress, and the public good, then we should be looking to nature herself as the model of progress. We should not allow all forms of innovation to survive. There should be some sort of winnowing of innovations. We should select the best adaptations and end the rest. But with our notions of rights we do the opposite: we preserve and treat equally all forms of variations. We preserve all forms of life, even the weakest. And in failing to eliminate weak variations, we undermine progress of human life.

So how do we separate then good and bad innovations? Mill and Hayek and others are suspicious of using any kind of rational thought as the guide. They think we are too limited to know what is good and best for human life. That is why they throw the question to the market and impose no guidance. Somehow mysteriously by allowing almost anything the best will emerge.

But we can do better than this. We can put the question to a vote. Clearly, the public good should be that organization of society and social practice that creates the most overall happiness for the most people. It seems silly to determine the best for the most people without putting the matter to a popular vote. Who knows what will maximize happiness without asking the people directly? I propose that we take a series of votes and put to the people a series of

choices. The choices can themselves be suggested by the people by popular referendum. This popular referendum would be like the popular vote done at the founding of this country in which people voted to ratify the constitution. That vote bypassed traditional state voting rules to find out what the people really wanted. Something like that could be done to determine what type of social organization and types of innovation would maximize happiness. This vote put to the people would a kind of “original position” that Rawls describes as the foundation of rational decision making, although in this case people would vote knowing what their social condition actually was.

If we have this vote, we can put to the people the question of whether they want to enslave particular groups of people. We could give them the option of which groups to enslave: This could include any group: Jews, Blacks, Christians, Muslims, or any imaginable segment of the population. I make my own particular recommendation below. The good news is that enslavement of a group could only happen if the vote proved that the enslavement would maximize the most people’s happiness. I imagine this as a kind of run off and lottery where the vote starts with a “yes” or “no” vote on a particular group until we have a finals and “playoff” for “world championship”. For example, suppose only 35% of the population voted to enslave women, but 50% vote to enslave the Jews. Then the enslavement of the Jews is more likely to maximize happiness than women. The statisticians can tell us best how to organize this run off so it is statistically fair.

Ultimately, there will be a debate with various groups explaining why their own enslavement would not maximize the overall happiness of society. Some people might put forward positive arguments explaining why enslavement of a particular group would be to the overall good. These debates will be good as they will help citizens make careful and informed decisions.

I myself have a particular recommendation to make. I think we should enslave all “free market enthusiasts.” Any

one who stands in the tradition of Adam Smith, and embraces the forces of the market, are among the group that I believe does the most damage to society. I realize that my own view is just one view and would have to win large endorsement to win. And because the view of free market thinkers is currently more dominant, I would be myself under threat of being enslaved as a suspected communist or socialist. But hopefully the arguments of those aligned with me would have enough representation to prevent our enslavement and possibly even sway a majority.

Our view would be that free market theorists are doing the most damage to our collective happiness these days. It is beyond the scope of this essay to fully develop that thesis, although I have begun to critique it elsewhere.¹⁰ On the surface, many free market thinkers sound like good old utilitarians. By leaving the market forces to work freely, they say, we achieve the best overall public good.

But this is not the overall public good that many of us want. This can only be “the public good” if the majority of us agree it is what we want. Many of us don’t like the current “public good” that the free market has created. We are not convinced it has produced the maximum good for the most people. We are not convinced such large social disparities make for a good society, nor are we convinced that we can prevent ruination of our planet without much stricter controls on business. We are willing to risk living lives that are less well off materially and with fewer new medical and scientific advances for other values that we think should play a more prominent role in shaping public policy.

So what if the computer does not shrink in size by 90% during our lifetimes. We think the market has some positive effects, and does help drive innovation. But it does so at the expense of other values we hold dear. We believe that by certain critical interventions, we can live in a better society and create a better world for our children. And so we recommend the enslavement of free market theorists, who have, at a time of increasing environmental degradation, and growing economic disparity, continued to worship the

market. Putting them into slavery will enable the rest of us who want to balance the market and values to achieve more of our objectives without constant distraction.

As is evident, a utilitarian view of the public good and liberty leads to very different conclusions than earlier utilitarians thought. They smuggled in ideas of liberty by accident, taking over the substance of liberty from the rights tradition, even as they abandoned the rights justification of liberty. With our vantage point today, we can rethink the true consequences of the utilitarian view, and re-found liberty on its proper footing, making liberty dependent on the public good, as it was always meant to be.

To return to my modest proposal, I have now shown that a theory of liberty based on the goal of maximizing social good should permit suicide and the institution of slavery. Certainly elective slavery should be permitted. But also forced slavery under some already described conditions. To decide which groups should be enslaved we should put it to a popular vote, for that is the only way to determine how to maximize the public good.

¹ These views in various forms can be found in John Stuart Mill, F. A. Hayek, Milton Friedman and Richard Epstein's writings.

² For a summary of Locke's views, see Peter Laslett, *Locke: Two Treatises of Government*. Cambridge: Cambridge, 95). Laslett (101) however, seems to feel there is a near contradiction between Locke's view that "our bodies belongs to God" and Locke's statement in the section on property that "yet every man has a Property in his own Person." In my view, there is no contradiction because in the latter section Locke means that people own their labor thus a "property in his own Person" but not "of his own person". Because a person owns his own labor, i.e., is not enslaved, he thereby acquires property when he labors. "The Labour of his Body, and the Work of his Hands, we may say, are properly his. Whatever then he removes out of the State of Nature hath provide, and left it in, he has mixed his Labour with, and joined to it something that is his own, and therefore makes it his Property."

³ All citations of Locke come from Peter Laslett, *Locke*, 271. 284.

It is interesting to note that Locke does envision some situations in which slavery is permissible. If one performs an act for which death is deserving, then one has the option of accepting slavery instead of death (IV:23).

⁴ See John Trenchard and Thomas Gordon, *Cato's Letters*. Letter No. 59 "Liberty Proved To Be The Unalienable Right of all Mankind. Published Saturday, December 30, 1721. The Online Library of Liberty. Liberty Fund. Available at http://oll.libertyfund.org/EBooks/Gordon_0226.05.pdf

⁵ Now this original justification of liberty is very different from the religious view found in Judaism and Christianity that you should "do unto others as you would have them do unto yourself", a view that would later have its Kantian formulation.

⁶ See Randy Barnett, 2003. *Restoring the Lost Constitution*. Princeton: Princeton University.

⁷ See Ronald Dworkin, “What Rights Do We Have?”, p 271. *Taking Rights Seriously*. Cambridge, Mass: Harvard.

⁸ John Stuart Mill, 1985[1859], *On Liberty*. London: Penguin. 136, 72. At times Mill sounds like he is taking a “rights view” and one might argue that he does smuggle in “rights like” assumptions. But Mill clearly thinks he is basing his theory of liberty on its positive utility:

“It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions.; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being. Those interests, I contend, authorize the subjection of individual spontaneity to external control only in respect to those actions of each which concern the interest of other people...(70).

⁹ H. A. Hayek, 1960. *The Constitution of Liberty*. Chicago: The University of Chicago Press.

¹⁰ See my essays, “What Color of Tie Do You Vote For? Or “Is Economic Liberty Part of Liberty” and “Why ‘Market Liberals’ Are Not ‘The True Liberals’ or ‘Who Really Inherits the Liberty Tradition Anyway?’” Both published on <http://www.freedomandcapitalism.com>