

The Handbooks of Moral and Political Philosophy



Number 2
Contemporary Political Philosophies

**The Handbooks of Moral and Political Philosophy
Two - Contemporary Political Philosophies
by Roger Solt**

Copyright © 2004 by Paradigm Research, Inc. All rights reserved.

First Edition Printed In The United States Of America

For information on Paradigm Debate Products:

PARADIGM RESEARCH

P.O. Box 2095

Denton, Texas 76202

Toll-Free 800-837-9973

Fax 940-380-1129

Web /www.oneparadigm.com/

E-mail service@oneparadigm.com

All rights are reserved. This book, or parts thereof, may not be reproduced by any means - graphic, electronic, or mechanical, including photocopying, recording, taping, or information storage and retrieval systems - without the written permission of the publisher. Making copies of this book, or any portion, is a violation of United States and international copyright laws.

The Handbooks of Moral and Political Philosophy



Number 2
Contemporary Political Philosophies

INTRODUCTION

Questions of political ideology and political philosophy are important in both Lincoln-Douglas and in policy debate. Most LD topics involve questions of political values, and different political philosophies are the most systematic and sophisticated ways in which issues of political value have been approached. Policy debate can occur, of course, on a purely instrumental level: certain values can be assumed and the debate can occur over how best to achieve them. But, more frequently, even policy debaters are choosing to probe the values and value assumptions underlying instrumental policies, and to do so in an intelligent way again requires an understanding of political philosophy. All of the political theories dealt with in this handbook have been argued extensively in either LD or policy debate, usually in both. These are recurrent issues, arising on topic after topic, and the main objective of this handbook (and this introduction) is to aid in debating these ubiquitous questions of political philosophy more intelligently.

The first volume of this handbook, BASIC MORAL PHILOSOPHIES, dealt with the time honored debate between deontological and teleological (or consequentialist) ethical systems. The two main modern examples of these systems, Kant's deontological moral philosophy and utilitarianism, were also dealt with in some depth. In this, the second volume of THE HANDBOOKS OF MORAL AND POLITICAL PHILOSOPHY, the focus is on contemporary political perspectives which either extend or challenge the traditional Kantian or utilitarian orthodoxies. Though the topic of this handbook has been dubbed CONTEMPORARY POLITICAL PHILOSOPHIES, at least two of the philosophies to be considered, Marxism and libertarianism, have been around for some time. (And all of these philosophies have roots which could be traced easily as far back as the Eighteenth Century.) Each of these perspectives, however, has received significant new formulations within the past twenty-five years.

Through the first seven decades of this century, the dominant Anglo-American political philosophy was utilitarianism. The utilitarian ethic is a classic expression of a consequentialist moral perspective; it argues that both morals and legislation should be governed by the objective of seeking the greatest good for the greatest number. The greatest good is understood by classic utilitarianism in terms of maximizing overall human happiness; in this view, questions of duty, rights, justice, and distributional fairness are all secondary. The alternative deontological approach, which Kant exemplifies, stresses instead precisely these questions of duty, right, and justice which utilitarianism tends to neglect. But in this pragmatic and intellectually skeptical century, such views had fallen into relative disfavor. It was therefore considered a kind of renaissance in political philosophy when, in the 1970s, a Kantian-style political philosophy was reborn. Actually, the approach sometimes called "deontological liberalism" included philosophies which spanned the political spectrum. Most prominent (and most influential) were probably the liberal egalitarian theories exemplified in the work of John Rawls and Ronald Dworkin. But the 1970s also saw the emergence of Robert Nozick's Kantian libertarianism and even a kind of "deontological conservatism," advanced by Charles Fried. Whatever their political implications, each of these philosophies is in a broad sense "liberal." "Liberalism" as a political philosophy is commonly said to have two defining traits. First, it focuses on the individual and the individual's welfare as the ultimate aim of politics, rather than appealing to a notion of common community or collective good. Second, it is said to be neutral when it comes to defining the nature of the good life. Rather than proposing a particular conception of how people should live, it sees the state as providing a framework within which different individuals can each pursue their own idea of the good (rather than an idea of the good prescribed by the state or society). Utilitarians, for that matter, also tend to be liberal; they come to their calculation of the greatest good by summing the total welfare of individuals, and the utilitarian value system is flexible enough to allow for a good deal of individual variation.

Liberalism has not, of course, gone unchallenged, and it is political theories which developed in response to liberalism which make up the remainder of this book. Most of these theories take issue with the two main features of liberalism: they regard it as too individualistic in its focus, and as lacking in a theory of the common social good. Marxism has been the most prominent of these challengers to liberalism, and though as a practical approach to government Marxism has fallen on hard times, it continues to exert influence through such contemporary descendants as critical legal studies.

Communitarianism has offered another challenge, arguing for a renewed emphasis on community instead of individual welfare and on traditional social rather than universalistic values. Finally, radical feminism presents an indictment of liberal legal neutrality, arguing that such apparent procedural fairness merely masks the continued domination of women by the patriarchy.

Each of these philosophies has subtleties and dimensions which can be only hinted at here. Anything close to a thorough understanding requires returning to original sources. Still, reconnoitering the field of political philosophy is not an easy mission; this handbook hopes to offer you some guidance in beginning that process. The rest of this introduction will attempt to summarize the arguments for and against the different political philosophies included in the handbook.

JOHN RAWLS' THEORY OF JUSTICE

In 1971, John Rawls, a Harvard philosopher, published *A THEORY OF JUSTICE*. This work, which challenged the prevailing utilitarian orthodoxy, was immediately heralded as a classic of political thought. In 1993 he published a second book, *POLITICAL LIBERALISM*, which extended and clarified his earlier theory. Rawls stresses his theory's Kantian roots and described it as "deontological." The deontological aspect of his theory can be seen from the outset. Justice is said to be uncompromising; it is "the first virtue of social institutions." "Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override" (*A THEORY OF JUSTICE*, p.3). Despite this undoubtedly deontological flavor, Rawls' theory also possesses consequentialist elements. Indeed, he argues that no political theory can really ignore consequences, that to do so would be "crazy." So, in addition to arguing that his system of justice would be moral, Rawls also argues that it would be stable. Stated somewhat abstractly, Rawls' theory has been seen as an attempt to reconcile the right and the good; that is, it offers the proper means to achieve desirable outcomes.

How do we determine the nature of justice? For Rawls the preferred way to accomplish this is by means of a hypothetical social contract. The original social contract theorists, such as Hobbes, Locke, and Rousseau, appear to have assumed some kind of social contract was an actual historical event, that humans initially existed in a presocial state and at some point came together voluntarily in society. Present anthropological theory makes the historical theory of the social contract seem extremely dubious--humans have probably always lived in society. But Rawls still believes, as did Kant, that by thinking about the principles we would have selected if we had come together in a social contract we can refine and elaborate our intuitive notions of justice.

Rawls therefore asks us to imagine a hypothetical social contract situation which he calls "the original position." In effect, Rawls asks, if we were starting from scratch, what principles of justice would we select? One answer is that each individual in the contract situation would attempt to maximize his or her own self-interest. For Rawls this is unacceptable; the sum of individual biases doesn't allow us to get to neutral principles of justice. Therefore, Rawls employs a device which he calls "the veil of ignorance." This means that while each of the contractors is assumed to have complete general knowledge regarding the principles of economics, psychology, etc., no one knows his or her exact position in society. One could be black or white, male or female, rich or poor, an athlete or a quadriplegic. By bracketing out personal interests and preconceptions, Rawls hopes to derive from an impartial perspective his theory of "justice as fairness."

One problem with the veil of ignorance is that it screens out people's particular values. The question then is what basis would they have for selecting principles of justice? Rawls answer is that we should assume what he calls "the thin theory of the good." Though people don't know their particular place in life or their particular life projects, they know that they will have life projects. We can assume, therefore, that they would want sufficient access to social resources to pursue whatever life plan they might select.

Under conditions of ignorance like those defined by the original position, people would employ, Rawls argues, "the maximin principle." This frequently misspelled concept states that in making choices one should act so as to maximize one's minimum outcome. In terms of Rawls' theory, this means that people wouldn't gamble on what place in society they are likely to actually occupy. They would seek to design political and economic structures so that the least advantaged members of society would be as well off as possible.

Based on the whole hypothetical social contract framework, and making use of the maximin principle, two principles of justice would be selected, according to Rawls. The first is the equal liberty principle. This means that the contractors would choose to secure for each individual the maximum amount of liberty possible, consistent with equal liberty for others. As Rawls has later clarified, the liberties he is concerned with here are the basic political and civil liberties, such as free speech and the right to vote. His principle does not endorse, as will soon become clear, unbridled economic freedom.

The second principle Rawls says would be selected is "the difference principle." That is, social inequalities would be allowed only insofar as they improved the welfare of society's least advantaged members. This principle embodies a kind of practical egalitarianism. Radical egalitarian theories, such as Marxism, tend to assume that a completely equal distribution of social goods is optimal. But the main criticism of such radically equal distributions is that they would undermine all incentives to be productive. Rawls recognizes and hopes to counter this problem by allowing income inequalities insofar as these inequalities can be proven to produce a large enough increase in the total pool of social goods that with redistribution everyone in society would be better off. If, for example, the economic incentive of unequal income could double the size of the GDP, then there would be plenty of income both to stimulate the talented and to redistribute to the poor. As a kind of qualification to the difference principle, Rawls offers what he calls the principle of "fair equality of opportunity." This means any differences in income must come from occupations and offices in which everyone can fairly compete. This aspect of Rawls theory has been one of the least analyzed, although Tufts philosopher Norman Daniels has used it as the basis for an argument for universal health coverage.

The two principles of justice, Rawls argues, would be chosen over the available alternatives. They would be better than a completely equal division because they permit economic incentives from which all would benefit. They are also preferable to utilitarianism because utilitarianism might be willing to sacrifice the welfare of some individuals (the socially least advantaged) in order to maximize the overall welfare of society. This would fail to respect all persons as ends in themselves, thereby violating the deontological underpinnings of the theory of justice. Also, Rawls hypothetical contractors wouldn't choose the principle of utility because (in accord with the maximin principle) they would fear that they might be one of the least advantaged.

Rawls argues that this system of justice would be moral. In order to verify that that is indeed the case, he makes use of an idea called "reflective equilibrium." The concept here is that in coming to a moral conclusion there needs to be a kind of dialectical movement between our moral intuitions and our moral theories. We have various intuitions concerning what is right or just (that is, feelings, senses of value). On the basis of these feelings or intuitions, we construct moral theories, but we then need, post facto, to see whether our theories actually conform to our intuitions. Theory and intuition thus serve as a mutual check on each other, and each may have to be modified until they can come to rest as "considered judgments" in reflective equilibrium. It is through this reflective process that we can come to some degree of confidence about our moral judgments.

Rawls also argues that his system of justice would be stable. People would tend to support the principles of justice over time because they are grounded in mutual respect, and because no one is expected to give up what they morally deserve to benefit society as a whole.

Rawls' theory has been vastly influential, inspiring innumerable attempts to apply his basic framework in terms of particular problems. (Daniels' application of the principles of Rawlsian justice to the problem of health care is just one example.) The popularity of Rawls' theory suggests that it does comport with the moral beliefs of many members of this society indeed, it has been seen as an apology for the liberal welfare state. But not surprisingly, Rawls' theory has also drawn a vast range of criticism from across the political spectrum. The following summarizes a dozen of the major criticisms of A THEORY OF JUSTICE.

First, some authors have criticized the deontological framework which Rawls employs. Utilitarians, of course, regard it as misguided, and so do moral pluralists, who insist that justice is not the only value and that it must be weighed against competing goods. Princeton philosopher Walter Kaufmann has even launched a systematic attack on the idea of justice. According to him both retributive and distributive justice are incoherent concepts because they rest on an idea of "desert"--that is, the idea that it is possible to determine what people actually deserve. But desert, Kaufmann insists, is incalculable; no one can really determine objectively someone's degree of culpability or merit. Justice pretends that there is some objective way of coming to these conclusions, whereas what is ultimately required is subjective judgment and choice.

Second, the social contract framework has been criticized. Ronald Dworkin, though sympathetic to Rawls, probably made this point best when he argued any literal social contract is a myth and any hypothetical contract would not be binding. In effect, Rawls has produced an elaborate thought experiment with a large number of unrealistic assumptions. It is unclear why decisions we would make under such artificially constrained conditions should be binding in the real world.

Third, the original position framework has been indicted. On one hand, some argue that it is rigged to produce the solution which Rawls endorses; that is, he structures his own values into the framework of the original position so that only the conclusions he desires are possible. On the other hand, it is also sometimes argued that by asking his hypothetical contractors to bracket out their own particular moral values, Rawls leaves them with no basis to coming to any conclusion.

Fourth, the maximin principle has been seen as too risk averse. If we always employed such worst case analysis, we would never take any chances. Risk taking is an individual psychological variable, and it's inappropriate for Rawls not to assume that some people would not gamble on being somewhat worse off if it's possible that they might do considerably better.

Fifth, the equal liberty principle has been criticized as either too strong or too weak. It is seen as too strong because as a principle it has priority over his second principle of justice (that is, the difference principle only applies where it is consistent with the principle of equal liberty). This, some would say, is irrational. Liberty is only one good, and we should and would be willing to trade off at least a little bit of liberty for a great deal of some other value (such as material prosperity, or physical security). Thus, the equal liberty principle is too absolute. The opposite objection is that the equal liberty principle is too weak. This is because while Rawls places a priority on protecting equal liberty, the range of liberties which he protects is relatively narrow. He is definitely willing, for example, to violate economic freedom (at least through redistributive taxation) in order to benefit the least advantaged members of the society. For libertarians and many traditional conservatives this is unacceptable.

Sixth, conservatives also tend to intensely dislike the difference principle, which only permits income disparity if everyone in the society benefits. In effect, this principle treats all of the wealth in the society as a kind of collective asset, and it allows the state extensive powers of redistribution. This violates the intuitive idea that individuals are entitled to at least most of what they acquire through their own efforts and talents.

A seventh argument is that even given the original position as Rawls describes it, his principles of justice would not be selected. If one rejects the maximin principle, then probably the hypothetical contractors would select something like the principle of utility since that would produce the greatest overall, and hence the greatest average, welfare. Another suggestion, which some laboratory research tends to support, is that the contractors would choose to establish a safety net below which no one would be allowed to fall but would then allow other social goods to be allocated according to the principles of the market.

The eighth argument is that Rawls' theory is immoral because it fails to treat all individuals as ends in themselves. He rejects utilitarianism, because that system might require the least well off to sacrifice welfare for the general social good. Rawls, however, requires that the most well off, the most talented and industrious, sacrifice what they could earn through free exchange in order to benefit the least advantaged. This arguably treats them as means and fails to respect their individual integrity.

Ninth, the theory of reflective equilibrium can be criticized as merely one way of codifying individual prejudices. In some views, moral intuitions are simply subjective biases, the result of individual interests and upbringing. That Rawls' theory ends up in accord with his own moral intuitions thus hardly seems surprising. But not everyone else shares the same moral intuitions or the same considered judgments, as the numerous critiques of his theory demonstrate.

Tenth, it is argued that Rawls' system of justice would not be stable; that is, it would not be able to endure over time. Those with more talents, with more power and assets, would have little reason to support Rawlsian institutions because they would be better off under a less egalitarian approach. The result is that Rawls' principles would lead to a kind of "revolt of the elites," undermining his system.

An eleventh criticism, derived mainly from libertarian and conservative authors, is that the system of Rawlsian justice would be vastly oppressive. It would require, from this viewpoint, constant, tyrannical intervention into people's lives in order to continually reallocate societal wealth.

The twelfth argument is one advanced by Michael Sandel and other communitarian writers: that Rawls ignores social context. Communitarians see individuals as embedded in particular cultural traditions, and for them it is those traditions which determine the nature of a good life for the members of that community. Rawls, they would say, has an overly abstract view of the self, one divorced from social particularity. What this abstract, rather disembodied self would do is irrelevant to what particular selves should do when embodied in a particular community.

Rawls' theory has many implications. First, it can be used as a basis for defending redistributive welfare policies such as universal health coverage. Second, it provides a theoretical defense of the classic civil liberties such as speech, press, religion, and voting rights. Third, it has implications for intergenerational justice. It is unjust, Rawls argues, for the present generation to transmit to the future a world in which people would be worse off than we are at present. Fourth, although Rawls himself does not apply his theory of justice internationally, others, such as Thomas Pogge, in *REALIZING RAWLS*, have tried to do so. If the difference principle were applied internationally it would, of course, potentially justify massive wealth transfers from the richer to the poorer nations.

Rawls' theory does not apply to every policy question. It is, he states explicitly, a theory relating to the basic economic and political structures of a society; as such, it would not directly govern every particular political decision. Still, the range of application for this controversial theory in terms of debate arguments is considerable.

RONALD DWORKIN

Legal scholar Ronald Dworkin holds joint appointments as a professor of law at New York University and professor of jurisprudence at Oxford. Much of his work deals with relatively technical legal questions and is not directly relevant here. For our purposes, he is most important as the proponent of a highly influential theory of rights. Like Rawls, Dworkin is a liberal egalitarian who writes from a deontological moral perspective. Rights, for Dworkin, occupy the place that justice does for Rawls. Rights, Dworkin says, serve as trumps in moral and political argument. A legitimate rights claim, in his view, automatically takes priority over an argument based solely on utility or general social welfare. (Dworkin does, however, seem to qualify his absolutism when the consequentialist considerations are sufficiently great.) Even subject to qualifications, though, this remains a strong view of rights.

Dworkin's concept of rights is highly egalitarian. He denies that individuals have a fundamental right to liberty, though he would presumably defend the basic liberties which Rawls endorses. (Dworkin has also had some spirited exchanges with feminist law professor Catherine MacKinnon in which he opposes restrictions on pornography.) For Dworkin, the basic right is to equal treatment and equal respect by government. This does not require complete equality of income, but he certainly seems to prefer a more equal distribution of wealth than presently exists in America.

Dworkin's view of rights as trumps (based on the analogy of a card game) is mainly indicted as being too extreme. Again, the argument is made that rights are not absolute, that they are at most one element of the good which can on occasion be sacrificed. Most of the rights critiques to be discussed below will implicitly indict Dworkin's theory. Though I have not devoted a complete section of this handbook to Dworkin's theories, evidence from him will be found in the outline heading labeled "rights," and references to his views will probably be encountered elsewhere.

CHARLES FRIED

Fried is a professor at Harvard Law School; he was also solicitor general in a recent Republican administration. (The solicitor general, often called the tenth justice, argues the federal government's case before the Supreme Court.) In 1978, Fried published a book entitled, *RIGHT AND WRONG*. (This was one year after Dworkin had published *TAKING RIGHTS SERIOUSLY*.) One reason Fried's book is interesting is that it assumes a deontological perspective very similar to Rawls' and Dworkin's. But because Fried is a political conservative, he gives the deontological perspective a very different slant.

For Fried (as for Kant), we have an absolute moral obligation to do right. Rights are the political expression of these moral absolutes. Thus, for Fried, rights (at least negative rights) are said to be "categorical"--that is, they cannot be violated to simply improve welfare, utility, or some other end not related to rights. Thus far, Fried's theory is very similar to Dworkin's.

Fried does recognize some limits to the absoluteness of rights. He believes that under sufficiently catastrophic conditions ordinary morality is suspended; thus, for example, to save the nation, rights could be legitimately violated. He also believes that some situations are too trivial to justify serious moral concern.

The critical difference between Dworkin and Fried is that Fried distinguishes between positive and negative rights. Negative rights involve freedom from interference. The First Amendment, which states in part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press..." is the classic expression of a series of negative rights, rights essentially to be left alone. Positive rights, in contrast, are entitlements. Rights to welfare or health care would be examples. Though he uses the language of justice rather than of rights, Rawls obviously believes in positive as well as negative rights. (The equal liberty principle basically protects negative rights in Rawls' system, and the difference principle establishes positive, welfare rights.) Libertarian theories, we will soon see, endorse negative rights but not positive ones.

Fried, it seems, occupies a moderate position. He views negative rights as categorical or absolute, but he also recognizes limited (contingent or conditional) positive rights. His argument for the absoluteness of negative rights follows fairly standard Kantian logic: individuals are autonomous beings who must be respected as ends in themselves; violating their negative rights destroys the integrity of the individual. Positive rights, though limited, also follow from our respect for persons. If our respect for others involves respecting their rights regardless of the consequences, then this implies concern for them as people. And if we are concerned with them as people, then we would also recognize at least minimal positive rights.

Nonetheless, the positive rights Fried recognizes are far from absolute. This seems to be for two reasons. First, positive rights can't be absolute in the same sense as negative rights because under some circumstances they are impossible to fulfill. It is always possible for the government not to interfere with its citizens free exercise of religion, but it might not be possible (say in a drought) for it to feed all of them. Scarcity and cost thus limit claims such as those for a positive right to health care. Second, Fried believes that moral obligations are limited. He indicts utilitarianism for producing what he calls "disintegrating universality." This means basically that if we took seriously the utilitarian admonition to maximize the greatest good for the greatest number, we would have to devote the whole of our lives to this pursuit. Our own life plans and projects would be rendered moot. For Fried, this also undermines the moral integrity of the self and is therefore unacceptable. Though Rawls and Dworkin are not utilitarians, their systems of positive rights are so extensive that the same kind of "disintegrating universality" might be produced. A society completely structured to benefit the least advantaged would require vast material sacrifices from those who are more endowed with wealth, talent, and industry. This, in Fried's terms, would also undermine the integrity of the self. The practical result of all of this seems to be that Fried would support a social safety net, but it would not necessarily be an extensive one. The standard arguments in favor of Marxism or liberal egalitarianism would, of course be critiques of this position. Evidence from Fried is found in the section on "rights."

LIBERTARIANISM

The most obvious origins for contemporary libertarianism is the natural rights theory of John Locke. A social contract theorist writing in the late Seventeenth Century, Locke was an early proponent of limited government. For Locke, individuals have a right to life, liberty, and property, and it is in order to protect these rights that they enter into civil society. Jefferson's reference in the Declaration of Independence to "life, liberty, and the pursuit of happiness," seems to directly parallel Locke's theory.

