

Libertarianism at the Brink

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May 19, 2017

Brink Lindsey, Vice President for Research at the Cato Institute, argues that contemporary libertarianism has followed the siren song of “natural rights,” in a way that renders it unable to have a wide public appeal. In a recent article, “[The Poverty of Natural Rights Libertarianism](#),” Lindsey writes:

For the half-century or so of the modern libertarian movement, the dominant conception of libertarianism — as shaped by the strong influences of Ayn Rand, Murray Rothbard, and Robert Nozick — has been based on natural rights. In this conception, individuals possess certain moral rights — to self-ownership and ownership of property — that exist separate and apart from any decision by a government to recognize and uphold them. Protection of these rights is the only legitimate use to which authorized force can be put. When authorities use force to protect rights, they are merely acting as agents of individuals to secure their right of self-defense; when authorities use force for any other purpose, they are violating rights and acting illegitimately. This line of thinking leads to the radical conclusion that only a minimal “night watchman state” or full-on anarcho-capitalism can satisfy the requirements of justice.

If libertarians drastically limit the state, they endanger their popular appeal.

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The most obvious objection to radical libertarianism is that many of the specific conclusions it reaches are utterly repugnant to the overwhelming majority of people. The prospect of ending all tax-supported financing of education, care for the poor, and support for the elderly, or of abolishing all health, safety, and environmental regulations, strikes almost everybody as horrific, not too good to be true.

If people would react in the way Lindsey suggests, why would they do so? Is it not that they believe that ending these programs would leave young people without education, the poor and elderly helpless, and the environment unhealthy and unsafe? But this is precisely what libertarians deny. The libertarian view is not that we must “bite the bullet” and accept all these bad things, because of the supposed requirements of the NAP. Rather, the libertarian contention is that all these matters will be much better handled under the free market than under government bureaucracy. Why is the libertarian view “horrific”?

The answer is easy to figure out. Lindsey himself does not believe in a completely free market. He tells us later in the article.

There is a wealth of empirical evidence that shows relatively more market-oriented systems produce better results along many different margins than do more state-controlled economic

systems. But radical libertarians are obligated to go beyond merely arguing for less regulation and lower levels of taxation and government spending; they must argue that a complete elimination of preventive regulation and tax-financed redistribution would improve welfare. But there is no convincing evidence for that proposition — first, because there are no real-world examples of such policies in modern times whose results can be evaluated and compared; and second, because there is plentiful evidence that government actions over and above protecting property rights can improve welfare relative to the laissez-faire status quo.

This is an odd argument. Lindsey rejects complete laissez-faire because there are no real-world examples of it; but at the same time he “knows” that government actions can improve welfare relative to the laissez-faire status quo. We cannot evaluate complete laissez-faire because it does not exist; but we know government intervention would be better. Such are the results of Lindsey’s deep analysis of radical libertarianism.

Lindsey’s claim that government intervention enhances welfare is one he takes as obvious; he does not deign to supply his readers with any evidence for it. Of course, government programs can help those who get money and other benefits from them; but what about the welfare of those who are taxed to pay for these benefits? Why should one think that welfare has gone up overall? Lindsey, elsewhere quite voluble, has nothing to say about this contention, vital to his argument though it is. Readers of Murray Rothbard’s classic “Toward a Reconstruction of Utility and Welfare Economics” will know what to make of Lindsey’s naïve views on welfare.

Another remark Lindsey makes shows his deep distrust for the unhampered market. He offers this argument for redistribution to the poor:

Even if the case for affirmative welfare rights is rejected, the doctrine of necessity points to another justification for redistribution — namely, as a defensive measure to protect property rights when large numbers of people in the society are too poor to feel they have a stake in the property rights system. The common law analogy here is found in cases when the government has to destroy some people’s property to save others’ — say, demolishing a building to create a firebreak during an urban conflagration.

In order for this view to have practical application, it must be the case that a fully free market does leave large numbers of people so poor that they have no stake in the system. This is just what supporters of the free market deny, and Lindsey offers nothing to support his own bleak assessment of the free market.

Lindsey’s case against the pure libertarians must confront an obstacle. Libertarians contend that natural rights support their position, and Lindsey himself accepts natural rights.

Here I don’t mean to disparage the concept of natural rights, which is an important part of the liberal intellectual tradition. *Of course* there are sources of moral authority outside the state and by which state actions can be judged — this is the essence of the claim that there is a “higher law” to which we owe our ultimate allegiance.

If natural rights lead to consequences that Lindsey regards as horrible, what can he do? He does not want to reject natural rights, but he opposes what results from them. Lindsey solves his difficulty by an appeal to indeterminacy. The rights that “pure” libertarians favor need not lead to the society they want.

Rights can be specified in various ways. What, for example, is the appropriate level of risk of damage that our actions can impose on others? What is the proper remedy for rights violations? Lindsey goes through a large number of such questions, and the general point he makes is correct: the structure of libertarian rights must be filled out. But this issue has been fully recognized by radical libertarians:

More sophisticated presentations of radical libertarianism do take note of some of these complexities. However, they present these open questions as minor blank spaces in an otherwise determinate legal structure, to be filled in by custom or common-law jurisprudence. But the questions to be answered in translating natural rights into positive law are anything but minor. Depending on how they are answered, radically different social orders can result.

Lindsey's claim may again be granted, but it leaves libertarianism unscathed. The fact that a structure of rights can be "filled out" in radically different way does not imply that something is amiss with the way that Rothbard and others elect to do this.

Further, for all his talk of indeterminacy, Lindsey fails to show that self-ownership and Lockean property rights allow room for welfare rights. His arguments for welfare rights do not merely fill in "indeterminacies" in libertarian rights: they add controversial premises that supporters of libertarian rights have no reason to accept. One example of such a premise is that because of past injustices in the acquisition of property titles, we should completely redistribute property and only then begin a Lockean system. Accept that proposal if you want: but it is not a consequence of libertarian natural rights.

If Lindsey had presented his arguments for the state as reasons to abandon libertarianism, one could understand him, however much one might disagree. He does not do this, but claims only to be rejecting "pure" libertarianism, while still remaining a libertarian himself. In what sense, though, is he a libertarian? Surely more is required than support for a mixed economy that combines the market with government regulation and welfare. During the Cold War, John Foster Dulles was notorious for "brinkmanship," which pursued an aggressive foreign policy just short of nuclear war. Lindsey, who has elsewhere attacked Ron Paul in vicious terms, follows brinkmanship of a different sort. He endeavors to see how far he can abandon libertarian ideas without being generally repudiated by libertarians.