

Social Order through Liberty

Human beings are self-actualizing social animals. We need to cooperate with others to flourish fully and (but?) we also need the freedom to make of ourselves the persons we wish to be; we need autonomy.

Can we do both liberty and social order? The answer is yes, and that is where *rights* come into play. I'll go with Ayn Rand's definition: "A 'right' is a moral principle defining and sanctioning a man's freedom of action in a social context." Also, "Rights are conditions of existence required by man's nature for his proper survival." Although rights theory is fraught with the potential for abuse — many many counterfeit "rights" have been conjured — it's difficult to abandon the concept.

Liberty and social order are often seen as in conflict with each other. The conservatives' fondness for the phrase *ordered liberty*. It is meant to suggest that liberty too easily becomes license and chaos. So we often hear that rights must be balanced against one another or against other considerations (such as state interest), indicating that all people could not possibly exercise their rights at the same time because that would produce intolerable social conflict. Hence the need for external limits.

But thanks to the work of genuine liberals — that is, libertarians, we have good reason to reject this concern.

One of the great synthesizers of individual and social welfare was one of the most unjustly reviled political thinkers in history: Herbert Spencer. In discussing the human "tendency toward individuation in his 1851 (and first) book, *Social Statics*, Spencer wrote:

[The person] is self-conscious; that is, he recognizes his own individuality. . . . [W]hat we call the moral law—the law of equal freedom—is the law under which individuation becomes perfect, and that ability to act up to this law is the final endowment of humanity.... The increasing assertion of personal rights is an increasing demand that the external conditions needful to a complete unfolding of the individuality shall be respected. Not only is there now a consciousness of individuality and an intelligence whereby individuality may be preserved, but there is a perception that the sphere of action requisite for due development of the individuality may be claimed, and a correlative desire to claim it. And when the change at present going on is complete—when each possesses an active instinct of freedom, together with an active sympathy—then will all the still existing limitations to individuality, be they governmental restraints or be they the aggressions of men on one another, cease. Then none will be hindered from duly unfolding their natures.

“None will be hindered”? Even with “activity sympathy,” how then can “an active instinct of freedom be reconciled with required social harmony? Spencer addresses the paradox:

Yet must this higher individuation be joined with the greatest mutual dependence. Paradoxical though the assertion looks, the progress is at once toward complete separateness and complete union. But the separateness is of a kind consistent with the most complex combinations for fulfilling social wants; and the union is of a kind that does not hinder entire development of each personality. Civilization is evolving a state of things and a kind of character in which two apparently conflicting requirements are reconciled.

It may sound odd, but Spencer anticipated “at once perfect individuation and perfect mutual dependence.” He wrote:

Just that kind of individuality will be acquired which finds in the most highly organized community the fittest sphere for its manifestation, which finds in each social arrangement a condition answering to some faculty in itself, which could not, in fact, expand at all if otherwise circumstanced. The ultimate man will be one whose private requirements coincide with public ones. He will be that manner of man who, in spontaneously fulfilling his own nature, incidentally performs the functions of a social unit, and yet is only enabled so to fulfill his own nature by all others doing the like.

This reminds me of Spinoza’s belief that to be fully rational an individual must be surrounded by other rational free, individuals with whom he interacts respectfully through reason, persuasion, contract, and trade, not force.

Spencer, of course, is well known for what in *Social Statics* he called the law of equal freedom: “Every man has freedom to do all he wills, provided he infringes not the equal freedom of any other man.” This sounds good, and it is. But Murray Rothbard, in his discussion of the impossibility and hence senselessness of egalitarianism (in *Power and Market: Government and the Economy*), made an important observation about Spencer’s law. Rothbard wrote:

This goal [equality of liberty] does not attempt to make every individual’s total condition equal—an absolutely impossible task; instead, it advocates liberty—a condition of absence of coercion over person and property for every man.

Rothbard pointed out that the terms *equality before the law* and *equality of rights* “are ambiguous and misleading. The former could be taken to mean equality of slavery as well as liberty and has, in fact, been so narrowed down in recent years as to be.” He also wrote that the term *equal* is problematic in the study of human affairs because it suggests a unit of measure that does not exist. (For libertarianism conceived at equality of *authority*, see Roderick Long’s “Liberty: The Other Equality” and “Equality: The Unknown Ideal.”)

Finally, Rothbard wrote:

Spencer's Law of Equal Freedom is redundant. For if every man has freedom to do all that he wills, it follows from this very premise that no man's freedom has been infringed or invaded. The whole second clause of the law after "wills" is redundant and unnecessary. Since the formulation of Spencer's Law, opponents of Spencer have used the qualifying clause to drive holes into the libertarian philosophy. Yet all this time they were hitting at an encumbrance, not at the essence of the law. The concept of "equality" has no rightful place in the "Law of Equal Freedom," being replaceable by the logical quantifier "every." The "Law of Equal Freedom" could well be renamed "The Law of Total Freedom."

Rothbard credits the point to Clara Dixon Davidson, who in 1892 wrote in Benjamin Tucker's magazine, *Liberty*:

The law of equal freedom, "Every one is free to do whatsoever he wills," appears to me to be the primary condition to happiness. If I fail to add the remainder of Herbert Spencer's celebrated law of equal freedom, I shall only risk being misinterpreted by persons who cannot understand that *the opening affirmation includes what follows, since, if any one did infringe upon the freedom of another, all would not be equally free.* [Emphasis added.]

This leads to the conclusion that all people may be free to exercise their rights simultaneously without jeopardy to life-serving social order. No need for balancing rights exists. If all "ordered liberty" means is liberty that is consistent with social order, then we can rest easy so long as people think soundly about liberty. How surprising is this? After all, the very notion of rights stems from each individual's need to act in the world without conflicting with others. (This insight about rights theory has been called "compossibility" by the Georgist libertarian Hillel Steiner. For an opposing view to the Davidson-Rothbard argument, see this from Matt Zwolinski.)

This does not mean the boundaries between people's zones of freedom are always immediately clear — far from it. Disagreements (both good faith and malicious) are inevitable. That's why, in addition to liberal customs, free societies will have contracts, formal associations, policing agencies, insurance, mediators, arbiters, and judges. Governance does not require government.

It seems that Benjamin Tucker's magazine motto (borrowed from Pierre-Joseph Proudhon) had it right: "Liberty: Not the Daughter but the Mother of Order."