In the Nineteenth Century, libertarian thought took the form of what is now called "classic liberalism." The emphasis of classic liberalism was on the political, personal, and economic freedom of individuals. John Stuart Mill (some of the time) and social darwinist Herbert Spencer (most of the time) can be considered classic liberals. By the latter part of the Nineteenth Century, however, classic liberalism had evolved into what we recognize today as liberalism – basically liberal egalitarianism, willing to harness the state to deal with a myriad of problems.

In this century, libertarian thought has been mainly a response to contemporary liberalism. It continues to place primary emphasis on individual liberty and it sees severely limited government as necessary to preserve liberty. Contemporary libertarianism has two major roots. One is in free market economics, especially the so-called Austrian school of economics associated with H.A. Hayek and Ludwig von Mises. This strain of libertarian thought has been continued in the "anarcho-capitalism" of Murray Rothbard, and it finds expression, in more moderate form, in the work of Milton Friedman. The second major root of contemporary libertarianism is in the moral and political theory of philosopher/novelist Ayn Rand. Rand for various reasons, referred to herself as an "Objectivist" rather than as a libertarian, but by any common definition Rand's political theory is a variety of libertarianism, and she exerted considerable influence over subsequent libertarian philosophers such as John Hospers and Tibor Machan.

The most prominent recent philosophical work to advocate libertarianism is *ANARCHY, STATE, AND UTOPIA*, a book published by Harvard philosophy professor Robert Nozick in 1974. Though most libertarians seem to have embraced substantial parts of Nozick's work it seems somewhat outside the libertarian mainstream. Like most libertarians, he believes (or believed) in a theory of natural rights, but he based his theory on notions of respect for the individual grounded in Kantian deontology. (In contrast, Rand, an ethical egoist, thought Kant was the most evil man who ever lived.) Thus, while libertarianism is a longstanding political philosophy, Nozick's particular form of libertarianism is part of trend back to Kantian deontology also found in Rawls, Dworkin, and Fried.

Different libertarians emphasize different themes, but the following are representative of libertarian thought. First is the belief in natural rights. Most fundamental is the right to life. Liberty and property are generally said to be necessary for individuals to protect and further their own lives.

Second, libertarians see rights as purely negative. There are no entitlement rights such as Rawls and Dworkin suggest, and pure libertarians would even reject a Fried-style safety net of public services for the poor.

Third, economic freedom is seen as key. This is partly because it is necessary to protect property rights, but it is also true for utilitarian reasons. Milton Friedman, for example, argues strenuously that economic freedom is necessary to ensure political freedom, to promote prosperity, and even to advance the interests of minorities.

Fourth, a kind of corollary to the above is that only a minimal state is justified. The only purpose of the state, in the libertarian view, is to protect negative rights, that is, to protect individuals from coercion by others. National defense, police protection, and the enforcement of contracts are thus its only legitimate functions.

Fifth and finally, taxation is viewed as theft, at least if it goes for any functions beyond those of the minimal, "nightwatchman" state.

Nozick's book was in accord with pretty much all of the above, but he also added some characteristic themes of his own. The first of these is his deontological rights theory. Rights in his view operate as absolute moral side constraints which cannot be violated to benefit others. Second, he argues against the anarchists that the minimal state is justified because it would necessarily evolve out of the state of nature in a way which need not violate anyone's rights. (Nozick's story is that in the state of nature, people would inevitably form protection agencies and that those protection agencies would ultimately amalgamate into the state.) Third, Nozick argues that more than the minimal state would not be justified mainly on the basis of his theory of "entitlements." Unlike redistributionists such as Rawls and Dworkin, Nozick argued that whatever one acquires by just means is unconditionally one's own; it is not some kind of collective asset to be reallocated by the state.

Ayn Rand's views have been influential in libertarian circles and also in debate; I therefore wish to briefly summarize some of their central features. First, in contrast to many libertarians, she is a thorough objectivist in metaphysics, epistemology, and ethics. This means that she believed in an objective external reality, believed that it could be known by human beings, and believed that ethical standards can be derived from that objective reality. Second, in contrast to Nozick, Rand was an ethical egoist. She believed that what is moral is for each individual to pursue his or her own rational self-interest. Third, her ethical egoism is qualified by her theory of natural rights. Each individual has a right to life in a way consistent with human nature. (Here Rand follows Aristotle in defining humans as rational animals.) Rights to liberty and property follow from each individual's right to life. A rational, creative, and productive life is one in accord with human nature, but it is inconsistent with living off others, either as a thief or a parasite. Thus, the Randian egoist would respect the negative rights of others but would reject any altruistic duty towards them. Fourth, Rand was a vociferous proponent of a totally free market (*laissez-faire* capitalism). Her arguments here are similar to Friedman's: the free market brings peace, freedom and prosperity.

Though apparently growing in popularity libertarian theory challenges many of the orthodoxies of our current political culture. So, not surprisingly, it too has been subject to widespread criticism. A first set of arguments concerns the libertarian theory of natural rights. According to the prevailing view, no rights are absolute, and property rights in particular are far from absolute. The right to enough property to subsist on would seem to follow from the right to life, but not necessarily the right to acquire unlimited fortunes.

Second, the libertarian defense of the free market is said to be exaggerated. The twentieth century experience suggests that a mixed economy is consistent with high levels of prosperity and political freedom. Indeed Keynesian logic suggests that the government can help to stabilize the economy and promote growth. What seems likely is that a totally free market would result in even greater concentrations of wealth than now exist, and this might well breed economic and political instability.

Third the egalitarian, of course, objects to libertarianism because it neglects the poor. In the conventional view, we have at least limited duties of benevolence toward others. In a more radical view, since wealth arises out of social cooperation, it is legitimately society's to allocate. Fourth it has been argued that libertarianism does not in fact maximize liberty. This is essentially a definitional question and turns on whether one defines liberty as freedom of effective action or as absence of constraint. It seems reasonable to think that freedom in the first, positive sense might be maximized by some redistribution; the poor would gain more effective freedom than the wealthier would lose. Libertarians obviously prefer the absence of constraint definition, but even assuming this definition, redistribution has been argued to be valid because it helps offset natural constraints (such as unequal talent) which limit freedom.

Fourth, Nozick argued that the minimal state is indeed utopian because it is a framework within which a diversity of communities could flourish. If the members of one community wanted to pool all of their property and establish socialism they could do so, but any such utopian experiments would have to be based on mutual consent and respect property rights of dissenters.

Fifth a standard conservative argument is that libertarianism undermines order. Libertarianism is more than an economic theory; it also implies complete freedom to engage in consensual entity activities. Thus, there could be no limits on pornography or any other form of consensual sex, on drugs, assisted suicide, etc. Conservatives see this kind of liberty as license which would lead to societal breakdown.

A sixth argument is that libertarianism would undermine national defense. This may not follow logically from basic libertarian theory (which permits defense) but it may follow from the practical politics of libertarianism. In fact, most libertarians tend to be isolationists. In the globalist view, American involvement abroad, especially in the post-cold war world, is a necessary stabilizing force. Thus, libertarianism could be pragmatically disastrous in terms of world peace.

A few particular arguments (advanced against Nozick's version of libertarianism are also worth reviewing briefly. First, Nozick's moral theory in ANARCHY, STATE, AND UTOPIA is highly underdeveloped. He appeals to but does not really argue for Kantian principles. Second, some argue that he doesn't even really justify the minimalist state. Even the minimal state, it is said, could not emerge without violating some rights. Third, his entitlement theory probably the heart of his work, has also been subject to severe criticism. The most fundamental objection is that initial property holdings have mainly been based on illegitimate means. For example, whites basically stole North America from the Indians. If the initial acquisition process is unjust, then that injustice is perpetuated through all subsequent transfers. Finally, on a rather different level, Nozick basically recanted his libertarianism in a 1989 book, moving to a position far closer to communitarianism. This does not discredit all of his earlier arguments, but it does cast doubt on their cumulative validity.

Particular arguments against Rand tend to focus on her "essentialism" and her ethical egoism. Existentialists and post-structuralists agree on at least one thing: there is no a priori human nature. If there is no ideal or determinate human nature, then many of Rand's arguments lose their underpinnings. Second, most moral philosophers reject ethical egoism. (Some even argue that it is not really an ethical position at all.) G.E. Moore, for example, argued that if my welfare is the ultimate value, that it should be the ultimate value for everyone. If personal interests are a good, then they are a good which everyone should recognize. Another argument is that Rand has too narrow a view of the self. By identifying with others we in effect extend our selves; we make their interests our own. Thus, there may be no real conflict between egoism and altruism; altruism is simply the egoism of the extended self. Finally, it is argued that if Rand were a consistent egoist, she shouldn't even worry about respecting the negative rights of others. Her position arguably justifies the war of all against all, not the constrained egoism she defends. There also seems to be a neglect on Rand's part of the feeling of natural sympathy which humans tend to experience for others.

COMMUNITARIANISM

Though its roots could be traced back a long way, contemporary communitarian philosophy achieved prominence in the early 1980s, mainly as a response to the deontological liberalism of Rawls, Nozick, and Dworkin. In *LIBERALISM AND THE LIMITS OF JUSTICE* (1982), Michael Sandel, a Professor of Government at Harvard, provided a detailed critique of Rawls' theory of justice from a communitarian perspective. Communitarian views are also found, at about the same time, in the works of philosophers like Alisdair MacIntyre and Charles Taylor. More recently, authors such as Amitai Etzioni have been concerned with developing communitarianism as a practical political movement. Communitarianism criticizes liberalism in all of its forms for being too individualistic and hence too little concerned with the overall good of the community. Despite this common critique of liberalism, communitarian politics themselves remain ambiguous. In many ways, classic conservatism has affinities to communitarianism. Edmund Burke's description of society as an organic growth and his defense of social "prejudices" express typical communitarian themes. Pat Buchanan sounds sometimes like a communitarian, but so can an author far to the left such as critical legal scholar Roberto Unger. So, while communitarians share a common distaste for liberalism, the nature of their alternative is far less uniform.

The following five themes seem characteristic of contemporary communitarian thought. First, communitarians insist that values are particular, not universal. Liberals tend to see their value systems as applying universally. Universal human rights grounded in human nature, Kant's moral duties binding on all rational beings, and even the principle of utility are all examples of universalized values. Communitarianism, in contrast, seems to embrace cultural relativism; it views values as the outgrowth and expression of particular cultural traditions.

Second, communitarianism (like Marxism) also stresses the social nature of human beings. Humans are said to be "constituted" by their social ties and affinities. Third, liberalism is indicted for its "atomistic" view of human nature, its tendency to treat individuals as abstract, "lone rights bearers." From this it follows, fourth, that rights are an exaggerated concept. Harvard law professor Mary Ann Glendon probably offers the most sustained critique of rights from a communitarian perspective in her 1991 book, *RIGHTS TALK*. Among her indictments is that when rights are treated (Dworkin or Nozick-style) as moral absolutes, then no real room is left for democratic discussion. Rights arguments seek to claim a moralistic high ground of absolute principle, leaving little room for compromise or even the recognition of opposing views. Furthermore, the range of rights claims continues to proliferate, trivializing the concept of rights even further.

A fifth claim, made forcefully by Etzioni, is that communitarianism occupies a middle ground between "radical individualism" and authoritarianism. Furthermore, he argues, any other position is ultimately unsustainable; too much emphasis on rights makes authoritarian backlash inevitable in the long run.

After the communitarian onslaught, it did not take long for liberals to respond. The following are some representative criticisms. First, it is possible to defend the position that at least some values are universal, that is, derived from our common humanity. Furthermore, modern (essentially Western) culture has become increasingly globalized, producing cultural commonalities conducive to universal values. Organizations such as the UN with global membership have issued declarations of universal human rights and even dictators seem compelled to give such principles lip service. Furthermore, the rejection of any universal values, and the complete embrace of cultural relativism, has some disturbing features. It suggests that slavery, cannibalism, and human sacrifice are all acceptable expressions of different cultural traditions. Second, even if there are no truly universal values, liberal universalism might be understood as the characteristic value of our cultural tradition. Third, communitarianism may overemphasize social and cultural determinism. Humans are, in part, socially constructed but they are also in part self-creating. Communitarianism tends to downplay the authentic freedom and autonomy which individuals can possess. Fourth, the fact that humans are (at least in part) innately social doesn't produce a clear political implication. Libertarians would argue that human sociality is best expressed in voluntary exchange and cooperation; communitarianism, in contrast, is said to embody a statist viewpoint committed to coercion.

Fifth, liberalism may be the most appropriate philosophy for a pluralistic society. It may be the case, as Rawls argues, that we don't share a common image of the good. If so, then the best government might be one which offers the greatest opportunity for individuals and groups of individuals to pursue their own version of the good life.

Sixth, in contrast, communitarianism may repress differences among groups. Traditional communities are notoriously intolerant, and racism, sexism, and homophobia are all part of our own cultural tradition. The retreat from universalism can be seen in a place like the former Yugoslavia, where ethnic antagonisms are raging unchecked.

Seventh, it may be impossible to return to cohesive communities. Community may just be an appealing myth, incompatible with the speed and scale of modern life.

MARXISM

Marxism developed during the nineteenth century as one version of socialist theory. It has continued to have a wide influence in this century, inspiring communism in the east, and various forms of "democratic socialism" in the west. Marxism has always portrayed itself as the wave of the future; in the last ten years, however, such claims have come to seem increasingly dubious. However, political philosophy continues to be written from an essentially Marxist view, and some Marxist perspectives continue to have relevance in debate.

Marxist authors continue to argue for the moral superiority even the moral necessity, of socialism. (Pure socialism can probably be identified with the desire to abolish private property and to socialize the means of production and distribution.) A number of arguments support this perspective. First, the appeal of Marxism probably continues to be grounded in a kind of radical egalitarianism. Vast inequalities continue to exist in American society and even more in the world at large, and these inequalities are accompanied by a great deal of human misery. Compassion for "the wretched of the earth" explains a great deal of Marxism's continuing appeal.

In a more technical argument, Marxists continue to argue that capitalism inherently exploits and alienates workers. Marx developed what he called "the labor theory of value." In this view, the value of any good is a function of the labor which went into making that good. If so, where do capitalist profits come from? According to Marx, they come from exploiting "surplus value" from workers. Furthermore, work for wages is inherently alienating because the worker no longer has ultimate control over what he or she produces. Marxists have even strayed, in search of moral justification, into natural rights theory. One argument is that there is a natural right to common ownership of land. In this view, the world was once held in common, and private ownership constitutes theft from our common inheritance.

Marxism is even capable of offering a kind of libertarian defense. If liberty is conceived in positive terms, as freedom to act and to accomplish ends, then radical redistribution of wealth might maximize the total sum of human freedom.

While moral arguments can be made for Marxism, probably the stronger tradition within Marxism is an anti-moralistic one. So, another continuing use for Marxist thought is as a critique of liberal moralism. One basic theme of Marx and many of his successors is that morality is simply ideology. This opinion derives from the Marxist belief in "historical materialism." According to the Marx, history is determined by underlying material, economic forces. Ethics and politics are merely a superstructure, superficially imposed on the economic base of society. Marx saw his socialism not as a set of moral claims but as a scientific theory; he believed that ongoing class conflict made the eventual triumph of the working class inevitable. Given this perspective, it is relatively easy to see why morality would be regarded as irrelevant, or perhaps even worse a distraction from the historical project of Marxism. At any rate arguments of this type, based on Marxist "immoralism," continue to be made today, criticizing rights talk, justice talk, and even morality talk in general.

Among the many criticisms of Marxism are the following. First, the Marxist version of radical egalitarianism may be misguided. For Rawls, its major flaw seems to be that it is highly inefficient. He believes that allowing some income inequality in fact benefits the poor because it creates sufficiently strong incentives to increase the overall pool of social wealth. A more radical critique of Marxist egalitarianism would come from a libertarian perspective such as Nozick's. If people have entitlement rights to what they have acquired, then the socialist confiscation of their property is fundamentally unjust.

Second, Marxists may misunderstand exploitation and alienation. More goes into a product than simply labor. The production of value requires capital, raw materials, and entrepreneurial skill (not to mention market demand). Insofar as the capitalist provides these ingredients, profits need not be derived from exploitation of workers. Capitalist employers offer jobs; they do not utilize forced labor. Arguably, therefore, no voluntary agreement, undertaken for mutual benefit, should be described as exploitive. As far as alienation is concerned, this may be more a product of industrialization than it is of capitalism.

Third, the Marxist emphasis on labor and the working class as an agent of change seems badly dated. Marx envisioned the progressive impoverishment of workers as capitalism evolved. Instead, workers have pretty much been coopted into the capitalist system. At least in developed countries, the working class no longer seems very radical, nor do workers seem to be the least advantaged members of society. (Those who can't work are likely to be far worse off; few of the homeless are industrial workers.)

Fourth, the Marxist theory of history seems incorrect. Marx himself has proven to be a notoriously poor prophet. Certainly his predictions of the increasing impoverishment of the working class, the inevitable downfall of capitalism, and the eventual withering away of the socialist state have not been born out. More fundamentally, the whole theory of historical materialism seems reductionistic. Marx is historically important because he did recognize the significance of economic factors which had been previously downplayed. But ideas make history as well as material conditions. The emergence of Christianity contributed strongly to the end of classical civilization, and the revival of humanism in the Renaissance helped conclude the Middle Ages. Marxism itself offers a strong argument for the power of ideas. The successes of socialism largely derive from the fact that Marxist ideas captured the allegiance of talented leaders such as Lenin and Mao. And the decline and fall of the Soviet Union seems to have occurred because of the repudiation of the socialist idea.

Finally, Marxism is indicted for its tyrannical and bloody history. Marxist regimes have clearly been responsible in this century for tens of millions of deaths and it is certainly possible to argue that this is a logical result of the Marxist system, preoccupied with a utopian future and not morally scrupulous about the means employed to get there. Marx called for the dictatorship of the proletariat. Lenin substituted dictatorship by the vanguard of the proletariat. And under Stalin and Mao what seems to have occurred is the dictatorship of single men.

CRITICAL LEGAL STUDIES

The perspective of critical legal studies shares many common themes with Marxism, by which it was undoubtedly influenced. CLS, however, has a far more contemporary flavor, having also been influenced by post-structuralist and post-modernist perspectives. One thing which CLS authors seem to share with Marxist is a commitment to radical egalitarianism. Since their focus is mainly on law, they emphasize arguments about how the legal system serves as an instrument of political domination--toward workers to some extent, but also toward women, racial minorities, etc.

In debate, CLS arguments have been used to critique the concept of rights and also the rule of law. The CLS critique of rights, most prominently articulated by Georgetown Law Professor Mark Tushnet, offers a representative example of a CLS approach.

Tushnet argues among other things that rights are indeterminate. Diametrically opposed values can be articulated as rights claims. Thus, in moral and political argument, rights will always oppose rights and there will be no clear basis for resolving these opposing rights claims. Second, the language of rights tends to reify. This means basically that rights, which Tushnet believes are ultimately empty abstractions, tend to be treated as if they are something real. We become preoccupied with exercising our rights rather than with achieving the tangible values which rights are supposed to protect. Third, rights tend to mask the inherent oppressiveness of the system. The language of rights legitimates a regime of unequal power, and it impedes progressive social change by what Tushnet calls "the party of humanity." The idea of impartial rule of law is argued by many other CLS authors to produce a similar legitimation/masking function.

A variety of objections can be made to the CLS critique. First, the critique of rights may well serve as a critique of moral discourse in general. That is, its arguments against rights talk may apply to any other kind of language we might employ to talk about what should be done. It seems relatively clear that we cannot dispense with moral argument and moral language altogether; if this is the case, then the language of rights may be as good as any other.

Tushnet may be mainly concerned with indicting deontological theories of rights. But rights can also be understood simply as the way in which we express our moral beliefs in legal terms. Any system of law will inevitably produce a set of legal rights, that is, legal privileges and entitlements. These could be welfare rights, or rights to common ownership as well as individual property rights. But to be able to criticize any system of legal rights, it is necessary to have at least an implicit concept of moral rights; otherwise, there is no vantage point from which to criticize such obvious barbarities as apartheid.

Most critics of the language of rights would probably agree that we need some language of moral discourse; the question then, is whether or not we can find a better language. The language of justice, as used by Rawls for example, does not seem substantively distinct from the language of rights. Some have suggested that we should rely more on the language of needs. But what we should define as "needs" is also ambiguous. Abraham Maslow, the humanistic psychologist, believed that self-actualization was a need. If needs are defined too broadly, then everything could become a need and indeterminacy still reigns. But if needs are defined too narrowly, then it is unlikely that "needs talk" can capture many of our underlying moral values. Or, instead of needs, we might substitute the language of "interests." The problem here is that we will immediately need some means of distinguishing more from less important interests. But once we begin to talk about more fundamental and less fundamental interests then we have in effect reinvented the language of rights.

A second major point is that indeterminacy is inherent in moral discourse generally. Moral statements are not like factual ones; they can never be objectively resolved. Rights talk may be indeterminate but so is every other kind of moral talk. And the fact that it is always possible to advance opposing rights claims doesn't mean that one side can't have better arguments for its rights framework and its relevance in a particular situation.

Third the reification criticism clearly has some validity; abstract discussion often does lose sight of what is tangibly at stake. But to avoid reification altogether would seem to require rejecting all use of abstractions. Absent some set of guiding moral principles, every decision would be governed by the whim of the moment. The classic argument against act utilitarianism seems to apply here--we need some moral rules to simplify and render consistent the process of decision making. And the appeal to rights offers one set of moral rules.

Fourth, the concept of masking or legitimation can also be questioned. Rights may legitimate in two different senses. In the CLS sense, legitimation implies conferring a false legitimacy on something. But rights (and the rule of law) may also legitimate in another sense; that is, they may actually make the system more legitimate. A government which respects the free speech rights of its citizens or the rights of criminal defendants may look better, but it also is better.

Fifth, it is very unclear that the CLS authors have a better alternative than what they indict. The only alternative to some language of moral principle is the rule of pure politics, with war as the eventual continuation of politics by other means. At least given the politics of the present, it seems unlikely that the least advantaged would fare very well in a political world which rejected the idea of moral principles. Perhaps an even better example is the rule of law. Absent rule of law, any person could be detained on any pretext, at any time, and confined without trial indefinitely. The arbitrary and despotic nature of the present Chinese government is a good example of what happens in a system where the rule of law is weak.

Sixth and last, however, the CLS debate turns on one ultimate issue: is our present government oppressive? If the system is as bankrupt as many CLS authors seem to feel, then much of their critique logically follows. If instead, one believes that America has a flawed but still fundamentally democratic system, that disadvantaged groups have made substantial progress, and that there is some moral justification for remaining inequalities, then the CLS critique is likely to seem vastly overstated.

FEMINISM

General political philosophies like liberal egalitarianism, libertarianism, communitarianism, and Marxism all include a considerable range of opinion. In the case of feminism, however, the range of views which can be described as "feminist" is especially broad. Probably the only proposition to which all feminists could agree is that the status of women relative to men should be improved.

Probably the largest gulf within the feminist ranks is between liberal and radical feminists. Liberal feminists are essentially concerned with equal treatment and seem inclined to believe that that can be accomplished without fundamentally altering society. Radical feminists tend to see the "patriarchy" as oppressive in much more fundamental ways and also seem to think that meaningful change requires far deeper reforms in attitudes and institutions.

The feminist arguments which have entered academic debate have tended to come from the more radical end of the feminist spectrum. Many of these arguments serve as critiques of various value claims. A first example is the feminist critique of the rule of law. From the standpoint of feminist jurisprudence, law is seen as a major instrument of patriarchal control. In particular, the apparent neutrality of the law is said to perpetuate existing biases. The argument here is that if conditions are unequal, then a rule of neutrality will only perpetuate that inequality. Thus, feminist authors are critical of reliance on precedent (or *stare decisis*) by judges. Precedent is seen as perpetuating historical inequities. Similarly, they are critical of judicial restraint, believing that the courts should be actively involved in redressing past inequities.

Second, feminist writings provide the basis for a critique of rights and justice. Harvard psychologist Carol Gilligan argues that men and women tend to differ in their method of moral reasoning. Men tend toward an ethic of justice—essentially legalistic and rule-bound—while women are said to embrace an ethic of care which is far more flexible and compassionate. Even if the male-oriented ethic of justice should not be completely eliminated, it needs to be tempered with the ethic of care.

Third, feminist thought is critical of many specific rights. University of Michigan law professor Catherine MacKinnon is especially opposed to the blanket first amendment claims which are used to protect pornography. She voices similar criticisms of privacy rights which she sees as sanctioning male dominance within the private sphere of the home.

A fourth argument derived from radical feminism is a critique of the idea of objective rationality. The emphasis on objective reason is said to embody a characteristically male perspective and to downgrade the more intuitive "women's ways of knowing."

Finally, a variety of feminist authors have claimed that a host of global problems can be traced to male dominance, notably war and environmental degradation. Women, according to this argument, are more peaceful and more environmentally sensitive.

Perhaps the strongest counter-argument against radical feminism is that women have made and continue to make rapid social and economic advances. These advances—in wages and job prospects, in positions and power—are also arguably due in the main to the efforts of liberal feminists. Furthermore, these advances suggest that such core beliefs as the value of rights and the rule of law are not an impediment to female equality.

Second, there is good reason to think that many of the harms claimed by radical feminists are considerably exaggerated. Though women continue to earn less than men, the gap seems to be considerably less than the 40% deficit commonly cited, especially when age and work experience are considered. Similar indictments have been made concerning feminist figures on the rate of such ills as anorexia and spouse abuse.

Third, it has been argued that the radical feminists are not really representative of most women. Where radical feminists perceive "backlash," there may be instead a lack of constituency for their program.

Fourth, radical feminism may threaten liberty and diversity. Many are critical of the model legal codes produced by MacKinnon and Andrea Dworkin to limit pornography. Some would argue that there is an important right to view and to possess sexually explicit material. But more importantly, it is said that these codes are so broad that they would ban or chill a wide range of materials which almost everyone would agree should be protected. More fundamentally, it is argued by persons such as the philosopher Tibor Machan that radical feminism is an attempt to impose a coercive orthodoxy on men and women alike.

Fifth, a defense can certainly be made of neutral standards in law and elsewhere. Women's advance has been aided considerably, some argue, by their ability to appeal to universalistic norms such as equal treatment. It also seems unlikely that in a truly oppressive patriarchy non-neutral laws actively favoring women's interests could ever be passed.

A sixth argument mainly directed towards Gilligan-style relational feminism, is that stressing differences between women and men merely reinforces stereotypes. The critique of reason as male oriented comes perilously close to duplicating the stereotype of men as rational and women as emotional beings. Similarly, one can doubt whether women leaders would really be any more peaceful or environmentally conscious than men. Margaret Thatcher, Golda Meir, and Indira Gandhi all led their nations to war.

Finally, it can be argued that rights are indeed good for the advancement of women. Though feminists such as MacKinnon criticize the right to privacy, it was on the basis of that right that abortion became widely available. Similarly, in a world without first amendment rights, radical feminists might find themselves literally silenced.

RESEARCH INDEX

I. RAWLS

A. Rawls' theory of justice is valid	
1. Justice is paramount	1-5
2. The original position concept is sound	6-20
3. The maximin principle is sound	21-28
4. Equal liberty principle valid	29-36
5. Difference principle valid	37-40
6. Reflective equilibrium supports Rawls	41-46
7. Rawls' system is stable	47-58
8. Rawls' system is moral	59-61
9. Rawls' theory generally respected	62-65
10. Rawls' methodology sound	66-68
11. Libertarian critique unsound	69-86
12. Communitarian critique unsound	87-96
13. Utilitarianism inferior	97-99
14. Empirical research confirms Rawls	100-1
B. Rawls' theory of justice is invalid	
1. Justice not paramount	102-14
2. Original position concept flawed	115-31
3. Maximin principle unsound	132-38
4. Equal liberty principle flawed	139-45
5. Difference principle flawed	146-52
6. Reflective equilibrium doesn't confirm	153-55
7. Rawls' system unstable	156-60
8. Rawls' system immoral	161-65
9. Rawls' theory generally rejected	166-67
10. Rawls' methodology flawed	168-76
11. The libertarian critique	177-204
12. The communitarian critique	205-19
13. Utilitarianism justifies rejecting Rawls	220-21
14. Empirical research disproves Rawls	222-28
C. Assumptions and implications of Rawls' theory	
1. Deontology and consequentialism	229-37
2. Applies only to basic structures	238-39
3. Applies intergenerationally	240
4. Does not apply internationally	241
5. Supports paternalism	242-45
6. Supports free speech	246-54
7. Justifies a right to health care	255-56

II. LIBERTARIANISM AND OBJECTIVISM

A. Libertarianism is a valid political perspective	
1. Natural rights justify libertarianism	
a. Natural rights exist	257-59
b. Right to life exists	260
c. Right to liberty exists	261-65
d. Right to property exists	266-69
e. Social life requires rights	270
f. Rights are purely negative	271
2. Economic freedom is essential	
a. Political freedom requires economic freedom	272-73
b. Economic freedom checks tyranny	274-76
c. Economic freedom key to growth	277-81
d. Economic freedom best for minorities	282-83
e. Any economic restrictions snowball	284-85
3. Libertarianism compatible with virtue	286-91
4. Libertarianism promotes order	291-93
5. Libertarianism compatible with community	294
6. Libertarianism best for the poor	295-300
7. Libertarianism not necessarily isolationist	301

B.	Robert Nozick's arguments for libertarianism	
1.	Rights are absolute	302-3
2.	Only the minimal state protects rights	304-5
3.	Entitlement rights protect justly acquired goods	306-7
4.	Redistribution is illegitimate	308-17
5.	Nozick's position is sound	318
C.	Arguments based on Ayn Rand's Objectivism	
1.	Ethical egoism is justified	319-25
2.	Rights are justified	326-29
3.	Right to life is basic	330-36
4.	Life as a rational being is the prime value	337-38
5.	Liberty follows from the right to life	339-42
6.	Property rights are justified	343-44
7.	There are no positive or group rights	345-46
8.	Coercion is the ultimate evil	357
9.	The state's sole function is protecting rights	358
10.	Moral principles are absolute	359-62
11.	Capitalism promotes prosperity	363
12.	Capitalism promotes freedom	364-66
13.	Capitalism promotes peace	367-73
14.	Nozick's indictments of Rand invalid	374
D.	Arguments against libertarianism	
1.	Libertarian view of rights is incorrect	
a.	Rights aren't absolute	375-78
b.	Right to life isn't absolute	379
c.	Liberty rights limited	380-84
d.	Property rights limited	385
e.	Property rights lack moral justification	386-97
f.	Positive rights are justified	398
2.	Redistribution is justified	399-406
3.	Taxation is justified	407-13
4.	Charity isn't a substitute	414-16
5.	Libertarianism destroys freedom	417-24
6.	Libertarianism leads to tyranny	425-26
7.	Libertarianism undermines order	427-31
8.	Libertarianism devastates the poor	432-33
9.	Libertarianism undermines national security	434-38
E.	Indictments of Nozick	
1.	Nozick doesn't justify his moral assumptions	439-42
2.	Nozick doesn't justify rejecting anarchy	443-44
3.	Nozick's utopia would fail	445
4.	Nozick's logic really supports Rawls	446
5.	Nozick has recanted	447-49
F.	Indictments of Rand and Objectivism	
1.	Ethical egoism is not justified	450-56
2.	Rand's view of rights is paradoxical	457-62
3.	Rand doesn't justify a right to life	463-64
4.	Rand overemphasizes rationality	465-70
5.	Happiness isn't the ultimate value	471-72
6.	Rand doesn't justify non-interference	473-74
7.	Rand falsely assumes objective moral standards	475-79
8.	Objectivism misunderstands self and society	480-83
9.	Objectivism leads to anarchy and tyranny	484-86
10.	Objectivism leads to genocide	487-89
11.	Objectivism neglects the welfare of others	490-95
12.	Objectivism won't promote individualism	496-98
13.	Objectivism leads to atomism	499
G.	Implications of libertarianism	
1.	Only the minimal state is justified	500
2.	Paternalism is illegitimate	501-2

III. COMMUNITARIANISM

- | | |
|---|---------|
| A. Communitarianism is the proper political perspective | |
| 1. Individual and community must be balanced | 503-5 |
| 2. Balance now should favor the community | 506-9 |
| 3. Individualism undermines community | 510-14 |
| 4. Rights undermine community | 515-18 |
| 5. Rights undermine democratic problem solving | 519-21 |
| 6. Proceduralism undermines community/democracy | 522-28 |
| 7. America won't become totalitarian | 529-30 |
| 8. No slippery slope | 531-36 |
| 9. Too much fear of authoritarianism counterproductive | 537-38 |
| 10. Community best avoids authoritarianism | 539-42 |
| 11. Community best promotes freedom | 543-46 |
| 12. Liberty is not a basic right | 547-52 |
| 13. Liberty not intrinsically valuable | 553-54 |
| 14. Rights are meaningless | 555 |
| 15. New rights trivialize | 556-58 |
| 16. Rights not primary/humans innately social | 559-61 |
| 17. Individualism ultimately self-defeating | 562-63 |
| 18. Government role not just rights protection | 564-65 |
| 19. Individuals have civic duties | 566 |
| 20. Individualism promotes statism | 567-68 |
| 21. Community checks statism | 569-70 |
| 22. Community protects minorities | 571 |
| 23. Communitarians respect free speech | 572-81 |
| B. Communitarianism should be rejected | |
| 1. Community is impossible | 582-91 |
| 2. Community won't solve major problems | 592-93 |
| 3. Paternalism fails | 594-96 |
| 4. Community represses minorities | 597-602 |
| 5. Community racist | 603-5 |
| 6. Community sexist | 606-8 |
| 7. Community homophobic | 609 |
| 8. Communitarianism overly statist | 610-12 |
| 9. Community oppressive | 613-16 |
| 10. Communitarianism violates our community standards | 617 |
| 11. Communal values not obligatory | 618 |
| 12. Communitarianism undermines commitment | 619 |
| 13. Community not good in itself | 620 |
| 14. Communitarian treatment of pornography flawed | 621 |
| 15. Communitarians support rights | 622-26 |
| 16. Freedom good for public and individuals | 627-30 |
| 17. Rights good in general | 631-32 |
| 18. No real alternative to liberalism | 633-34 |
| 19. Right talk good/inevitable | 635-37 |
| 20. Rights/freedom compatible with community | 638-44 |
| 21. Individual rights promote community | 645-52 |
| 22. Liberalism best checks totalitarianism | 653-54 |
| 23. Liberalism better for disadvantaged groups | 655 |
| 24. Liberalism recognizes social nature of humans | 656-59 |
| 25. Liberalism hasn't produced social breakdown | 660-64 |
| 26. Liberal view of self is sound | 665-67 |
| 27. Indictments of communitarian authors | 668-72 |

IV. MARXISM

- | | |
|--|--------|
| A. Marxist critique of moral principles | |
| 1. Critique of morals | 673-74 |
| 2. Critique of rights | 675-79 |
| 3. Critique of justice | 680-87 |
| B. Marxism doesn't require rejecting the moral viewpoint | 689 |
| C. Marxism morally justified | |
| 1. Value of equality justifies | 690-93 |
| 2. Justice requires Marxism | 694-95 |
| 3. Natural rights justify Marxism | 696 |
| 4. Utility justifies Marxism | 697 |

D.	Marxism is not justified morally	
1.	Equality doesn't justify	698-702
2.	Marxism violates justice	703
3.	Liberalism consistent with justice	705-9
4.	Marxist critique of rights flawed	710-11
E.	Marxism theoretically bankrupt	
1.	Puts too much stress on labor	712-13
2.	Theory of exploitation wrong	714-20
3.	Theory of alienation wrong	721-23
4.	Theory of history wrong	724-33
5.	Theory of value wrong	734-38
F.	Marxism pragmatically harmful	
1.	Undermines freedom	739-41
2.	Destroys democracy	742-44
3.	Causes dictatorships	745-48
4.	Remains nationalistic	749-50
5.	Doesn't solve global problems	751-52
6.	Not better for the environment	753-54
7.	Doesn't benefit workers	755-56
8.	Suppresses minorities	757-58
9.	Murders millions	759-60
10.	Perpetuates inequality	761-62
11.	History condemns	763

V. FEMINISM

A.	Arguments based on radical feminism and feminist jurisprudence	
1.	Feminist jurisprudence is a valid perspective	764-68
2.	Understanding the power basis of inequality is key	769-73
3.	Rule of law oppresses women	774-81
4.	Stare decisis oppresses women	782-83
5.	Reason and objectivity oppress women	784-86
6.	Rights oppress women	787
7.	The first amendment oppresses women	788-94
8.	Privacy doesn't benefit women	795
9.	Liberal feminism fails	796-99
B.	Arguments against radical feminism and feminist jurisprudence	
1.	Feminist power theories flawed	800-2
2.	Feminist limits on speech harmful	803-21
3.	Feminists can't afford to reject rights	822
4.	Feminists exaggerate harms to women	823-26
5.	Anorexia exaggerated	827
6.	Spouse abuse exaggerated	828-29
7.	Rape not due to patriarchy	830-33
8.	Wage gap exaggerated	834-40
9.	Women making major advances	841-47
10.	Liberal feminism responsible for gains	848
11.	Radical feminism fails	849-51
12.	Doesn't achieve equality	852-54
13.	Destroys liberty	855-62
14.	Patronizes women	863-66
15.	Doesn't stop war or save the environment	867
16.	Gilligan's relational feminism flawed	868-70
17.	Faludi and Wolf misrepresent the facts	871-73

VI. RIGHTS

A.	Rights claims are powerful moral arguments	
1.	Definition of rights	874
2.	Weight of rights	875-91
3.	Rights a valid concept	892-97
4.	Rights a valuable concept	898-902
5.	Rights can produce social change	903-9
6.	CLS critique of rights flawed	910-19

B. Rights claims not decisive	
1. Rights can be outweighed	920-24
2. Rights lack objective basis	925-31
3. The CLS critique of rights	932-44
C. Negative versus positive rights	
1. Definitions	945
2. Negative rights important	946-49
3. Positive rights valid	950-53
4. Positive rights limited/invalid	954-56
5. Negative and positive rights trade off	957-59

MPP2-1 JUSTICE IS THE FIRST VIRTUE OF SOCIAL INSTITUTIONS

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.3

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole could not override.

MPP2-2 JUSTICE IS NOT SUBJECT TO BARGAINING

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.4

The rights secured by justice are not subject to political bargaining or to the calculus of social interests. The only thing that permits us to acquiesce in an erroneous theory is the lack of a better one; analogously, an injustice is tolerable only when it is necessary to avoid an even greater injustice. Being first virtue of human activities, truth and justice are uncompromising.

MPP2-3 PRIORITY OF JUSTICE DERIVES FROM PRIORITY OF THE SELF

Charles Fried, Harvard Law School, *RIGHT AND WRONG*, 1978, p.198

Rawls expresses this idea by the lexical priority of the principles of justice and other aspects of the right over the satisfaction of the good of life plans. Rawls argues that this priority of the right over the good corresponds to the priority of a unified conception of the self over the particular goods which the self pursues.

MPP2-4 CONSENSUS ON JUSTICE IS POSSIBLE

Carl Wellman, philosopher, *WELFARE RIGHTS*, 1982, p.137

In some cases, there is a considerable degree of agreement on the justice or injustice of excluding this or that individual or class of individuals from some specified sort of coverage in a system of economic distribution. And, at least as important, where disagreement does exist, there are ways of arguing for and against injustice of this or that instance.

MPP2-5 CONSENSUS OF JUSTICE IS POSSIBLE

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba and Professor of Government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.2

The universal identifiability of the unfair is strong presumptive evidence for the existence of a common moral sense. Underlying this evidence seem to be general principles shared by people with diverse backgrounds and experiences. Indeed, this common sense of injustice may be what permits great literature to be widely appreciated. If people who lived in different times and cultures had substantially varying notions of what was unfair, it would be impossible for them to empathize with the injustices that form the basis of many classics of world literature. What was written in a distant past or place would not move diverse contemporary readers. But it does.

MPP2-6 THE ORIGINAL POSITION EMBODIES PROCEDURAL FAIRNESS

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xxxix

Rawls wants the choice of a set of principles in the original positions of their papers, why should people not in the original position believe it important that those subject to its stringent constraints happen to choose certain principles? What should THEIR choice 'justify' our adopting them? Rawls' answer is that the conditions and constraints embodied in the original position constitute a model of procedural fairness and, as such, they should be acceptable to everyone on due consideration.

MPP2-7 THE ORIGINAL POSITION ASSURES RATIONALITY

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.138

To say that a certain conception of justice would be chosen in the original position is equivalent to saying that rational deliberation satisfying certain conditions and restrictions would reach a certain conclusion.

MPP2-8 THE ORIGINAL POSITION ASSURES IMPARTIALITY

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.141

If a knowledge of particulars is allowed, then the outcome is biased by arbitrary contingencies. As already observed, to each according to his threat advantage is not a principle of justice. If the original position is to yield agreements that are just, the parties must be fairly situated and treated equally as moral persons.

MPP2-9 THE VEIL OF IGNORANCE ASSURES IMPARTIALITY

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.12

The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain.

MPP2-10 THE VEIL OF IGNORANCE ASSURES IMPARTIALITY

Chandran Kukathas and Philip Pettit, professors at the Australian National University, *RAWLS*, 1990, p.18-19

In deploying the contractarian strategy, Rawls's first and most distinctive assumption is that when we ask what we would choose, we should be concerned with what we would choose under a veil of ignorance that screens out self-interest. This situation of ignorance is what Rawls describes as the ORIGINAL POSITION of contract.

MPP2-11 THE CONTRACT MODEL TESTS THE DESIRABILITY OF RAWLS' PRINCIPLES

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.27

The role assigned to the contract in Rawls's approach is evaluative rather than legitimizing. The contract is envisaged as a test of the desirability and feasibility of the arrangement. If we decide that among a range of socio-political opinions, one candidate would undoubtedly be chosen in the original position, this would show, under Rawls's approach, that the candidate should be the most highly valued

MPP2-12 CONTRACT TERMINOLOGY IMPLIES RATIONAL CHOICE

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.16

The merit of the contract terminology is that it conveys the idea that principles of justice may be conceived as principles that would be chosen by rational persons, and that in this way conceptions of justice may be explained and justified. The theory of justice is a part, perhaps the most significant part, of the theory of rational choice.

MPP2-13 FAIR PROCEDURES DEFINE JUSTICE

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xiv

One central or guiding conception is that this device for selecting principles is procedurally fair to the contractors, and therefore the outcome of the procedure, the principles they choose, defines what is fair or just--thus 'justice as fairness.'

MPP2-14 A THICK VEIL OF IGNORANCE ASSURES FAIRNESS

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xv

The thick veil of ignorance is justified because it is fair to all agents when we clearly grasp which of their properties are essential for purposes of justice (in liberal democratic nation-states), namely that they are 'free' and 'equal.'

MPP2-15 RAWLS' CONTRACT MODEL IS NOVEL AND ENGAGING

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.26

This gives us a picture of Rawls's contractarian procedure, describing it in a way that still sticks close to his own words. The procedure is a device designed to let us view from a distance the questions that are of ultimate concern in political theory: the questions of which social arrangements are feasible and desirable. It constitutes a novel and engaging way of doing political theory.

MPP2-16 THE ORIGINAL POSITION IS A WAY OF ARTICULATING OUR MORAL INTUITIONS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.68

First, the original position provides a way to render vivid our intuitions, in the same way that earlier theorists invoked the state of nature to render vivid the idea of natural equality. Secondly, while the intuitions appealed to in the equal opportunity argument show that fair equality of opportunity is not enough, they do not tell us what more is required, and the contract device may help us render our intuitions more precise. This is what Rawls means by saying the device can help 'extract the consequences' of our intuitions.

MPP2-17 THE ORIGINAL POSITION PROVIDES A BASIS FOR DEBATING OPPOSING INTUITIONS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.68

Thirdly, it provides a perspective from which we can test opposing intuitions. Someone who is naturally talented might sincerely object to the idea that talents are arbitrary. We would then have a clash of intuitions. But if that same person would no longer object were she ignorant of where she was going to end up in the natural lottery, then we can say with some confidence that our intuition was the right one, and that her opposing intuition was the result of opposing personal interests. Certain intuitions might seem less compelling when they are viewed from a perspective detached from one's own position in society. The contract argument tests our intuitions by showing whether they would be chosen from an unbiased perspective. The contract thus renders vivid certain general intuitions, and provides an impartial perspective from which we can consider more specific intuition.

MPP2-18 HISTORICAL AND PSYCHOLOGICAL ARGUMENTS AGAINST THE ORIGINAL POSITION ARE IRRELEVANT

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.63
 Since the premiss of the argument is equality, not contract, to criticize it we need to show that it fails to embody an adequate account of equality. It is not enough-indeed, it is irrelevant-to say that the contract is historically inaccurate, or that the veil of ignorance is psychologically impossible, or that the original position is in some other way unrealistic. The question is not whether the original position could ever really exist, but whether the principles which would be chosen in it are likely to be fair, given the nature of the selection process.

MPP2-19 THE SOCIAL CONTRACT CAN BE UNDERSTOOD AS EXPLICATING

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.60
 But, as Dworkin notes, there is another way to interpret social contract arguments. We should think of the contract not primarily as an agreement, actual or hypothetical, but as a device for teasing out the implications of certain moral premisses concerning people's moral equality. We invoke the idea of a state of nature not to work out the historical origins of society, or the historical obligations of governments and individuals, but to model the idea of the moral equality of individuals. Part of the idea of being moral equals is the claim that none of us is inherently subordinate to the will of others, none of us comes into the world as the property of another, or as their subject. We are all born free and equal. Throughout most of history, many groups have been denied this equality-in feudal societies, for example, peasants were viewed as naturally subordinate to aristocrats. It was the historical mission of classical liberals like Locke to deny this feudal premiss. And the way that they made clear their denial that some people were naturally subordinate to others was to imagine a state of nature in which people were equal in status. As Rousseau said, 'man is born free, and yet everywhere is in chains'. The idea of a state of nature does not, therefore, represent an anthropological claim about the pre-social existence of human beings, but a moral claim about the absence of natural subordination amongst human beings.

MPP2-20 THE VEIL OF IGNORANCE IS A WAY OF ENSURING FAIRNESS, NOT A THEORY OF IDENTITY
 Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.62
 Many critics have viewed this demand that people distance themselves from knowledge of their social background and individual desires as evidence of a bizarre theory of personal identity. What is left of one's self when all that knowledge is excluded? It is difficult to imagine oneself behind such a veil of ignorance, much more difficult than imagining oneself in the traditional state of nature, where the fictional people were at least relatively whole in mind and body. But the veil of ignorance is not an expression of a theory of personal identity. It is an intuitive test of fairness, in the same way that we try to ensure a fair division of cake by making sure that the person who cuts it does not know which piece she will get. The veil of ignorance similarly ensures that those who might be able to influence the selection process in their favour, due to their better position, are unable to do so.

MPP2-21 THE MAXIMIN RULE AVOIDS WORST POSSIBLE OUTCOME

Allen Buchanan, University of Minnesota, *JOHN RAWLS'S THEORY OF SOCIAL JUSTICE*, 1980, p.21
 Decision theorists have proposed various rules for making decisions under uncertainty. Rawls argues that the appropriate decision rule for the parties in the original position to employ the 'maximin rule'. The maximin rule states that one is to choose that alternative which has the best worst outcome. The maximin rule tells one, in effect, to choose the safest alternative.

MPP2-22 THE MAXIMIN RULES AVOIDS WORST POSSIBLE OUTCOMES

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.176
 In this respect the two principles of justice have a definite advantage. Not only do the parties protect their basic rights but they insure themselves against the worst eventualities. They run no chance of having to acquiesce in a loss of freedom over the course of their life for the sake of a greater good enjoyed by others, as undertaking that in actual circumstances, they might not be able to keep.

MPP2-23 MAXIMIN APPLIES IN CERTAIN CHOICE SITUATIONS

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.155
 This rule does not, then, generally apply, nor of course is it self-evident. Rather, it is a maxim, a rule of thumb, that comes into its own in special circumstances. Its application depends upon the qualitative structure of the possible gains and losses in relation to one's conception of the good, all this against a background in which it is reasonable to discount conjectural estimates of likelihoods.

MPP2-24 MAXIMIN WOULD BE CHOSEN IN THE ORIGINAL POSITION

T.M. Scanlon, professor of philosophy, Harvard, *NEW DIRECTIONS IN ETHICS*, 1986, p.53

Rawls cites three features of the decision faced by parties to the Original Position which, he claims, make it rational for them to use the maximin rule and, therefore, to select his Difference Principle as a principle of justice. These are (1) the absence of any objective basis for estimating probabilities, (2) the fact that some principles could have consequences for them which 'they could hardly accept' while (3) it is possible for them (by following maximin) to ensure themselves of a minimum prospect, advances above which, in comparison matter very little.

MPP2-25 IMPACT OF FALLING BELOW THE MINIMUM OUTWEIGHS THE VALUE OF EXCEEDING

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.154

The second feature that suggests the maximin rule is the following: the person choosing has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule. It is not worthwhile for him to take a chance for the sake of a further advantage, especially when it may turn out that he loses much that is important to him.

MPP2-26 IMPACT OF FALLING BELOW THE MINIMUM OUTWEIGHS VALUE OF EXCEEDING

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.154

The last provision brings in the third feature, namely, that the rejected alternatives have outcomes that one can hardly accept. The situation involves grave risks.

MPP2-27 THE MAXIMIN STRATEGY HAS PLAUSIBILITY

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.45

Justice as fairness would be chosen in the OP, Rawls maintains, because the maximin strategy would lead to its being ranked higher than any of the available alternatives. This conclusion enjoys a certain plausibility. The difference principle in particular looks to the welfare of the worst-off group and ensures that group fares as well as possible without endangering liberty. And the lexical priority of the principle of liberty ensures that individuals in the worst position in society cannot be deprived of important liberties. Justice as fairness is thus bound to keep the lowest position within the system higher than the corresponding position in the system organized by any alternative.

MPP2-28 MAXIMIN IS NOT TOO RISK AVERSE

Glan Singh Sahota Vanderbilt, *JOURNAL OF ECONOMIC LITERATURE*, 1978, p.36-37

Rawls's answer to them is that risk-aversion is not an assumption of his model. It is rather a consequence of the combined force of the features of the 'original position,' which would lead reasonable people to choose as if they were highly risk-averse. 'A conservative decision is the only sensible one, given the list of alternatives available.'

MPP2-29 THE PRIORITY OF LIBERTY DEFINED

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.244

By the priority of liberty I mean the precedence of the principle of equal liberty over the second principle of justice. The two principles are in lexical order, and therefore the claims of liberty are to be satisfied first. Until this is achieved no other principle comes into play.

MPP2-30 THE PRIORITY APPLIES TO BASIC LIBERTIES

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.130

A coherent interpretation of Rawls's book, Hart noted, suggested that he meant only to defend the basic liberties. Rawls concurred. He did not wish to defend the priority of liberty as such, but certain basic liberties. 'Throughout the history of democratic thought the focus has been on achieving certain specific liberties and constitutional guarantees, as found, for example, in various bills of rights and declarations of the rights of man. The account of basic liberties follow this tradition.'

MPP2-31 THE EQUAL LIBERTY PRINCIPLE REQUIRES MORAL AND RELIGIOUS FREEDOM

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.49

What, then, are the substantive political and economic arrangements of Rawls's just society? A just political constitution is one which upholds the first principle of justice--the principle of liberty. This, for Rawls, means that it must be one which conceives of the state as an association of equal citizens. The state, under such a constitution, 'does not concern itself with philosophical and religious doctrine but regulates individuals' pursuit of their moral and spiritual interests in accordance with principles to which they themselves would agree in an initial situation of equality.' This means that the government has 'neither the right nor the duty to do what it or a majority . . . wants to do in questions of morals and religion.'

MPP2-32 LIBERTY CAN ONLY BE LIMITED TO PROMOTE LIBERTY

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.49-50

While the government may on occasion limit liberty, it may do so only when the common interest in public order and security is at stake, for only on such occasions does 'the government [act] on a principle that would be chosen in the original position.' Liberty can be restricted only for the sake of liberty. This means that the liberty of conscience cannot ever be denied. And when the constitution itself is secure, it means that there is no reason to deny freedom even to the intolerant.

MPP2-33 LIBERTY HAS PREFERENCE OVER EQUALITY
Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.161

For Rawls the principles of distributive justice are secondary to the principles of personal and political liberty. Thus the pursuit of distributive justice must respect the claim of liberty, and a goal such as equality is consistent with liberty only if it is qualified as in Rawls's maximin principle.

MPP2-34 PEOPLE WOULD PREFER LIBERTY TO OTHER SOCIAL GOODS

Norman Daniels, philosopher, Tufts, READING RAWLS, 1989, p.xx-i

A second problem area concerns the rationale for granting priority to liberty over other social goods. Rawls argues that once a certain level of well-being has been reached in a society, even the worst-off members of society will prefer increments in their liberty to increments in other social goods. Those in the original position recognize this preference by refusing to allow liberty to be traded off for other goods, provided the basic level of well-being obtains.

MPP2-35 RAWLS' SYSTEM BEST PROTECTS LIBERTY
John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.243

I have tried to show, after presenting further arguments for the first principle, that the basic liberties of a democratic regime are most firmly secured by this conception of justice. In each case the conclusions reached are familiar. My aim has been to indicate not only that the principles of justice fit our considered judgments but also that they provide the strongest arguments for freedom. By contrast teleological principles permit at best uncertain grounds for liberty, or at least for equal liberty.

MPP2-36 APPEALS TO THE TOTAL SYSTEM OF LIBERTY CAN RESOLVE CONFLICTS

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.203

First of all, it is important to recognize that the basic liberties must be assessed as a whole, as one system. That is, the worth of one liberty normally depends upon the specification of the other liberties, and this must be taken into account in framing a constitution and in legislation generally. While it is by and large true that a greater liberty is preferable, this holds primarily for the system of liberty as a whole, and not for each particular liberty. Clearly when the liberties are left unrestricted they collide with one another.

MPP2-37 IN ALLOCATING WEALTH, THE LEAST ADVANTAGED SHOULD BE STRESSED

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.14-15

I shall maintain instead that the persons in the initial situation would choose two rather different principles: the first requires equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.

MPP2-38 INEQUALITIES ARE JUSTIFIED IF THEY BENEFIT EVERYONE

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.47

But suppose the parties ask: why should this be final? Why not permit some inequalities if these would make everyone better off--for example by eliciting more productive efforts? The thought will lead them to consider the moderating the initially attractive egalitarian view. 'In order to make the principle regulating inequalities more determinate', Rawls suggests, 'one looks at the system from the standpoint of the least advantaged representative man. Inequalities are permissible when they maximize, or at least contribute to, the long-term expectations of the least fortunate group in society.'

MPP2-39 RAWLS IS A RATIONAL EGALITARIAN

Leslie Pickering Francis, University of Utah, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.466

How could individuals in the original position reason to principles of justice? Rawls argues that since they would want the best possible for themselves they would begin by selecting a principle of equality. But then they would notice that sometimes inequalities can make every one better off, as when incentives encourage the production of things which are socially beneficial, so they would move to what he calls the general maximin conception: inequalities are impermissible unless they work to the advantage of the least well off individual. We might think of this theory as 'rational egalitarianism.'

MPP2-40 THE DIFFERENCE PRINCIPLE UPHOLDS THE VALUE OF FRATERNITY

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.105

The difference principle, however, does seem to correspond to a natural meaning of fraternity: namely, to the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off. The family, in its ideal conception and often in practice, is one place where the principle of maximizing the sum of advantages is rejected. Members of a family commonly do not wish to gain unless they can do so in ways that further the interests of the rest. Now wanting to act on the difference principle has precisely this consequence. Those better circumstanced are willing to have their greater advantages only under a scheme in which this works out for the benefit of the less fortunate.

MPP2-41 'REFLECTIVE EQUILIBRIUM' CHECKS OUR THEORIES OF JUSTICE

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xxii

The strategy is to begin with points of agreement we have about what is just ('we are confident that religious intolerance and racial discrimination are unjust'), uncover a deeper view which accounts for those agreements, and then see if the underlying view also helps us resolve disputes about points of disagreement, especially disagreement concerning the 'correct distribution of wealth and authority'. Reflective equilibrium allows us to work back and forth from such provisional points of agreement to the deeper structure, which includes the ideals of persons and a well-ordered society and the Original Position, as well as to the selected principles, making adjustments wherever appropriate.

MPP2-42 'REFLECTIVE EQUILIBRIUM' CHECKS OUR THEORIES OF JUSTICE

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.20

By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium. It is an equilibrium because at last our principles and judgments coincide.

MPP2-43 REFLECTIVE EQUILIBRIUM GIVES THE BEST ACCOUNT OF JUSTICE

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.48

From the standpoint of moral philosophy, the best account of a person's sense of justice is not the one which fits his judgments prior to his examining any conception of justice, but rather the one which matches his judgments in reflective equilibrium. As we have seen, this state is one reached after a person has weighed various proposed conceptions and he has either revised his judgments to accord with one of them or held fast to his initial convictions (and the corresponding conception).

MPP2-44 JUSTICE AS FAIRNESS MATCHES OUR CONSIDERED JUDGMENTS

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.49-50

In light of these remarks, justice as fairness can be understood as saying that the two principles previously mentioned would be chosen in the original position in preference to other traditional conceptions of justice, for example, those of utility and perfection; and that these principles give a better match with our considered judgments on reflection than these recognized alternatives.

MPP2-45 JUSTICE AS FAIRNESS MATCHES OUR CONSIDERED JUDGMENTS

Norman Daniels, professor of philosophy, Tufts, *READING RAWLS*, 1989, p.xiii

One way to see the importance of the coherence constraint is to ask what assurances we have that the principles selected in the contrast situation are really principles of justice, rather than some other sort of principle. Rawls' answer is that these general principles can be seen as generating moral judgments which more or less match--that is, which cohere with--our considered judgments about what is just. In a sense, a test of whether we have the correct moral theory, construed as a set of moral principles, is whether our theory matches the moral data, construed as our moral judgments.

MPP2-46 REFLECTIVE EQUILIBRIUM PROVES RAWLS' THEORY SUPERIOR

Allen Buchanan, University of Minnesota, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.16

Rawls believes that one crucial respect in which his theory is superior to utilitarianism (and to other theories he considers) is that it provides a better account of our MOST basic considered judgments about justice. According to Rawls, his principles provide a systematic foundation for these judgments. He also contends that these principles provide a superior guide for extending our considered judgments to new cases which we have not previously encountered.

MPP2-47 RAWLS' SYSTEM ENTAILS ACCEPTABLE CONSEQUENCES

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.45

First, the principles of justice as fairness are principles that, given the general facts of moral psychology, the parties in the OP can rely on one another to adhere to once adopted. There will be no consequences they cannot accept. Thus there is no risk that they will be asked to accept a lesser liberty for the sake of a greater good for others.

MPP2-48 RAWLSIAN JUSTICE IS COMPATIBLE WITH THE GOOD

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.58-59

In the third part of the book Rawls provides an unexpected, further line of defense for the two principles. Respecting the principles is supposed to be right independently of any good that it produces. But in any case, Rawls argues, the two principles connect appropriately with the production of the good. They are principles which the contractors can be represented as choosing out of a concern for primary, uncontroversial goods. And they are principles which ought to generate a stable society, being consistent with the good of the members of the society.

MPP2-49 RAWLS' SYSTEM IS CONSISTENT WITH HUMAN NATURE

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.57

To be true to our nature, we cannot let justice take a back seat; justice must regulate our other desires, and not be overridden by them. 'Therefore in order to realize our nature we have no alternative but to plan to preserve our sense of justice as governing our other aims.'

MPP2-50 RAWLS' SYSTEM IS CONSISTENT WITH HUMAN NATURE

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.45-46

People who agree to justice as fairness will be able to make the agreement in good faith because they will be able to keep to it and know they will be able to keep to it. Compacts which involve utilitarian principles do not enjoy this advantage, since utilitarianism may require us to do or condone things we would find ourselves psychologically incapable of accepting. 'Compacts of this sort exceed the capacity of human nature.'

MPP2-51 RAWLS' SYSTEM HAS PSYCHOLOGICAL STABILITY

T.M. Scanlon, professor of philosophy, Harvard, NEW DIRECTIONS IN ETHICS, 1986, p.53-54

A second, related claim is that the two principles of justice have greater psychological stability than the principle of average utility. It is more plausible to believe, Rawls claims, that in a society in which they were fulfilled people would continue to accept them and to be motivated to act in accordance with them. Continuing acceptance of the principle of average utility, on the other hand, would require an exceptional degree of identification with the good of the whole on the part of those from whom sacrifices were demanded.

MPP2-52 RAWLS' SYSTEM IS SELF-ENFORCING

Chandran Kukathas and Philip Pettit, professors, Australian National University, READING RAWLS, 1990, p.55-56

Justice as fairness is a conception which will generate a strong sense of justice. This is so primarily because of the laws of human psychology which suggest that, if a society's institutions are just, and publicly known to be just, a person will acquire 'the corresponding sense of justice as he recognizes that he and those for whom he cares are the beneficiaries of these arrangements.' The two principles of justice as fairness Rawls believes are just and of benefit to citizens and those they care about; and furthermore they will be publicly known to be so in any society where they are introduced. Thus they will strengthen the sense of justice and bring stability.

MPP2-53 RAWLS' SYSTEM IS SELF-ENFORCING

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.46

Secondly, justice as fairness would be preferred because it is a conception that generates its own support and so would be stable. The system it supports is one in which everyone's good is affirmed: each person's liberties are secured, and yet the difference principle ensures that everyone is benefited by social cooperation. 'Therefore we can explain the acceptance of the social system and the principles it satisfies by the psychological law that persons tend to love, cherish, and support whatever affirms their own good. Since everyone's good is affirmed, all acquire inclinations to uphold the scheme.'

MPP2-54 RAWLS' SYSTEM ENHANCES SOCIAL COOPERATION

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.46

Thirdly, a conception of justice, Rawls says, 'should publicly express men's respect for one another'; in this way 'they ensure a sense of their own value.' The two principles of justice as fairness do just this, for 'when society follows these principles, everyone's good is included in a scheme of mutual benefit and this public affirmation in institutions of each man's endeavours supports men's self-esteem.' The support given to people's self-respect in turn increases the effectiveness of social cooperation. This provides a strong reason for choosing these principles. Again, utilitarianism, by contrast cannot guarantee a person's self-respect; indeed, in Rawls's view, the principle of utility puts it in jeopardy.

MPP2-55/56 RAWLS' SYSTEM ENHANCES SOCIAL COOPERATION

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.478

Being governed by these principles means that we want to live with others on terms that everyone would recognize as fair from a perspective that all would accept as reasonable. The ideal of persons cooperating on this basis exercises a natural attraction upon our affections.

MPP2-57 THE MORE TALENTED WILL ACCEPT RAWLS' SYSTEM

Norman Daniels, philosopher, Tufts, READING RAWLS, 1989, p.xlvii

The difference principle requires that those with various natural talents and endowments must accept restrictions on how much they will benefit from their natural advantages. Their talents must be harnessed to benefit the least advantaged. Why would anyone agree to such a restriction in the first place or to abide by it once they discover their true talents after the veil of ignorance was raised? Scanlon suggests, in Section IIB of his paper, that agreement on the difference principle presupposes a Rawlsian idea of social cooperation.

MPP2-58 RAWLS' SYSTEM REINFORCES SELF-ESTEEM

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.179

Thus a desirable feature of a conception of justice is that it should publicly express men's respect for one another. In this way they insure a sense of their own value. Now the two principles achieve this end. For when society follows these principles, everyone's good is included in a scheme of mutual benefit and this public affirmation in institutions of each man's endeavors supports men's self-esteem.

MPP2-59 RAWLS' SYSTEM EXPRESSES OUR MORAL NATURE

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.528

Human beings have a desire to express their nature as free and equal moral persons, and this they do most adequately by acting from principles that they would acknowledge in the original position. When all strive to comply with these principles and each succeeds, then individually and collectively their nature as moral persons is most fully realized, and with it their individual and collective good.

MPP2-60 RAWLS' SYSTEM UPHOLDS ALL INDIVIDUALS AS ENDS

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.183

The two principles of justice give a stronger and more characteristic interpretation of Kant's idea. They rule out even the tendency to regard men as means to one another's welfare. In the design of the social system we must treat person's solely as ends and not in any way as means.

MPP2-61 RAWLS' SYSTEM UPHOLDS THE KANTIAN IDEAL OF AUTONOMY

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.132

But perhaps most important is the fact that the ideal Rawls adheres to is the Kantian ideal of autonomy. A well-ordered society is conceived of as one peopled by autonomous citizens. It is this autonomy the OP models when the parties therein are conceived of as rationally autonomous. When we act according to the principles such persons would choose under Reasonable conditions, we enjoy the sort of autonomy Kant held up as the highest moral ideal.

MPP2-62 RAWLS' SYSTEM IS A MAJOR THEORETICAL

J.H. Wellbank, Department of philosophy, Northeastern University, JOHN RAWLS AND HIS CRITICS, 1982, p.ix

John Rawls is the leading theorist in the current revival of the philosophical study of theories of justice. His conception of justice is the most significant development in the social contract tradition of political theory since the work of Hobbes, Locke, Rousseau and Kant. Rawls brings to his work the special skills of the modern analytic philosopher, a knowledge of the history of moral and political philosophy, and a knowledge of decision theory--all of which have enabled him to develop a contractarian theory of justice unrivaled in modern times for its comprehensiveness and richness of argument.

MPP2-63 RAWLS' THEORY HAS EXERTED PERSUASIVE INFLUENCE

Carl Wellman, philosopher, WELFARE RIGHTS, 1982, p.174

Probably no recent work has influenced contemporary ethical theory more profoundly than John Rawls' A THEORY OF JUSTICE.

MPP2-64 RAWLS' BOOK IS ALREADY A CLASSIC

Allen Buchanan, University of Minnesota, JOHN RAWLS' THEORY OF JUSTICE 1980 p.5

Since its publication in 1971, John Rawls' book A THEORY OF JUSTICE has triggered a renaissance in political philosophy in America and the English-speaking world generally. Even its critics concede that Rawls' work will take its place alongside such classics of the liberal democratic tradition as John Locke's SECOND TREATISE OF CIVIL GOVERNMENT and John Stuart Mill's ON LIBERTY.

MPP2-65 EVEN RAWLS' CRITICS CONCEDE HIS MERITS

Robert Nozick, professor of philosophy, Harvard, ANARCHY, STATE, AND UTOPIA, 1974, p.183

We can bring our discussion of distributive justice into sharper focus by considering in some detail John Rawls' recent contribution to the subject. A THEORY OF JUSTICE is a powerful, deep, subtle, wide-ranging, systematic work in political and moral philosophy which has not seen its like since the writings of John Stuart Mill, if then. It is a fountain of illuminating ideas, integrated together into a lovely whole.

MPP2-66 RAWLS ISN'T JUST AN IDEOLOGUE FOR THE STATUS QUO

Norman Daniels, philosopher, Tufts, READING RAWLS, 1989, p.xxxv

Of course it would be quite wrong to conclude that, because Rawls' work has this timely, ideological significance, he is merely a polemical for the status quo. His principles of justice and his 'ideal theory' in general go some way toward challenging existing political and social institutions. Moreover, his approach to, and execution of, his project is very far from the manner of a polemical ideologue. Indeed, Rawls even suggests that this project produces results which are, at least in principle, compatible with such different socio-economic systems as capitalism and socialism.

MPP2-67 RAWLS' APPROACH IS REALISTIC

William Frazer, professor of economics, University of Florida, NEBRASKA JOURNAL OF ECONOMICS AND BUSINESS, Autumn 1977, p.53

John Rawls' approach to considerations about the justice of income distribution also helps place the static economic theories into a realistic perspective. It does so in part by avoiding the troublesome assumption about the independence of the utilities for different behavioral units, and in part by permitting attention to work incentives, inducements for capital spending, and an unequal distribution of income.

MPP2-68 RAWLS' THEORY ISN'T OVERLY ABSTRACT

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.53

In all of this there is, of course, a large measure of indeterminacy. In his account of the institutions of justice as fairness, he does not supply any more than a general account of the form social practices might take. But this is all that can reasonably be expected, and it is all that he aims to provide. His hope is that by defining the 'range of justice ... in accordance with our considered convictions' he will single out 'with greater sharpness the graver wrongs a society should avoid.'

MPP2-69 RAWLS' SYSTEM IS RIGHTS BASED

Ronald Dworkin, New York University law school, TAKING RIGHTS SERIOUSLY, 1978, p.173

It is for this reason that the social contract is so important a feature of Rawls's methodology. It signals that his deep theory is a right-based theory, rather than a theory of either of the other two types.

MPP2-70 RAWLS BELONGS TO THE NATURAL RIGHTS TRADITION

Rex Martin, philosopher, University of Kansas, RAWLS AND RIGHTS, 1985, p.11

Rawls is very careful to identify and explicate certain nonutilitarian elements in his theory and to link it with the contractarian tradition, especially with the later form that the tradition has assumed in Rousseau and Kant. That tradition has a long and rich association with the philosophy of rights; contract thinkers have historically been in the forefront of explicating and championing the idea of basic human rights--often called, in the idiom of an earlier day, natural rights.

MPP2-71 RAWLS SECURELY UPHOLDS BASIC RIGHTS

Rex Martin, philosopher, University of Kansas, RAWLS AND RIGHTS, 1985, p.11

One point, though, is universally agreed on: Rawls holds that utilitarians characteristically regard basic rights as 'a socially useful illusion' and subject them to 'the calculus of social interests.' Thus Rawls believes that utilitarianism would allow the sacrifice of some people's rights to liberty or opportunity if doing so would raise level of (total or average) well-being in a society. One important motivation for Rawls's theory of justice, then, is to provide a secure grounding for rights.

MPP2-72 RAWLS IS COMMITTED TO FREEDOM

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.38

And Rawls, for his part, is no less committed to freedom than Nozick is. Not only does he give lexical priority to certain basic liberties --he even wants to formulate his second principle of justice so that both principles together are tantamount to the requirement 'to maximize the worth of the least advantaged of the complete scheme of equal liberty shared by all.'

MPP2-73 RAWLS IS A MORAL INDIVIDUALIST

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.12

Does Rawls's theory involve a moral individualist outlook? Here we think that defenders and critics must agree that it does. As we shall see in the next chapter, his approach is based on the assumption that only the interests of individuals are of concern in the evaluation of socio-political arrangements; there are no distinct claims made, for example, by the interests of cultures or groups or structures. Rawls is an outstanding example of a moral individualist.

MPP2-74 NOZICK'S EMPHASIS ON LOCKEAN RIGHTS ISN'T JUSTIFIED

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.7

It would be fairly reasonable to postulate Lockean rights as fundamental constraints if there were something uniquely appropriate about them: if they stood out, historically or theoretically, as the only serious sorts of rights to countenance. But Lockean rights, as Nozick interprets them, do not stand out in this way. The fact that the Lockean proviso on the just acquisition of property can be variously interpreted shows that Locke himself can be associated with different sets of rights. And a little imagination, nurtured perhaps on the data of anthropology, shows that quite variant sets of rights are also conceivable. Thus the titles to property might include certain community as well as individual titles and the rights of ownership might vary dramatically, depending on how far community interests are allowed to constrain what someone may do to what is his.

MPP2-75 NOZICK'S ATTACK DOESN'T INVALIDATE RAWLS

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.90

There is a quite fascinating contrast between Rawls's vision and the perspective of the principled libertarian. Great credit is due to Nozick, for having focused on the differences between the two pictures. But the existence of a clearly delineated libertarian alternative does not in itself make for a critique of Rawls's theory. And the basic and practical objections forthcoming from that alternative are not, as we have tried to show, definitive. Rawls's theory remains intact.

MPP2-76 RAWLS' SYSTEM WON'T REQUIRE CONTINUOUS INTERFERENCE

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.89

Rawls puts the point forcibly in what is clearly intended as a rejoinder to Nozick: 'Taxes and restrictions are all in principle foreseeable, and holdings are acquired on the known condition that certain corrections will be made. The objection that the difference principle enjoins continuous and capricious interference with private transactions is based on a misunderstanding.'

MPP2-77 RAWLS' SYSTEM WON'T REQUIRE CONTINUOUS INTERFERENCE

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.89

But in this objection, as in the basic criticism, Nozick relies for his impact on some subtle misinterpretation. The state which Rawls's theory supports would not continually interfere with people in the manner suggested by Nozick. There is a great difference, and Nozick carefully ignores it, between a rule of law under which it is publicly known that a structural ideal dictates taxation policy and a regime which allows the state to interfere with people as occasion arises.

MPP2-78 PEOPLE DON'T DESERVE NATURAL ENDOWMENTS

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.104

It seems to be one of the fixed points of our considered judgments that no one deserves his place due to the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit.

MPP2-79 PEOPLE DON'T DESERVE NATURAL ENDOWMENTS

Brian Barry, Oxford, THE LIBERAL THEORY OF JUSTICE, 1973, p.155-56

This implies, as Rawls makes clear, that no considerations of desert or moral worth underlie differentials in earned income. 'Surely a person's moral worth does not vary according to how many offer similar skills or happen to want what he can produce. No one supposes that when someone's abilities are less in demand or have deteriorated (as in the case of singers) his moral deservingness undergoes a similar shift.'

MPP2-80 DESERT DOESN'T JUSTIFY INEQUALITY

R.S. Downie and Elizabeth Tetler, philosophers, University of Glasgow, RESPECT FOR PERSONS, 1969, p.51

But our current moral views seem rather to assign a comparatively small part in justifying inequalities to the notion of desert. This is especially so in the case of merits or demerits for which the possessor is not responsible, where we are apt to think that equality demands the rectifying of the imbalance rather than 'giving to him that hath.' Exceptions to this, such as 'He's a bright boy and deserves to succeed' are often to be seen as expressions of the principle of liberty rather than of desert.

MPP2-81 RAWLS DEFINES LEGITIMATE ENTITLEMENTS

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.69

The second misunderstanding viewed Rawls as encouraging officials to take away some of people's earnings and pass them along to the less fortunate. I said in response that Rawls is discussing the SCHEME under which earnings arise in the first place. He addresses himself to the deepest basis of economic entitlements and thus cannot be criticized in a way that already takes some entitlement-producing processes for granted. To say that with Rawls in charge people get less than they are entitled to begs the question Rawls is raising, by assuming we already know what people are entitled to.

MPP2-82 RAWLS DOESN'T TREAT NATURAL TALENTS AS A COLLECTIVE ASSET

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.64

It has been supposed that control over one's natural endowments is itself up for consideration, that Rawls is examining the natural distribution of special gifts and handicaps against the background of other, perhaps more desirable alternative patterns. On this supposition, the consistent proposals for Rawls to make would involve involuntary organ transplants, co-ownership by others of exceptional natural endowments (giving them a right to decide how these should be employed), or at the very least a 'head tax' to be imposed upon the better endowed. The supposition, however, is mistaken: 'Greater natural talents are not a collective asset in the sense that society should compel those who have them to put them to work for the less favored.' 'We have a right to our natural abilities.' This much is enshrined in Rawls's first principle.

MPP2-83 RAWLS DOESN'T TREAT NATURAL TALENTS AS A COLLECTIVE ASSET

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.64

We should recall here that Rawls's conception of justice is only SEMI consequentialist. NATURAL primary goods, such as 'health and vigor, intelligence and imagination,' fall outside the master patterns by which feasible alternative basic structures are assessed. 'The natural distribution is neither just nor unjust.' Rawls is concerned only with the distribution of SOCIAL primary goods, which is regulated by the basic structure. All and only inequalities in this distribution require justification.

MPP2-84 THE DIFFERENCE PRINCIPLE ONLY CONCERNS SOCIAL SHARES

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.46

Correspondingly, his contracting parties are concerned with citizens' SOCIAL positions, or SHARES, and not with their overall SITUATIONS, or STANDARD OF LIVING (in Sen's sense). They care about the least advantaged, not about the least well. Some readers, overlooking this point, have supposed that the parties are concerned with all factors affecting the lives of those they represent, which has given rise to many mistaken counterexamples, about how institutions must be designed so as to optimize the quality of life of those most sick, feeble, ugly, or retarded.

MPP2-85 THE DIFFERENCE PRINCIPLE ONLY GOVERNS THE BASIC STRUCTURE

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.41-42

Rawls's later criterion of justice is SATIABLE. This quality is often overlooked; readers take this criterion (and especially the difference principle) to require that the least advantaged should be as well-off as possible. This reading is mistaken. Only THE BASIC STRUCTURE INsofar AS IT GENERATES INEQUALITIES is required to optimize the position of the least advantaged by those inequalities.

MPP2-86 THE DIFFERENCE PRINCIPLE DOESN'T REQUIRE ALL POSSIBLE MEANS

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.197

It has sometimes been overlooked that the difference principle entails no general demand to raise the index position of the least advantaged by all feasible means as far as possible--even by strip-mining national parks, by shortening lunch breaks, or through subliminal messages piped to work stations. It is only insofar as they generate social and economic INEQUALITIES that social institutions must be designed to optimize the index position of the least advantaged.

MPP2-87 RAWLS IS COMMITTED TO COMMUNITARIAN VALUES

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.203

The second sense in which Rawls's theory is communitarian is that which concerns its content rather than its source or method. Beginning with the claim that his political liberalism involves a commitment to a common aim, and one that can be an important part of a person's identity in just the way communitarian's emphasize, we shall, building on the previous remarks, go on to see that what motivates the conception of the person of which communitarians have been so critical is precisely a commitment to a certain conception of community: the very reason to exclude from politics conceptions of the good that may indeed be constitutive of our non-public identities is a belief in the value of a certain sort of (political) community.

MPP2-88 RAWLS' SYSTEM IS COMMUNITARIAN IN FORM AND CONTENT

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.201

Rawls's conception of justice as fairness is communitarian both in terms of its source--it articulates the shared values of the community which it addresses--and in terms of its content--those shared values themselves involve a commitment to an understanding of politics that is distinctively communitarian.

MPP2-89 RAWLS DOESN'T VIEW INDIVIDUALS AS PRIOR TO SOCIETY

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.210

Rawls's response to these two criticisms is to stress the fact that the original position is a device of representation whose function is to dramatize and articulate a particular substantive conception of the person as citizen. It embodies no sociological or philosophical claims about the relative priority of the individual to society, but rather forms part of an argument for the development and maintenance of a type of society within which citizens accord a particular moral status to one another.

MPP2-90 RAWLS' VIEW OF THE SELF ONLY APPLIES IN A POLITICAL CONTEXT

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.208

On this understanding of the scope, source and status of Rawls's conception of the person, the communitarian attacks upon it will seem clearly misplaced. For they focus upon its validity as a general account of our moral experience and its coherence as a philosophical account of human nature. But if Rawls's claim that persons ought to be regarded as detached from their particular natural and social endowments and conceptions of the good is restricted to the domain of politics, then it does not imply that we can generally step back from each and every one of our value commitments, or that we are metaphysically detached from them; and so the invalidity or incoherence of such ideas--even if it could be established--would not reflect upon the tenability of Rawls's theory of justice as fairness.

MPP2-91 RAWLS VIEWS INDIVIDUALS AS COMMITTED TO SHARED GOALS

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.203-4

Responding to those who charge liberalism with being excessively individualistic and instrumental in its understanding of politics, who claim that it regards society as nothing more than the outcome of an agreement between individuals or associations cooperating solely to pursue their pre-social individual or associational advantage, Rawls emphasizes both that his political conception of justice does involve a commitment to a shared goal and that this goal can become an important part of the individual's identity.

MPP2-92 RAWLS DOESN'T ABSTRACT FROM THIS SOCIETY

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.115

Our first criticism of the communitarians is that they have misinterpreted Rawls in assuming that he is looking to construct the good of society from scratch, or discover universal moral principles without reference to the moral practices of existing societies. Yet as we noted in our consideration of Sandel, Rawls has quite explicitly stated that his starting point is the moral practices of his own society

MPP2-93 RAWLS ARTICULATES SHARED SOCIAL MEANINGS

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.180

For Rawls, 'We look . . . to our public political culture itself, including its main institutions and the historical traditions of their interpretation, as the shared fund of implicitly recognised basic ideas and its principles.' What we find when we do so is a particular understanding of society and its members, and the original position is nothing other than an attempt to portray that understanding. Here too, in his methodological attention to what in Walzer's terms we would call 'shared social meanings', we see that Rawls avoids the Walzerian charge of failure to attend to particularity. Rather than seeking distance from the political community, Rawls does precisely what Walzer would have him do: he articulates our shared social meanings.

MPP2-94 RAWLS' UNDERSTANDING OF OUR CULTURE IS SUPERIOR TO HIS CRITICS'

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.201-2

We have already argued that Rawls's theory represents not an attempt to transcend cultural practicality, as Walzer suggests, but rather an attempt to be true to our culture, and this claim stands despite Rawls not being committed to Walzer's more sweeping relativism. Even though Rawls does not regard the task of the political theorist as that of articulating shared meanings whatever they may be, he does see something close to that as the proper method for a political theorist in a constitutional democracy, where those shared meanings have a particular content. We would further maintain that, with respect to societies of that kind, Rawls's method is not only consistent with Walzer's approach but more successful: Rawls is truer to our shared meanings than is Walzer.

MPP2-95 RAWLS' UNDERSTANDING OF OUR CULTURE IS SUPERIOR TO HIS CRITICS'

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1990, p.202

For Rawls recognizes how little we do share. What motivates his search for a specifically political conception of justice is a recognition of the fact of pluralism, of the fact that there are and will continue to be, without oppressive use of state power, a diversity of conceptions of the good. Given this fact, all that we can agree to, and what gets embodied in the original position, is an understanding of politics, a conception of political society and of the person as citizen, which leaves people free to frame, revise and pursue whatever conceptions of good they choose.

MPP2-96 PHILOSOPHY IS NEEDED TO SUPPLEMENT POLITICS

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.116

Yet there is surely some point in what Rawls has done. His starting point, after all, is the existence of politics or, more precisely, political disagreement. The question then is, how do we resolve the disagreements that make for competing political claims? 'Politics' is not an adequate answer, for the question is raised WITHIN the context of politics. We need to step out of its hurly-burly if we think we ought to try to find good reasons for our actions (and if we assume that 'it is in my interest' is not ALWAYS a good reason). We are, as Kant said, 'impelled to go outside its sphere in order to escape the perplexity of opposing claims.' And this leads us to philosophy.

MPP2-97 UTILITARIANISM SYSTEMATICALLY DISADVANTAGES CERTAIN INDIVIDUALS

Allen Buchanan, University of Minnesota, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.17

More generally, Rawls objects that, unless it relies on certain problematic assumptions, utilitarianism is likely to allow institutional arrangements which systematically disadvantage some individuals for the sake of maximizing aggregate or average utility.

MPP2-98 UTILITARIANISM WOULDN'T BE CHOSEN IN THE ORIGINAL POSITION

Samuel Scheffler, philosopher, University of California, Berkeley, *THE REJECTION OF CONSEQUENTIALISM*, 1982, p.11

For as separate individuals with separate systems of ends, such people would have no comparably serious interest in maximizing total aggregate satisfaction per se. And so they would be unwilling to accept the sacrifice of some people's life prospects simply in order to increase that sum. Hence, Rawls says, 'if we assume that . . . the plurality of distinct persons with separate systems of ends is an essential feature of human societies, we should not expect the principles of social choice to be utilitarian.'

MPP2-99 UTILITARIANISM WOULDN'T BE CHOSEN IN THE ORIGINAL POSITION

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.45

Utilitarianism, for example, leaves open the possibility that maximization of utility will lead some people to fare very badly. If slavery were required to maximize average or total utility, utilitarianism would, in principle, allow it. So utilitarianism would probably have to be excluded by the maximizing members of the OP.

MPP2-100 EMPIRICAL RESEARCH CONFIRMS RAWLS' PRINCIPLES

Lita Furby, The Wright Institute, *HUMAN DEVELOPMENT*, 1979, p.200

Children also tend to see inequality as more negative than positive, with their reasons for these evaluations again reflecting their particular socialization experiences. The adults (all upper-middle class Americans) were more positive about inequality, and all this is consistent with Rawls' (1971) suggestion that those in a 'veil of ignorance' are more likely to see equality as the most desirable state of affairs than are those who know they stand to gain from inequality.

MPP2-101 EMPIRICAL RESEARCH CONFIRMS RAWLS' PRINCIPLES

Lita Furby, The Wright Institute, *HUMAN DEVELOPMENT*, 1979, p.194

The fact that the adult group was less negative about inequality than all younger ages is consistent with Rawls'(1971) analysis of justice. He argues that people's evaluations of what is just and fair depend upon whether or not they are in an 'original position' in which they have no information about whether they will end up in the advantaged or disadvantaged outcome position. He also argues that under such conditions people in general will agree on equality as the leading principle of fairness.

MPP2-102 NO VALUES SHOULD BE ALL-DOMINANT

Daniel Bell, professor of sociology, Harvard, *THE PUBLIC INTEREST*, Fall 1972, p.64

As a political principle, it is unlikely that any single rule can dominate a polity without disruption. In the *POLITICS*, Aristotle distinguished between two kinds of justice, numerical equality (equality of result) and equality based on merit. As he concluded: 'To lay it down that equality shall be exclusively of one kind or another is a bad thing, as is shown by what happens in practice; no constitution lasts long that is constructed on such a basis.'

MPP2-103 NO VALUES SHOULD BE ALL-DOMINANT
Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xxiv

Joel Feinberg argues that Rawls falls down in two ways in his attack on intuitionism. First, Rawls fails to establish that his--or any-- principles of justice must always take precedence over other considerations of rightness. Even if justice is weighted very heavily as a factor in determining the rightness of actions, Rawls fails to show that other considerations--even utilitarian ones--don't sometimes outweigh the demands of justice.

MPP2-104 OTHER VALUES OUTWEIGH JUSTICE
Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.67

Even if a distribution could be proportionate, it would not follow that it ought to be imposed. This is obvious if justice is not the only cardinal virtue. If there are other virtues besides justice; then this thesis is clearly true, unless it is assumed that injustice takes precedence over all other evils. Some decidophobes prefer the tyranny of one virtue that relieves them of the necessity to weigh competing considerations. If there are several norms, it is clear that a higher score according to one of them does not automatically settle disputed questions; it might be offset by a much lower score on several other standards. In my code, moreover, not only are there several virtues but justice is not even one of them.

MPP2-105 CONCEPTS OF JUSTICE VARY OVER TIME
Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.37

To the skeptic, any claim that 'justice has been done' looks arrogant and foolish right away. A generation or two later, it will also look absurd to those who are not skeptics and who use the same rhetoric themselves. I shall argue that the demands of simple justice are simple indeed but not just.

MPP2-106 CONCEPTS OF JUSTICE VARY OVER TIME
Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.37

Justice is widely held to be objective if not absolute, precise and not subject to emotion, timeless and above mere preferences. These attributes are crucial features of what people mean by justice. When justice demands something, it is no longer up to mere human beings to try to decide what to do; the individual is supposed to submit and do the bidding of justice. In fact justice is not at all timeless. Yesterday's just punishment or distribution may be considered blatantly unjust today.

MPP2-107 EVEN INDIVIDUALS LACK CONSISTENT IDEAS OF JUSTICE

John Stuart Mill, British philosopher, *UTILITARIANISM*, 1957, p.68

Not only have different nations and individuals different notions of justice, but in the mind of one and the same individual, justice is not some one rule, principle, or maxim, but many which do not always coincide in their dictates, and, in choosing between which, he is guided either by some extraneous standard or by his own personal predilections.

MPP2-108 VARIANCE DENIES THE OBJECTIVE VALUE OF JUSTICE

John Stuart Mill, philosopher, *UTILITARIANISM*, 1957, p.67-68

If justice be totally independent of utility, and be a standard per se, which the mind can recognize by simple introspection of itself-- it is hard to understand why that internal oracle is so ambiguous, and why so many things appear either just or unjust, according to the light in which they are regarded.

MPP2-109 DESERT IS INCALCULABLE

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.64

The last point that still needs to be made about retributive justice can be put into three words: desert is incalculable. Not only is it impossible to measure desert with the sort of precision on which many believers in retributive justice staked their case, but the whole concept of a man's desert is confused and untenable. This claim is as fatal for distributive justice as it is for retributive justice.

MPP2-110 DESERT IS INCALCULABLE

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.71

It is quite impossible to say how much income surgeons, lawyers, executives or miners deserve; or what kind of housing each deserves, or how much free time per day, per week, or per year. It makes no sense to call any particular distribution of such goods among them 'just.'

MPP2-111 MORAL CRITICISM DOESN'T REQUIRE 'JUSTICE'

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.70

We can criticize punishments and distributions on moral grounds without invoking the fiction of just punishments and distributions. What matters is that punishments as well as distributions can be cruel and unusual, capricious, utterly at odds with rules announced beforehand, and defended with dishonest claims and arguments. It does not follow that when none of these strictures applies justice has been done.

MPP2-112 EMPHASIS ON JUSTICE UNDERMINES AUTONOMY

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.93-94

It should be clear that what I object to is not so much the continued use of the words 'just' and 'justice' as it is a way of thinking that affects the way people behave. One can always redefine old words in such ways that the new concepts are no longer open to the old objections. In my books on religion I have shown how many theologians are virtuosos in this art. But the result, if not the purpose, of this practice is that the new concept carries the emotional charge and something of the moral authority of the old term, and does this illicitly. Invocations of justice help to blind a moral agent to the full range of his choices. Thus they keep people from realizing the extent of their autonomy.

MPP2-113 EMPHASIS ON JUSTICE CAUSES INTERNATIONAL CONFLICTS

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.95

When the United Nations was founded after World War II, it was widely felt to be the last best hope on earth. But it has failed to live up to its promise. If it should perish, it might well be of too much talk about justice, too much indifference to brutality, and too little concern with the high standards of honesty.

MPP2-114 THE CONCEPT OF JUSTICE SHOULD BE ABANDONED

Walter Kaufmann, professor of philosophy, Princeton, *WITHOUT GUILT AND JUSTICE*, 1973, p.95

Humanity would gain if we declared a moratorium on the use of 'just' and 'justice' while giving a high priority to the fight against brutality and dishonesty.

MPP2-115 THE ORIGINAL POSITION IS RIGGED TO FAVOR RAWLS' PRINCIPLES

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.447-48

The central charge levied against Rawls' conception of the original position is that it is arbitrarily rigged in favor of the liberal egalitarian rules which emerge from it. To have an independent justificatory force, the original position must be separately plausible through its connection with basic moral convictions, or better, with the very meaning of a moral or just point of view. But if one or more of its features lack such independent justification, then the description of the original position becomes viciously circular and loses all theoretical function. It becomes circular by presupposing just what it wants to prove, that basic principles of justice are radically egalitarian.

MPP2-116 THE ORIGINAL POSITION IS IRRELEVANT TO REAL AFFAIRS

David Schaefer, professor of political science, Holy Cross, *JUSTICE OR TYRANNY?*, 1979, p.87

Because there is no conceivable human situation that could resemble Rawls's original position, the debate over which set of principles would be accepted in such a situation has no possible relevance to human affairs.

MPP2-117 THE ORIGINAL POSITION IS IRRELEVANT TO REAL AFFAIRS

David Schaefer, professor of political science, Holy Cross, *JUSTICE OR TYRANNY?*, 1979, p.36

By excluding from the original position the parties' knowledge of their real interests so as to simplify 'the bargaining problem', Rawls has omitted to consider the claims that real human beings would assert in such a situation. To think that actual men would or should accept these principles because Rawls's nonexistent representative man allegedly gains from them is fantasy.

MPP2-118 THE ORIGINAL POSITION IGNORES RELEVANT DIFFERENCES BETWEEN PEOPLE

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.452

But the libertarian is more likely to center his objections to the veil of ignorance upon its abstraction from existing social positions and the natural endowments of real individuals. Such abstraction guarantees that no differential features of individuals can figure prominently as basic considerations in deciding how good are to be divided. Natural as well as social differences are not only ignored but nullified as grounds for unequal distributions.

MPP2-119 THE ORIGINAL POSITION IGNORES MORALLY RELEVANT KNOWLEDGE

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xl

But it is one thing to rule out knowledge of morally irrelevant features like sex, race and class position. It is another, suggests Nagel, to eliminate morally relevant knowledge, like one's conception of the good. The 'thin' theory is more compatible with some conception of the good than with others and, so, the original position treats parties in it unequally and unfairly.

MPP2-120 THE ORIGINAL POSITION DOESN'T REALLY ALLOW FREE CHOICE

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.64

The important question for Sandel arises here; for if the original position is constructed so as to GUARANTEE than any agreement reached in it is fair, then what scope is there for the exercise of choice by people in the original position? Although they are theoretically free to choose any principles they wish, their situation is such as to guarantee that they will wish to choose only certain principles, upon which they will unanimously converge.

MPP2-121 THE ORIGINAL POSITION IS CIRCULAR

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.451

Thus a good reason for this feature of the original position is that if the probabilities of ending up in various positions were known, based on the number of people likely to be in each position, the contractors would be willing to sacrifice the interests of some to those of others, thereby choosing some version of the utilitarian principle over the conception of rights which Rawls endorses. But this simply shows the veil of ignorance begs the question against the adoption of less egalitarian principles than Rawls'. It simply brings out the circularity of the method for specifying the original position.

MPP2-122 DENYING KNOWLEDGE OF PROBABILITIES MAKES RAWLS CIRCULAR

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.450

That such probabilities are not known in Rawls' original position seems designed simply to rule out the maximization of expected utility or average utility by barring any definite expectations. Without an independent moral reason for preventing such knowledge, the original position is revealed to be circular or slanted towards its liberal-egalitarian outcome.

MPP2-123 THE ORIGINAL POSITION COVERTLY INCLUDES RAWLS' VALUES

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, professor of Government, University of Maryland, CHOOSING JUSTICE, 1992, p.18

Thus, it should not be surprising that different views of human nature lead Harsanyi and Rawls to different conclusions about how people would choose under uncertainty. Again, Hare puts it succinctly: 'The POP game is in effect played by imagining ourselves in the original position and then choosing principles of justice. Rawls' POPs come to the decisions that they come to simply because they are replicas of Rawls himself with what altruism he has removed and a veil of ignorance clapped over his head. It is not surprising, therefore, that they reach conclusions which he can accept.'

MPP2-124 GOOD CHOICES CAN'T BE MADE UNDER IGNORANCE

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.448

Can we expect the best choice of rules which govern our lives to be made in a condition of ignorance? As we will see, this forces the contractors not only to be fair, but paranoid as well. In total ignorance, one might pessimistically guard against the worst possibilities as Rawls argues.

MPP2-125 REAL PEOPLE AREN'T BOUND BY HYPOTHETICAL CONTRACTS

Ronald Dworkin, New York University law school, TAKING RIGHTS SERIOUSLY, 1978, p.151

Rawls does not suppose that any group ever entered into a social contract of the sort he describes. He argues only that if a group of rational men did find themselves in the predicament of the original position, they would contract for the two principles. His contract is hypothetical, and hypothetical contracts do not supply an independent argument for the fairness of enforcing their terms. A hypothetical contract is not simply a pale form of an actual contract; it is no contract at all.

MPP2-126 REAL AGENTS WOULDN'T CHOOSE RAWLS' PRINCIPLES

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.445

The central notion in Rawls' original position is not in fact that of free choice, as it was in the early social contract tradition, but that of fairness or equality, as instantiated in the conditions of the veil of ignorance. If real agents would freely choose arrangement which would also be chosen by hypothetical agents ignorant of their social positions and natural endowments, there would be no reason to think about Rawls' original position at all. Although the 'contracts' to which traditional social contract theory appealed were not real historical agreements, they were meant to be contracts to which rational agents would agree, given the choice. Such agents were then seen to be bound, as by promises freely made. Rawls' contract, on the other hand, is one to which only his artificially defined contractors would agree.

MPP2-127 RAWLS ASSUMES TOO MUCH CERTAINTY OF KNOWLEDGE

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, CHOOSING JUSTICE, 1992, p.18-19

And there is yet another source of difficulty. Although individuals are severely limited in the particular information they have, they are presumed to have certain general knowledge at their disposal. They are 'presumed to know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology.' Alas, given the current state of knowledge in the social and behavioral sciences, it is absolutely safe to assert that there is no consensus on those laws and principles. Nor can there be any assurance that, even were a consensus to exist, those laws would point in a single 'correct' direction. Thus Harsanyi and Rawls implicitly rely on unarticulated and potentially suspect scientific principles to reach their conclusions, and, being imperfect, they not surprisingly make different inferences.

MPP2-128 'SYMPATHETIC OBSERVER' THEORY IS PREFERABLE TO RAWLS' APPROACH

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.448

Rawls' general model of the original position seems no more intuitively compelling than other possible models for impartiality and fairness. One alternative model is the impartial sympathetic observer theory. According to this model, which is often used to support a utilitarian conception of complete ignorance, but one ideal observer, sympathetic to the interests of all, but partial towards none, with complete knowledge of the society in question and its members, arranging for just distributions of goods within the society. Since such an observer can gauge distribution according to needs and other relevant factors, which Rawls' contractors cannot, we might imagine this a more suitable model of the original position.

MPP2-129 RAWLS' USE OF THE CONTRACT IS ESSENTIALLY CIRCULAR

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.67

But then why bother with the contract device? Why not just use the first intuitive argument? This is a good question. While the contract argument is not as bad as critics suggest, it is also not as good as Rawls suggests. If each theory of justice has its own account of the contracting situation, then we have to decide beforehand which theory of justice we accept, in order to know which description of the original position is suitable. Rawls's opposition to gambling away one life for the benefit of others, or to penalizing those with undeserved natural handicaps, leads him to describe the original position in one way; those who disagree with him on these issues will describe it another way. This dispute cannot be resolved by appeal to contractual agreement. It would beg the question for either side to invoke its account of the contracting situation in defence of its theory of justice, since the contracting situation presupposes the theory. All the major issues of justice, therefore, have to be decided beforehand, in order to know which description of the original position to accept. But then the contract is redundant.

MPP2-130 SOCIAL CONTRACT ARGUMENTS REST ON IMPLAUSIBLE ASSUMPTIONS

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.59

Why are social contract arguments thought to be weak? Because they seem to rely on very implausible assumptions. They ask us to imagine a state of nature before there is any political authority. Each person is on their own, in the sense that there is no higher authority with the power to command their obedience, or with the responsibility for protecting their interests or possessions.

MPP2-131 NO SOCIAL CONTRACT EVER OCCURRED, AND HYPOTHETICAL CONTRACTS AREN'T BINDING

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.59

Different theorists have used this technique-Hobbes, Locke, Kant, Rousseau-and come up with different answers. But they have all been subject to the same criticism-namely, there never was such a state of nature, or such a contract. Hence neither citizens nor government are bound by it. Contracts only create obligations if they are actually agreed to. We can say that a certain agreement is the contract that people would have signed in some state of nature, and so is a hypothetical contract. But as Dworkin says, 'a hypothetical agreement is not simply a pale form of an actual contract; it is no contract at all' (Dworkin 1977: 151). The idea that we are bound by the contract we would accept in a state of nature implies.

MPP2-132 THE MAXIMIN PRINCIPLE REFLECTS PERSONAL TIMIDITY

David Schaefer, professor of political science, Holy Cross, JUSTICE OF TYRANNY?, 1979, p.34

Given the purely instrumental meaning Rawls has assigned to rationality, the preferences of the wildest of gamblers must be accorded an equal claim to rationality with those of the most conservative decision-maker. Rawls's own preference for the maximin rule appears to represent nothing more than a personal timidity. Surely he cannot claim, in the name of justice alone, the right to impose this attitude on humanity as a whole.

MPP2-133 WE DON'T USE MAXIMIN IN REAL LIFE

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.454

First, it can be pointed out that in ordinary life we normally do not act in a maximin fashion even if we are uncertain about the probability of various situations occurring. If it is a nice day and the chances of rain seem slight, we do not walk around with raincoat and umbrella on the grounds that the worst possible outcome would be to get caught in the rain without them. Rather we play percentages to maximize expected utility. It could be replied that the seriousness of the choices in the original position make this example irrelevant; but, to take another common case, how many of us risk catastrophe by flying when we travel rather than taking the bus or train?

MPP2-134 NO PRINCIPLE WOULD BE UNANIMOUSLY SELECTED

Gan Singh Sahota, Vanderbilt, JOURNAL OF ECONOMIC LITERATURE, March 1 1978, p.36

A major weakness of Rawls's theory of the EQUALITY of basic goods is his assumption of the identity of people's views when making the social contract as to what constitutes a just society. Indeed, according to the collective decision-making theories of Wickseil, Lindahl, Downs, Buchanan, Breton, and others, people differ too widely with regard to their political moral, and risk preferences to ever clinch a social contract unanimously.

MPP2-135 WITH MORE REASONABLE INFORMATION, MAXIMIN WOULD BE REJECTED

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xlv-i

To know that a maximin strategy is the rational one, however, Rawls has to show that certain special conditions obtain, particularly that choices based on knowing the probabilities of arrangements outside the veil of ignorance are impossible. Hare attacks Rawls' use of a 'thick' veil of ignorance, one that blocks knowledge of such probability. He contends that a thinner veil, permitting probability calculation, would still provide for the impartiality of principles being selected. A thinner veil is thus all that is needed to meet the formal constraints on moral principles. A thinner veil, however, permits selection of the utilitarian principle.

MPP2-136 MAXIMIN REFLECTS AN ABNORMAL PSYCHOLOGY

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.454

Rawls cannot complete the argument against this alternative without additional premises. What is required to complete the argument according to Rawls' opponents is that the contractors in the original position have a peculiar and abnormal psychology with a total aversion to risk and a strongly materialistic, yet strangely limited, desire for primary goods like wealth and power.

MPP2-137 MAXIMIN FAILS WITH MANY LARGE SCALE PROBLEMS

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.42

As Harsanyi has pointed out, it is not difficult to imagine large scale choice problems which maximin would not handle properly. For example, if the worst possible outcome of the unregulated production and marketing of drugs is some catastrophe, however unlikely, and the worst outcome of regulated production that many life-saving drugs are delayed coming onto the market, maximin would tell us to regulate--even if the expected consequence of non-regulation is better, involving more lives saved by the greater production and earlier availability of life-saving drugs. This, again, is less than intuitive.

MPP2-138 A SOCIAL INSURANCE FLOOR IS PREFERABLE TO MAXIMIN

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.64

After all, as Hare notes, the setting of a floor, or insurance, is attractive: 'Rawls uses arguments in favor of maximin which are really only arguments in favour of insuring against utter calamity. We insure our houses against fire because we think that a certain outcome, namely having one's house burnt down and having no money to buy another, is so calamitous that we should rule it out. This is not at all the same strategy as maximizing [the floor]. If the POL [people-in-ordinary-life] society were going to be affluent enough to provide a more than just acceptable standard of living for even the least advantaged, the insurance strategy would allow for the POPs to purchase a very great gain for the more advantaged at the cost of a small loss for the least advantaged, but the maximin strategy would forbid this.

MPP2-139 RAWLS DOESN'T JUSTIFY THE PRIORITY OF LIBERTY

Rex Martin, philosopher, University of Kansas, *RAWLS AND RIGHTS*, 1985, p.108

I do not see, however, that Rawls in his book has provided us with a good argument in favor of the priority of liberty over wealth, let alone its priority over all the other primary goods. The difficulty may be, in part, that his frame of reference at this point has become too broad and too amorphous. After all, the primary good of liberty is simply liberty in the abstract, and this, in turn, refers to liberties in the gross, to all liberties promiscuously and to none of them in particular. It is not likely, whether in the real social world or in the original position, that individuals with the psychology that Rawls assigns to them, with full weight given to their rationality, would prefer for themselves an increase in liberties so conceived over, say, an increase in the available amount of goods and services.

MPP2-140 RAWLS DOESN'T JUSTIFY THE PRIORITY OF LIBERTY

Rex Martin, philosopher, University of Kansas, *RAWLS AND RIGHTS*, 1985, p.108

Thus, it is not likely that any sort of calculus of 'marginal significance'--whether in the original position or elsewhere--could help us determine that liberty has a generic priority over the other social primary goods. Indeed, almost any conceivable calculus would suggest to us that liberty does not have such a priority.

MPP2-141 LIBERTY ISN'T PREFERABLE TO OTHER GOODS

Rex Martin, philosopher, University of Kansas, RAWLS AND RIGHTS, 1985, p.108

More to the point, where we take liberty to mean ALL liberties (and not merely the basic liberties) and where we rely on the accounts provided by social science and by common experience for the evidence of what people do prefer (correcting these accounts by reference to the constraints of the original position and eliminating preferences that cannot pass through this filter), then people most likely would prove to be indifferent. For we have no reason to think that they would prefer another liberty--of any description whatsoever--over an- other good or service--again of any description whatsoever.

MPP2-142 LIBERTY ISN'T PREFERABLE TO OTHER GOODS

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.68

Moreover, setting equality aside, even if most of us would agree that it would be wrong to subordinate liberty entirely to fraternity (sacrificing individual freedoms in pursuit of the goods we can only know in common), it would surely be equally wrong entirely to subordinate fraternity to liberty. For Sandel, a balance must be struck which acknowledges them both; an absolute commitment to one cannot be the best response to the fact that such fundamental values can and do come into conflict in the arena of politics.

MPP2-143 PRIORITY OF LIBERTY VIOLATES THE MAXIMIN PRINCIPLE

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.11

But Rawls draws the further conclusion that reforms involving an enhancement of basic liberties are ALWAYS the most urgent, even when they involve an expansion of the basic liberties of the more advantaged (whose basic liberties are already more complete or better protected) at the expense of advancements in the socioeconomic position of the least advantaged. As I demonstrate in some detail, this conclusion is a clear violation of the maximin principle.

MPP2-144 THE DIFFERENCE PRINCIPLE VIOLATES THE PRIORITY OF LIBERTY

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.443

Despite these difficulties of interpretation, the main problem with the first principle from a libertarian viewpoint is that it is not taken seriously enough by Rawls himself, especially the clause which confers the right to control personal property once a certain level of material wealth is achieved. The first principle is said to have absolute priority over both parts of the second principle, the Difference Principle and Principle of Equal Opportunity. This means that in case of a conflict we must guarantee equal basic liberty first. And yet the right to control property seems blatantly contradicted by the Difference Principle.

MPP2-145 RAWLS DOESN'T BALANCE COMPETING LIBERTIES EFFECTIVELY

Norman Daniels, philosopher, Tufts, READING RAWLS, 1989, p.xlix

What is more, Hart thinks Rawls underestimates the difficulty of balancing competing liberties. He fails to provide criteria for their relative importance. He also underestimates the complexity of balancing those advantages and disadvantages that accompany the conflicting interests people have in liberty.

MPP2-146 THE DIFFERENCE PRINCIPLE VIOLATES OUR MORAL INTUITIONS

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.439

The equation of justice with equality implied in the Difference Principle so construed is inconsistent with our moral intuitions, since it treats those we consider unequal in desert as equals, a sin on a par, according to Aristotle, with treating equals differently. Our intuition is that the contributions of individuals are not to be treated as common social assets to benefit social noncooperatives. At a certain point at least, equality as a value must be balanced against liberty and merit. Rawls ignores merit in his quest to negate differences in natural endowments.

MPP2-147 THE DIFFERENCE PRINCIPLE OVER-VALUES THE LEAST ADVANTAGED

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.441

Finally, even aside from considerations of effort, contribution or desert, it may strike us as unjust to judge the fairness of a distribution solely by the absolute position of those worst off under it. Aside from the question of differential claims, we might consider other factors, such as average utility or degree of spread between top and bottom, as relevant.

MPP2-148 THE DIFFERENCE PRINCIPLE RELIES ON THE MAXIMIN PRINCIPLE

Norman Daniels, philosopher, Tufts, READING RAWLS, 1989, p.xxv

Two basic issues arise: a challenge to Rawls' insistence on the maximin principle of choice, which is necessary if we are to derive the Second Principle instead of utilitarianism in the Original Position; and challenges to the derivation of the Difference Principle from the maximin rule.

MPP2-149 RAWLS' STANDARDS FOR WHO IS LEAST WELL OFF ARE TOO VAGUE

Thomas M. Garrett et al, University of Scranton, *HEALTH CARE ETHICS: PRINCIPALS AND PROBLEMS*, 1993, p. 87-88.

The first that the principle of evaluating any distribution scheme by its effect on the least advantaged is dangerously vague. Whose judgment and what criteria should be used in evaluating the effect on the least advantaged? If the advantaged are to be the judge, justice as fairness puts the fox in charge of the chicken coop. So many schemes of distribution can be justified in this manner that the principle would never prevent the haves' from exploiting the "have-nots." If, on the other hand, the disadvantaged are to judge, we run the risk that there will be inadequate provision for economic contribution, as well as for leadership and other long-range political concerns.

MPP2-150 THE DIFFERENCE PRINCIPLE VIOLATES THE EQUAL LIBERTY PRINCIPLE

Michael A. Mosher, University of Tulsa, *POLITICAL STUDIES*, June 1991, p.290.

The possibility of a conflict between Rawls's first and second intuitions presents itself. What is required by a system of morality which compensates for luck might contravene what would be acceptable to a system of morality based on the idea of the separateness of persons. The two intuitions work at cross purposes. A person who is a self-originating source of claims validates what might otherwise not have occurred. The separate self, its projects and collaborations, is riddled with contingency. The 'difference principle' combats contingency.

MPP2-151 THE DIFFERENCE PRINCIPLE MAKES SOME PEOPLE PAY FOR OTHERS' CHOICES

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.75

Unfortunately, the difference principle does not make any such distinction between chosen and unchosen inequalities. Hence one possible result of the difference principle is to make some people pay for others' choices, should it be the case that those with the least income are, like the tennis-player, in that position by choice. Rawls wants the difference principle to mitigate the unjust effects of natural and social disadvantage, but it also mitigates the legitimate effects of personal choice and effort.

MPP2-152 THE DIFFERENCE PRINCIPLE IS INSENSITIVE TO INDIVIDUAL EFFORT

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.75

When inequalities in income are the result of choices, not circumstances, the difference principle creates, rather than removes, unfairness. Treating people with equal concern requires that people pay for the costs of their own choices. Paying for choices is the flip side of our intuition about not paying for unequal circumstances. It is unjust if people are disadvantaged by inequalities in their circumstances, but it is equally unjust for me to demand that someone else pay for the costs of my choices. In more technical language, a distributive scheme should be 'endowment-insensitive' and 'ambition-sensitive' (Dworkin 1981: 311). People's fate should depend on their ambitions (in the broad sense of goals and projects about life), but should not depend on their natural and social endowments (the circumstances in which they pursue their ambitions).

MPP2-153 MORAL INTUITIONS ARE JUST BIASES

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xx

Those opposed to such appeals to moral intuitions insist we infect our theories with moral beliefs which may rest on bias and historical accident. They protest that simply systematizing these judgments--as we do in reflective equilibrium--in no way assures us we are being led closer to moral knowledge, for our intuitions have no initial credibility, however much we pretheoretically accept them.

MPP2-154 RAWLS' INTUITIONS ARE RIGGED AGAINST UTILITARIANISM

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xx

In his contribution to this collection, Hare raises the sharpest objection to this appeal to moral 'intuitions,' charging that the contract is 'rigged' to give the anti-utilitarian conclusions which Rawls believes from the start. Lyons raises similar worries. Other critics, especially utilitarian critics, respond with similar lines of criticism.

MPP2-155 RAWLS' 'CONSIDERED JUDGMENTS' ARE IDEOLOGICAL

Leslie Pickering Francis, University of Utah, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.472-3

And there is reason to believe Rawlsian 'considered judgments' are ideological. Rawls' description of them is revealing: 'Considered judgments' are simply those rendered under conditions favorable to the exercise of the sense of justice, and therefore in circumstances where the more common excuses and explanations for making a mistake do not obtain.' Rawls thinks of these conditions as merely encouraging reasonable judgment, but the conditions favorable to the exercise of the sense of justice (roughly, the disposition to be just) are surely MORAL. If statements are 'ideological' when they are influenced by a framework of values of which their maker is unaware, Rawls' own account of considered judgments is ideological.

MPP2-156 POST HOC DISSATISFACTION UNDERMINES STABILITY OF RAWLS' SYSTEM

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.17
Agents would later gain further information and occupy and judge the states they have created. That POST HOC judgment would determine the acceptability of the decisions taken behind the veil. If application of a procedure leads to general POST HOC dissatisfaction, the result is not likely to be stable.

MPP2-157 VIOLATION OF ENTITLEMENTS PRODUCES INSTABILITY

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, professor of government, University of Manitoba, *CHOOSING JUSTICE*, 1992, p.5-6
Noting this tension between entitlement and redistribution, theorists have voiced concern about the potential instability of any patterned principle of distributive justice. Although such a principle may appear fair when chosen without full knowledge of one's own position in the system, the same principle could chafe in practice when individuals begin to feel entitled to the property they have earned.

MPP2-158 EMPHASIS ON THE LEAST ADVANTAGED PRODUCES INSTABILITY

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.454-55

The problem with this argument is that while those on the bottom will do better with this kind of strategy than they would do with any other, those in other positions will be called upon to give up what they could acquire in a free market situation up to the maximum possible benefit for less productive people. Since those in socially better positions are generally also in better positions to change the system, we might think Rawls' system even more inherently unstable than others, given a realistic appraisal of motives.

MPP2-159 SACRIFICES OF THE TALENTED CAUSE INSTABILITY

Leslie Pickering Francis, University of Utah, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.471

Rawls' appeal is to what original position choosers would select--not to what people in the real world would later find reasonable. Yet Gauthier's objections is not without point; individuals who evaluate societies in terms of what they are gaining may not feel much commitment to, or may even feel cheated by, a society which they do not believe advantageous to them. Restiveness among the talented may mean that Rawls' principles will not engender social stability.

MPP2-160 RULING ELITES WON'T ACCEPT RAWLS' PRINCIPLES

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xlviii

Suppose, Miller argues, that some societies have these three features : (1) no institutional arrangement acceptable to the best-off class is acceptable to the worst-off; (2) the best-off class is a ruling class; and (3) the best-off class has a more acute need for wealth and power than is typical of the worst-off class. If these features of class-divided society, as depicted in Marxist social theory, are ever found, then Rawls will not be able to show that representatives of the best-off classes would be able to tolerate the constraints of the difference principle.

MPP2-161 RAWLS' SYSTEM USES INDIVIDUALS AS MEANS

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.x

The essence of Nozick's objection to Rawls's theory is that its redistributive aspects involve a violation of an individual's rights to property and to self-ownership. In Nozick's view, Rawls, and all who support a redistributive welfare state, fails to take the individual seriously enough, since he is prepared to envisage a taxation system, analogous to forced labour, that involves using the talents that belong to some individuals as means to the ends of those other individuals who lack them.

MPP2-162 RAWLS' SYSTEM USES INDIVIDUALS AS MEANS

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.102

Nozick objects to Rawls's argument for the difference principle, particularly to his assumption that the distribution of natural talents is best regarded as a 'common' or 'collective' possession to be shared across society as a whole. Rawls says quite plainly that the 'difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be.' To take this view, Nozick suggests, is to fail to respect the inviolability of persons and the Kantian injunction to treat persons as ends and never as means.

MPP2-163 RAWLS' INDICTMENT OF UTILITARIANISM APPLIES TO HIM

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.436

Rawls' main complaint against utilitarianism is that it may require us to treat some individuals as means to the welfare of others. He writes on the third page of his book: 'Justice does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many.' Justice cannot demand that some accept lower life prospects for the sake of others. The libertarian points out that Rawls is guilty of exactly the same kind of injustice in demanding that those with talent who work hard sacrifice up to the maximum benefit of others. Rawls must simply presuppose that sacrifices toward the top are unobjectionable, while those toward the bottom are not. But then the argument against utilitarianism is misleading at best.

MPP2-164 RAWLS' THEORY OF JUSTICE UNDERMINES INDIVIDUAL DIGNITY

Thomas M. Garrett et al, University of Scranton, HEALTH CARE ETHICS: PRINCIPALS AND PROBLEMS, 1993, p.88.

The second objection is that justice as fairness ultimately denies the dignity of the individual. It is certainly the case that natural differences affect a person's success and happiness. But it is also the case that identifying how these differences affect the person can easily lead to subordinating the dignity of the individual to the convenience of the society. In other words, when a society tries to define "disadvantaged," does it serve its own interest or the interest of human dignity? As we argued in the first chapter, the dignity of the individual rests in part on her uniqueness expressed through personal choices and preferences. By understanding the society's reaction to the natural lottery as an attempt to overcome its effects, justice as fairness comes dangerously close to rejecting the differences implied by these personal choices and preferences in favor a uniformity based on social convenience. To give society the full power to identify what qualifies as an effect of the natural lottery and also the power to correct those inequalities is to give society too much power over the choices and preferences of the individual.

MPP2-165 RAWLS DESTROYS INDIVIDUAL MORAL SPACE

Loren E. Lomasky, Professor of Philosophy at the University of Minnesota, PERSONS, RIGHTS AND THE MORAL COMMUNITY, 1987, p.139-40.

Rawls has failed to show that social control over property is in any way more justifiable than social control over personality. That failure is not surprising. His argument that property is a social asset is explicitly based on the proposition that natural talents- and all else that is morally arbitrary-are a social asset. It follows directly that there is no domain within which an individual enjoys a privileged moral position such that he and he alone is entitled to control anything-including his own activities. Everything pertaining to persons except their personhood, whatever that could be when abstracted from ends, character, abilities, and relations to material possessions, is thoroughly socialized. Moral space has shrunk to zero. Any liberty rights that persons enjoy are theirs not in virtue of their existence as project pursuers with their own lives to lead, but because the social decision process has created and bestowed those rights. The conclusion is thoroughly illiberal. Individuals, insofar as they are recognized as more than bare egos, are the creation of society rather than its creators.

MPP2-166 RAWLS' THEORY IS GENERALLY REJECTED
David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.5

Most of Rawls' critics have exhibited a syndrome that is aptly described by Michael Zuckert: 'Seldom has a book been more thoroughly refuted. Critics, of every philosophical persuasion, from nearly every contemporary political perspective, have found Rawls' premises and assumptions as safe a base for an argument as the San Andreas Fault for a nuclear power plant. They have found the structures built on those foundations about as solid as a Hollywood movie set.

MPP2-167 RAWLS' THEORY IS GENERALLY REJECTED
Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.2

My attempt to develop a systematic and concrete conception of justice based on Rawlsian ideas goes against a popular trend in Anglo-American academia. There is a widespread sense that Rawls's work is in shambles because his critics have shown its foundations to be essentially and irremediably flawed.

MPP2-168 RAWLS' REASONING IS CIRCULAR

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.457

The premise of caring little for primary goods beyond the minima, like the premise regarding ignorance of probabilities discussed in the previous section, is necessary, according to Rawls himself, for the adoption of a maximin strategy to be rational in the original position. The circularity of the full methodology again appears: Rawls is able to derive from the original position the egalitarian principles he wants only by building into it questionable features (such as this peculiar notion of rationality) which lack independent intuitive appeal.

MPP2-169 RAWLS' APPROACH LACKS INTERNAL CONSISTENCY

Gian Singh Sahota, Vanderbilt, JOURNAL OF ECONOMIC LITERATURE, March 1 1978, p.36

Questions are also raised regarding the internal consistency of Rawls's system, in that coercion may be needed to enforce justice, an action that infringes the first principle (liberty).

MPP2-170 RAWLS' APPROACH LACKS INTERNAL CONSISTENCY

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.443

Rawls' inclusion of the right to hold personal property in the list of basic liberties, his belief in the lexical priority of the Principle of Liberty over the Difference Principle, and his assumption that the Difference Principle is nevertheless to guide the distribution of wealth in society, appear inconsistent when considered together by the libertarian.

MPP2-171 RAWLS' METHOD IS OVERLY IDEOLOGICAL

David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.92

Rawls's fundamental motivation, in sum, is ideological in the literal sense, rather than genuinely philosophical. He practically admits as much by indicating at numerous points that he has passed over difficulties in his conception of justice so as to give it the simplicity necessary for it to be universally adopted.

MPP2-172 RAWLS' METHOD IS OVERLY IDEOLOGICAL

David Schaefer, professor of political science, Holy Cross, JUSTICE AND TYRANNY?, 1979, p.38

Rawls's sense of justice embodies not a universal moral attitude, but only a particular ideology that the author has presupposed.

MPP2-173 RAWLS FAILS TO CRITICALLY EVALUATE HIS PREMISES

David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.39

Far from being an innate, primary, or irreducible phenomenon, Rawls's sense of justice simply embodies a loose and popularized form of the teachings of the great social contract thinkers. By treating this sense as if it were primary, Rawls omits to examine critically the grounds on which his beliefs rest. In order to do this one would have to return to the writings of his far more thoughtful predecessors.

MPP2-174 RAWLS JUST RATIONALIZES CONTEMPORARY BELIEFS

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.121

Rawls's earliest critics were quick to note two features of his theory of justice. First, they said, he has provided not so much a universal theory of justice as a rationalization of some modern beliefs. Steven Lukes, for example, in a review in the OBSERVER in 1972, suggested that the conclusions of the parties in the Original Position were unsurprising only because 'the motivation, beliefs and indeed the very rationality of Rawls's 'individuals' are recognizably those of some modern, Western, liberal, individualistic men.' And similar points were made by Philip Pettit, David Miller, and Milton Fisk, to name just a handful of commentators.

MPP2-175 RAWLS'S PRINCIPLES ARE TOO VAGUE TO APPLY

Samuel Brittan, assistant editor, FINANCIAL TIMES of London, OXFORD ECONOMIC PAPERS, 1983, p.346

The Rawlsian principles are subject to widely varying interpretations. Rawls has been attacked for being everything from a Glastonian free market liberal to a ruthless egalitarian--and both extremes of criticism find sustenance. 'Equal liberties' can mean different things according to whether the emphasis is on 'liberties' or on 'equal.' The system is also much less collectivist if it is regarded as a guide to basic institutions than to current government policy.

MPP2-176 RAWLS' PRINCIPLES ARE TOO VAGUE TO APPLY

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.6-7

Through the first principle of justice, Rawls requires that social institutions protect the freedom and integrity of the person. How do we judge whether this requirement is met? Must we look at infant mortality rates and the incidence of violent crimes? Is it relevant whether some among the poor are malnourished or starving? Rawls does not say. His silence facilitates a consensus of sorts: many can endorse the abstract requirement, interpreting it broadly or narrowly according to taste. But this is the wrong sort of consensus--or, rather, no consensus at all. To provide a shared basis for agreement on social institutions, Rawls's conception of justice must include answers to questions of this sort, and obviously, the relevant specifications must be provided in the philosophical core of the conception itself.

MPP2-177 RAWLS SEVERELY LIMITS FREEDOM

David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.77

His professions to the contrary notwithstanding, Rawls severely denigrates liberty. Although liberty in the just society is to be equal among members of that society, Rawls himself stands outside and above this system, constraining the freedom of the equal citizenry and determining its content in the name of what he considers to be 'the nature of the self as a free and equal moral person.'

MPP2-178 RAWLS DENIES FUNDAMENTAL RIGHTS

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.452-53

If we recognize a fundamental right of each individual over his own person, it seems that this might include a right to exercise his natural abilities and a right to the fruits of their exercise under free agreements. As Robert Nozick points out, the logical outcome of the nullification of differential abilities by the veil of ignorance in the original position might be a call for more equitable redistribution of natural assets themselves, i.e. the redistribution of arms, legs and brains (as soon as technology made this practicable and painless). But this runs counter to our intuitive recognition of each person's right over his own body as perhaps the most fundamental right of all.

MPP2-179 RAWLS DENIES ECONOMIC FREEDOM

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.432

The right's general objection to Rawls is that his principle for the distribution of economic goods places too great an emphasis upon the value of equality at the expense of other values and rights, especially the value of economic freedom and the right to property. Libertarians recognize a right to keep what one has earned and to contract freely to exchange it or give it away. Rawls' claim that an unequal distribution of economic goods is justified only if it is to the advantage of society's worst-off individuals conflicts with property rights and economic freedoms stressed by libertarians.

MPP2-180 RAWLS VIOLATES PROPERTY RIGHTS

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.443

According to the libertarian, the right to property is violated with every forced transfer of legitimately acquired good to others, and violated to the ultimate degree when such transfers are to continue up to maximum benefits for those who acquire least. The liberty to hold personal property means nothing without the liberty to transfer it as one pleases, and this is severely limited by the forced redistribution required by the Difference Principle.

MPP2-181 RAWLS VIOLATES FREEDOM OF ASSOCIATION

Allen Buchanan, University of Minnesota, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.34

The Difference Principle also limits freedom by ruling out any and every institution of association--and hence any constitutive role in any such institution or association--whose existence is not compatible with the establishment of that particular institutional arrangement which maximizes the prospects of the representative worst off man.

MPP2-182 RAWLS VIOLATES OCCUPATIONAL FREEDOM

Allen Buchanan, University of Minnesota, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.33

The extreme generosity demanded by the Difference Principle would itself be intolerable from the standpoint of individual freedom. In particular, the implementation of the Difference Principle would place universal restrictions on the individual's freedom to choose an occupation and on his freedom to engage in what John Stuart Mill called 'experiments of living.'

MPP2-183 RAWLS VIOLATES OCCUPATIONAL FREEDOM

Allen Buchanan, University of Minnesota, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.34

There is no freedom of occupational choice under Rawls' Principle of Greatest Equal Liberty to prevent such conscription for the sake of realizing that institutional arrangement which maximizes the prospects of the representative worst-off man.

MPP2-184 EXTREME COERCION WOULD BE REQUIRED BY RAWLS' THEORY

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.432-33

It is argued by those on the right that for a society to redistribute wealth and power, until those on the bottom of the social and economic ladder have the most they possibly could have, would involve extreme coercion of those in other social positions. The expropriation of wealth for such massive redistribution would amount to an extreme violation of natural property rights. When the goal of equality is emphasized to this degree, those who are most productive must be sacrificed to those who are least productive.

MPP2-185 RAWLS' SYSTEM REQUIRES CONTINUOUS INTERFERENCE IN PEOPLE'S LIVES

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.88

Nozick objects that if Rawls's theory, or indeed any structural ideal of justice, is used to regulate society, then it will have the intolerable effect of requiring the state to interfere continually in people's doings. No such ideal 'can be continuously realised', he says, 'without continuous interference with people's lives'.

MPP2-186 TYRANNY WOULD RESULT FROM RAWLS' PRINCIPLES

David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.71

For all his purportedly liberal intentions, we see that Rawls is finally driven, in advancing his project, to adopt the language of tyranny. By no means short of a tyranny could anyone hope to insatiate a social order irrespective of its present members' desires and needs, or dismiss desires for unjust things as defined by Rawls's scheme-- such as the desire for more social esteem than other men receive--as of no value, and thereby prevent them from being satisfied.

MPP2-187 RAWLS' PRINCIPLES VIOLATE AUTONOMY

Robert Nozick, professor of philosophy, Harvard, ANARCHY, STATE, AND UTOPIA, 1974, p.214

So denigrating a person's autonomy and prime responsibility for his actions is a risky line to take for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings; especially for a theory that founds so much (including a theory of good) upon person's choices. One doubts that the unexalted picture of human beings Rawls' theory presupposes and rests upon can be made to fit together with the view of human dignity it is designed to lead to and embody.

MPP2-188 RAWLS' PRINCIPLES JUSTIFY REDISTRIBUTIVE ATROCITIES

Robert Nozick, professor of philosophy, Harvard, ANARCHY, STATE, AND UTOPIA, 1974, p.206

An application of the principle of maximizing the position of those worst off might well involve forcible redistribution of bodily parts ('You've been sighted for all these years; now one--or even both--of your eyes is to be transplanted to others'), or killing some people early to use their bodies in order to provide material necessary to save the lives of those who otherwise would die young.

MPP2-189 RAWLS' PRINCIPLES DEHUMANIZE INDIVIDUALS

David Schaefer, professor of political science, Holy Cross, JUSTICE OR TYRANNY?, 1979, p.76

Wanting a society that will make him feel comfortable and secure and otherwise leave him alone, Rawlsian man seeks a world in which there will be, to use the words of Nietzsche's Zarathustra, 'No shepherd and one herd.' Despite its pretense to freedom, such a society is not really free. Like Marx's vision of communist society, it requires the tyrannical remolding of human nature so as to close off all human possibilities except that of being a last man--a being who is devoid of all those qualities that make man distinctively human.

MPP2-190 RAWLS' THEORY OF THE PERSON IS TOO ABSTRACT

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.102

In Rawls's theory, this injunction is respected only by pressing so hard on 'the distinction between men and their talents, assets, abilities and special traits' that, in the end, it becomes questionable whether a coherent conception of a person remains--now to be treated as an end and never as a means. 'Why we, thick with particular traits should be cheered that (only) the thus purified men within us are not regarded as means is also unclear.'

MPP2-191 RAWLS' THEORY IGNORES MERIT

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.439

Our intuition is that the contributions of individuals are not to be treated as common social assets to benefit social noncooperatives. At a certain point at least, equality as a value must be balanced against liberty and merit. Rawls ignores merit in his quest to negate differences in natural endowments.

MPP2-192 MERIT IS AN IMPORTANT ELEMENT OF JUSTICE

Alan Goldman, University of Miami, JOHN RAWLS' THEORY OF SOCIAL JUSTICE, 1980, p.437

It can still be maintained that to force those who produce more to sacrifice up to maximum benefits for those who produce least and end up on the bottom of the social scale, is to press an egalitarian bias at the expense of other values intuitively relevant to justice. There is foremost the problem of desert: we naturally feel that those who make greater efforts in a socially productive way deserve to receive a greater share of the social product to which they contribute. And this seems a basic of not the basic distributive consideration. Rawls it seems has conflated the concept of distributive justice at the base level into that of equality alone.

MPP2-193 RAWLS UNJUSTLY DISADVANTAGES THE MORE TALENTED

Robert Nozick, professor of philosophy, Harvard, ANARCHY, STATE, AND UTOPIA, 1974, p.194-95

It is difficult to avoid concluding that the LESS well endowed gain MORE than the better endowed do from the scheme of general cooperation. What follows from this conclusion? I do NOT mean to imply that the better endowed should get even more than they get under the entitlement system of general social cooperation. What DOES follow from the conclusion is a deep suspicion of imposing, in the name of fairness, constraints upon voluntary social cooperation (and the set of holdings that arises from it) so that those already benefiting most from this general cooperation benefit even more!

MPP2-194 RAWLS UNJUSTLY DISADVANTAGES THE MORE TALENTED

David Schaefer, professor of political science, Holy Cross, *JUSTICE OR TYRANNY?*, 1979, p.76

The underlying intention of Rawls's account of justice--which he seems unable to acknowledge to himself, any more than admit it to his readers--is to enslave men of superior talent or industry to the service of the least advantaged, by convincing THEM that it is good to be just in his sense--even though the theory of primary goods implicitly denies this.

MPP2-195 RAWLS' NOTION OF 'DESERT' IS ABSURD

David Schaefer, professor of political science, Holy Cross, *JUSTICE OR TYRANNY?*, 1979, p.55

In order to recognize the absurdity of Rawls's conception of desert, one need only raise the question of why, in his endeavor to redress nature's injustice, he stops at equalizing the distribution of goods among HUMAN BEINGS. If no individual man deserves to enjoy the fruit of his talents and labors, why should the human race enjoy goods which the other animals, by virtue of their natures, do not? Should we not dedicate humanity to the service of the beasts, who were 'unjustly' treated through nature's failure to give them the power of reason that men enjoy?

MPP2-196 PEOPLE ARE ENTITLED TO THEIR NATURAL ASSETS

Robert Nozick, professor of philosophy, Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.226

Whether or not people's natural assets are arbitrary from a moral point of view, they are entitled to them, and to what flows from them. If nothing of moral significance could flow from what was arbitrary, then no particular existence could be of moral significance, since which of the many sperm cells succeeds in fertilizing the egg is (so far as we know) arbitrary from a moral point of view.

MPP2-197 RAWLS IS OVERLY EGALITARIAN

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.458

The criticisms that were included centered on the claim that those above average in talents, effort or productivity are treated unjustly by the entire Rawlsian system. In light of the systematically brutal treatment of those on the bottom of the social scale in the history of this country, this complaint against Rawls may appear at first blush and in historical context relatively inconsequential. But given that he is interested primarily in developing a timeless theory of justice, a slightly closer reading perhaps does support the claim that he goes too far in the direction of complete egalitarianism.

MPP2-198 RAWLS IS OVERLY EGALITARIAN

Alan Goldman, University of Miami, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.437

Rawls it seems has conflated the concept of distributive justice at the base level into that of equality alone. As one critic points out, Rawls' principle appears more egalitarian than even Marx's (as summarized in the slogan: 'From each according to his ability; to each according to his need.') While Marx recognized differences arising from need, and required each to contribute to the social product up to the maximum of his ability, Rawls refuses to accord a central place in his theory to differential needs and is willing to maximize benefits to the worst off, likely to be the least productive, without demanding maximal effort or contribution relative to ability from them.

MPP2-199 RAWLS IGNORES HISTORICAL ENTITLEMENTS

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.84

Nozick's basic objection is that whereas the libertarian theory acknowledges, as he sees it, that things are already always owned, the Rawlsian theory treats the goods whose distribution raises questions of justice as manna from heaven: as goods to which no one in particular has any entitlement from the point of view of the original position. 'Things come into the world already attached to people having entitlements over them. From the point of view of the historical entitlement conception of justice in holdings, those who start afresh to complete 'to each according to his . . .' treat objects as if they appeared from nowhere out of nothing.'

MPP2-200 RAWLS' IDEAL WOULD LEAD TO SOCIAL UNIFORMITY

Tibor Machan, Professor of Philosophy, University of Calgary, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.79

The supremacy of the virtue of fairness, too, has been an underlying ideal in this kind of social philosophizing. It is unfair for the poor to be poor, the rich to be rich, the crippled to be crippled, the beautiful to be beautiful, the lucky to be lucky, etc. In Rawls and Marx it is even unfair for the virtuous to benefit from their virtue since moral character is also accidental or conventional, respectively. The implication is that ideally all these differences would be eradicated in human social life where there is an option to do so. If justice actually requires it, then it is legally mandatory, not merely a matter of moral aspiration, to impose uniformity on all members of society.

MPP2-201 RAWLS DOESN'T TREAT THE BETTER OFF AS ENDS

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.48

Nozick is able to make the telling point that the fundamental flaw Rawls finds in utilitarianism—the failure to rule out “even the tendency to regard men as means to one another’s welfare” can be found in Rawls’s own principle. The maximin rule treats the better-off as a means to the welfare of the worst-off. Indeed one could say (though Nozick does not) that the tendency to treat people as a means to another’s end is greater under the maximin rule than under utilitarianism, since a utilitarian would give equal consideration to everyone’s interests, whereas the maximin rule forbids giving any consideration to the interests of the better-off, allotting them goods solely in so far as doing so assists the worst-off.

MPP2-202 THE WELL-OFF IN SOCIETY HAVE NO REASON TO ACCEPT RAWLS' PRINCIPLES

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.47

Nozick has shown that Rawls’s case for the maximin principle rests on an unjustifiable asymmetry between the worst-off and the best-off in a society. Rawls argues that the worst-off could accept the justice of, and cooperate in, a society governed in accordance with the maximin principle, but not one governed according to, say, the principle of utility. This is because in any society governed according to any principle other than the maximin principle there would always be a group of people at least as badly off as the worst-off in a maximin ruled society. Provided the maximin rule has been properly applied, this is necessarily true; but, Nozick insists, Rawls glosses over the equally important mirror-image question: why should the better-off accept the justice of and cooperate in the society?

MPP2-203 RAWLS' REJECTIONS OF ENTITLEMENTS VIOLATES OUR MORAL INTUITIONS

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.47

The devastating critique of Rawls in *Anarchy, State, and Utopia*, directed especially at the case for redistribution in accordance with the maximin rule, must very nearly complete the demolition of Rawls’s impressive structure. In part, the force of Nozick’s criticisms depends on Rawls’s own desire that his theory account for and systematize the particular judgments about justice that we ordinarily make. For Rawls, finding a plausible general theory that confirms most of our ordinary judgments of what is just is the aim of any theory of justice. But as Kenneth Arrow has noted in a discussion of Rawls’s theory, the most widely held intuition about distributive justice—which Arrow and most other teachers find it difficult to dissuade introductory students from thinking completely self-evident—is the view that an individual is entitled to what he creates. This view is, of course, much closer to that of Nozick than to Rawls’s.

MPP2-204 RAWLS UNDERMINES THE BASIS OF LIBERALISM WHEN HE ELIMINATES NON-ARBITRARY MORAL FACTORS

Loren E. Lomasky, Professor of Philosophy at the University of Minnesota *PERSONS, RIGHTS AND THE MORAL COMMUNITY* 1987, p.138

In pursuit of the elimination of that which is morally arbitrary, Rawls has unfortunately, undercut the supporting structures on which a viable liberalism must rest. It is arbitrary that A has the abilities, character, and projects that he does, and thus it is arbitrary that A has reason to pursue those ends which are his rather than those ends which are B’s. Rawls would preclude A from demanding a liberty to serve those ends which are distinctively his own because Rawls will not grant that contingent facts carry moral weight that is prior to and determinative of justice in social arrangements.

MPP2-205 RAWLS' ATTITUDE IS TOO ABSTRACT

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.112

This attitude lies at the heart of the communitarian hostility to Rawlsian liberalism. For communitarians, Rawls has asked that the practices of the community be examined in the cold light of the philosopher’s reason, and evaluated against the abstract and unreal standards he has constructed and offered as principles. But to their mind Rawls has not offered a persuasive answer to the question he himself posed in *A THEORY OF JUSTICE*: why should we take any interest, moral or otherwise, in the conclusions of the original position? These conclusions amount to nothing more than the imaginative constructions of the philosopher.

MPP2-206 RAWLS' VIEW OF THE PERSON DENIES OUR SOCIAL NEEDS

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xvii

On the communitarian view, we are constituted as persons having a particular character and set of values by the communities in which we are raised. There is no stripped-down person whose ‘choices’ can really count as justificatory for us. Rawls’ ‘free’ and ‘equal’ moral agent is not the appropriate idealization of what constitutes us as persons (since we are essentially shaped by our communities), and it is motivationally unconnected to us.

MPP2-207 RAWLS' VIEW OF THE PERSON DENIES OUR SOCIAL NATURE

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.104

What Sandel is attacking is Rawls’s (and liberalism’s) fundamental contention that a community is the product of association by independent individuals, and that the worth of that community is to be estimated by the *JUSTICE* of the terms upon which those individuals associate. Sandel, like all communitarians, wants to maintain that it makes no sense to think of a community in this way because the very existence of individuals capable of agreeing to form associations, or assenting to terms of agreement, *PRESUPPOSES* the existence of a community.

MPP2-208 IDENTITY RELIES ON COMMUNITY

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.67

And this merely confirms what Sandel takes to be obvious in its own right, namely that our sense of identity is inseparable from an awareness of ourselves as members of a particular family or class or community or people or nation, as bearers of a specific history, as citizens of a particular republic; and that we look to participation in the political realm as a way in which we can develop and refine our sense of ourselves by developing and refining forms of community with which we can be proud to identify. In other words, the restrictions of Rawlsian theory ensure that '... it forgets the possibility that when politics goes well, we can know a good in common that we cannot know alone.'

MPP2-209 RAWLS' INDIVIDUALISM UNDERMINES COMMUNITY

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.52

Sandel's third reason for concern is in effect a more specific version of his second worry: this is his belief that Rawls's conception of the self commits him to an impoverished understanding of POLITICAL community. As we have just seen, on Rawls's view a sense of community describes a possible aim of antecedently individuated selves, not an ingredient of their identity.

MPP2-210 RAWLS' VIEW OF THE SELF IS TOO DISEMBODIED

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.98

The problem raised by Sandel is that Rawls's conception of a moral subject as a self totally detached from its empirically-given features is inadequate. Such a conception of the person would amount to nothing more than an abstraction, a 'radically disembodied' subject which is the polar opposite of the 'radically situated' subject. Such a subject would be incapable of rational choice. Shorn of all experience, it would lack motivation and have no capacity for deliberation. The price of such complete detachment is arbitrariness. And in the selection of principles of justice, arbitrariness is hardly a virtue.

MPP2-211 RAWLS IGNORES OUR CULTURAL PARTICULARITY

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.137-8

This distinction is important because it reveals that in this earlier article Walzer is really objecting to two separate aspects of Rawls's theory, which he takes together. On the one hand, what he dislikes is the general failure to attend to cultural particularity, the attempt to transcend his fellow citizens' 'conventions, traditions and expectations'. On the other, the specific focus of his objection is the way in which such a disattention leads to a political theory framed in terms of rights which then serve to limit the scope available for popular decision-making.

MPP2-212 DETACHMENT FROM SHARED MEANINGS IS UNDEMOCRATIC

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.134-5

Here, Walzer's worry seems to be that the kind of political philosophy that seeks detachment from social meanings and so from the particular community of which the philosopher is a member will not only result in principles of justice that are impossible to apply in concrete cases; it will also fail to accord proper weight to the opinions of the philosopher's fellow citizens as those are embodied in the present social meanings of specific goods. And in so doing it will reveal the sense in which that kind of political philosophy is undemocratic, or at least prone to undemocratic application.

MPP2-213 RAWLS' SOCIAL INDIVIDUALISM UNDERMINES HIS THEORY

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.94-95

And here MacIntyre does attempt to argue explicitly that Rawls's conception of politics and political theory is vulnerable to his attacks. His ground for accusing Rawls of endorsing a political variant of this asocial individualism seems to be the role of the original position in Rawls's argument, and in particular the fact that this device of representation is a modern-dress version of the social contract, which encourages us to think of the structure of society as something about which people who already possess certain interests can come together and negotiate under certain other conditions of voluntarily imposed ignorance about themselves.

MPP2-214 RAWLS' ASOCIAL INDIVIDUALISM UNDERMINES HIS THEORY

Stephen Mulhall and Adam Swift, fellows at Oxford, LIBERALS AND COMMUNITARIANS, 1992, p.96

So, for MacIntyre, Rawls's asocial individualism ensures that he will be incapable of giving his theory of justice the rational grounding it requires, and his theory will accordingly be incapable of forming the substance of a political consensus in his society--of filling the very vacuum that leads him to forbid himself any reference in his political theorizing to specific conceptions of the good. MacIntyre thus associates Rawls with a long tradition of individualistic political thought, in which it seems as if '... we had all been shipwrecked on an uninhabited island with a group of other individuals, each of whom is a stranger to me and to all the others.'

MPP2-215 ASOCIAL INDIVIDUALISM UNDERMINES COMMUNITY

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.95

MacIntyre's claim is thus that, by positing the original position as an appropriate device of representation for thinking about justice, Rawls reveals his view that entry into society ought ideally to be envisaged as the voluntary act of rational individuals with prior interests whose question is 'What kind of social contract is it reasonable for me to enter into with these others?' Such a vision would, MacIntyre claims, entirely exclude the possibility that society is or might be a community whose primary bond is a shared understanding both of the good for human beings and of the good of that community, and within which individuals identify their primary interests in reference to those goods.

MPP2-216 SHARED COMMUNAL MEANINGS ARE NEEDED FOR RATIONALITY

Stephen Mulhall and Adam Swift, fellows at Oxford, *LIBERALS AND COMMUNITARIANS*, 1992, p.95

But, of course, from MacIntyre's perspective, it is only by working to establish and maintain precisely the sort of shared communal understandings of the good that Rawls explicitly excludes from our deliberations about justice that we can confer any rationality or objectivity upon the course of those deliberations. For it is only by introducing a conception of desert in relation to the common tasks of the community in pursuing shared goods that we can provide the basis for rational judgments about social virtue and social injustice.

MPP2-217 THE ORIGINAL POSITION IS TOO ABSTRACT TO LEAD TO PRINCIPLES OF JUSTICE

Michael J. Sandel, Professor of Government at Harvard, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p. 27-28.

A second set of objections would argue, on the other hand, that the original position achieves too much detachment from human circumstances, that the initial situation it describes is too abstract to yield the principles Rawls says it would, or for that matter, any determinate principles at all. Such an objection would most likely take issue with the veil of ignorance on the grounds that it excludes morally relevant information, information necessary to generate any meaningful results. It would argue that the notion of the person embedded in the original position is too formal and abstract, too detached from contingency to account for the requisite motivations.

MPP2-218 RAWLS COVERTLY INTRODUCES CONTROVERSIAL PRINCIPLES INTO THE ORIGINAL POSITION

Michael J. Sandel, Professor of Government at Harvard, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.30.

But an empiricist understanding of the original position seems deeply at odds with deontological claims. For if justice depends for its virtue on certain empirical preconditions, it is unclear how its priority could unconditionally be affirmed. Rawls says that he borrows his account of the circumstances of justice from Hume. But Hume's circumstances cannot support the priority of right in the deontological sense. They are after all empirical conditions.

MPP2-219 RAWLS' VIEW OF PRIMARY GOODS IS BIASED BY WESTERN NOTIONS OF THE GOOD

Michael J. Sandel, Professor of Government at Harvard, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.27.

One set of objections would question whether the original position achieves genuine detachment from existing wants and desires. This sort of objection would be likely to fix on the account of primary goods or some other aspect of the thin theory of the good and argue that it is biased in favor of particular conceptions of the good and against others. It might contest Rawls's claim that the list of primary goods really is equally or nearly equally valuable to all ways of life. It might question the thinness of the thin theory of the good, claiming that it undermines the fairness of the initial situation, that it introduces assumptions not universally shared, that it is implicated too deeply in the contingent preferences of, say, Western liberal bourgeois life plans, and that the resulting principles are the product of prevailing values after all.

MPP2-220 UTILITARIANISM WOULD BE SELECTED IN THE ORIGINAL POSITION

Holly Smith Goldman, University of Illinois, *JOHN RAWLS' THEORY OF SOCIAL JUSTICE*, 1980, p.385

Most theorists, including Rawls, agree that when probabilities can be taken into account, it is rational to choose the alternative which maximizes one's expected utility. Thus persons in this version of the original position would follow a strategy of maximizing their expected utility, and this dictates choosing a principle of justice whose public recognition would maximize average utility in the society they will enter.

MPP2-221 THE DIFFERENCE POSITION VIOLATES UTILITY

J.J.C. Smart, Australian National University, *NEW DIRECTIONS IN ETHICS*, 1986, p.37

In connection with Rawls I mention the fact that he bases his theory on the principle of 'maximin.' Out of various alternative actions, each with various possible outcomes, the maximin strategy is to choose the one with the most favorable worst possible outcome. In contrast, a utilitarian will maximize expected utility. A utilitarian will also disagree with Rawls's 'difference principle'--the principle of doing only that which will make the worst off person in a society better off. This can conflict with maximizing total expected utility.

MPP2-222 LAB EXPERIMENTS FIND A CONSENSUS VIEW OF JUSTICE

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.1

We contend that ethicists have been unsuccessful because they have been using an inappropriate methodology. They have been addressing the problem in the wrong way. Moreover, we think that adequate answers DO exist and can be identified. Our use of experiments to generate consensus on questions of distributive justice has led us to conclude that the experimental laboratory provides a method for making cumulative progress in ethics. This optimism is founded in the results we have generated, but it is also based on everyday experience. After all, although it is often hard to get a consensus on what is fair, it is usually easy to get agreement on what is grossly unfair.

MPP2-223 THE LAB SITUATION PRODUCES IMPARTIALITY

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.4

To achieve impartiality, we advocate empirical techniques that can change individuals' perspectives and aid them in a search for distributive justice. We advocate placing people in controlled laboratory conditions designed to invoke impartiality and to identify what constitutes distributive justice. Because experiments are a novel way of approaching ethical questions, a methodological discussion precedes our analysis of the substantive problem of distributive justice. In it we argue for moving ethical theorizing out of the armchair and into the laboratory.

MPP2-224 THE EXPERIMENTAL APPROACH INTRODUCES REAL INDIVIDUAL VALUES

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.17

One of the major strengths of the experimental approach is its capacity to introduce real individual values. We, with the help of our 'naive' subjects, have concluded that the question of distributive justice involves competing claims of entitlements, need, and the desirability of preserving incentives. If an ethically problematic situation involves a conflict between competing values, then the strength and weight of those values have to be taken into consideration in the determination of what is fair. The experimental method provides that device.

MPP2-225 GROUP JUDGMENTS ARE SUPERIOR TO ONE PHILOSOPHER'S

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.18

It is difficult to project one's own values and expectations into situations that have consequences for others. It is even more problematic when those others have life experiences, values, and goals that we can only dimly imagine. A single philosopher, with the best of intentions, trying to find a fair rule to govern the future lives of diverse individuals can make serious miscalculations. Even the best efforts to be fair and impartial may fail because of an inability to consider properly the real perspectives and needs of others.

MPP2-226 GROUP JUDGMENTS ARE SUPERIOR TO ONE PHILOSOPHER'S

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.4-5

The failure of Harsanyi and Rawls to reach agreement can be attributed to a weakness in their methodology. By arguing from their individual and particular points of view, they are unable to supply the contextual richness necessary to provide the fine balance among group members' interests, and hence they cannot deduce definitive and convincing results.

MPP2-227 IN LAB EXPERIMENTS, RAWLS' PRINCIPLES WERE REJECTED

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, *CHOOSING JUSTICE*, 1992, p.58

The principle chosen in the experiments is supportive of neither Rawls's nor Harsanyi's conjecture. The experiments demonstrated an almost total lack of support for the difference principle. Specifically, in only one of the eighty-one experiments in which the groups made a choice did the participants decide to maximize the floor. Indeed, it was the least popular principle!

MPP2-228 A FLOOR CONSTRAINT IS PREFERRED TO MAXIMIN

Norman Frolich and Joe Oppenheimer, professor of public policy, University of Manitoba, and professor of government, University of Maryland, CHOOSING JUSTICE, 1992, p.98
Clearly the floor constraint is the runaway most popular principle. It receives first-place ranking from 57 percent of the subjects. Maximum income is a distant second, and, perhaps surprisingly, Rawls's principle--maximizing the floor income--is dead last. It receives only 10 percent of the subjects' first rankings.

MPP2-229 RAWLS' THEORY IS DEONTOLOGICAL

Michael J. Sandel, professor of government, Harvard, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.15
Like Kant, Rawls is a deontological liberal. His book takes the main thesis of the deontological ethic as its central claim. That this claim has received little direct discussion in the voluminous critical literature on A THEORY OF JUSTICE may attest to its fixed place in the moral and political assumptions of the time. It concerns not the principles of justice but the status of justice itself. It is the assertion that both opens the book and concludes it, the core conviction Rawls seeks above all to defend. It is the claim that 'justice is the first virtue of social institutions', the single most important consideration in assessing the basic structure of society and the overall direction of social change.

MPP2-230 RAWLS' THEORY IS DEONTOLOGICAL

Chandran Kukathas and Philip Pettit, professors, Australian National University, RAWLS, 1990, p.72
One general way of stating Rawls's attitude here, and he frequently resorts to it, is to say that he gives the right priority over the good. We take him to mean by that, primarily, that the basic structures he is willing to consider all tie social agents and arrangements to behaving in accordance with certain public rules, doing what the rules identify as right, and refuse to allow them to be influenced by considerations as to what the good--even the good of having the rules maximally fulfilled--requires. His is thus a deontological rather than a teleological or consequential theory of justice.

MPP2-231 RAWLS' DEONTOLOGICAL APPROACH UNDERMINES HIS THEORY

Michael J. Sandel, professor of government, Harvard, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.14
This essay argues that Rawls' attempt does not succeed, and that deontological liberalism cannot be rescued from the difficulties associated with the Kantian subject. Deontology with a Humean face either fails as deontology or recreates in the original position the disembodied subject it resolves to avoid. Justice cannot be primary in the deontological sense, because we cannot coherently regard ourselves as the kind of beings the deontological ethic--whether Kantian or Rawlsian -- requires us to be.

MPP2-232 RAWLS' THEORY IS BROADLY CONSEQUENTIALIST

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.43
To sum up, by defining the right as 'maximizing the thin good'-- that is, as demanding that inequalities be arranged so as to optimize the worst representative share of social primary goods--Rawls's conception of justice reflects a broadly consequentialist approach. Feasible alternative basic structures are to be assessed by reference to the distribution of social primary goods each of them tends to produce, regardless of the extent to which this distribution is established or engendered.

MPP2-233 RAWLS' THEORY IS BROADLY CONSEQUENTIALIST

Thomas Pogge, professor of philosophy, Columbia, REALIZING RAWLS, 1989, p.39
Rawls takes benefits and burdens of both kinds to be on a par. It makes no difference to the assessment of an institutional scheme whether given deprivations foreseeably existing under it are established or engendered. Either way, their incidence would be, in a broad sense, a consequence of (the choice of) a particular institutional scheme. Let us call a criterion of justice BROADLY CONSEQUENTIALIST if and only if it assesses institutional schemes exclusively on the basis of their consequences, broadly conceived, that is, if it takes equal account of goods and ills established and of equivalent goods and ills engendered by such schemes.

MPP2-234 RAWLS REGARDS CONSIDERATIONS OF CONSEQUENCES UNAVOIDABLE

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.95
But even so, the soundness of the theory of justice is shown as much in its consequences as in the prima facie acceptability of its premises. Indeed, these cannot be usefully separated and therefore discussion of institutional questions, particularly in Part Two, which may seem at first unphilosophical, is in fact unavoidable.

MPP2-235 RAWLS REGARDS CONSIDERATION OF CONSEQUENCES AS UNAVOIDABLE

John Rawls, professor of philosophy, Harvard, A THEORY OF JUSTICE, 1971, p.30
The last contrast that I shall mention now is that utilitarianism is a teleological theory whereas justice as fairness is not. By definition, then, the latter is a deontological theory, one that either does not specify the good independently from the right, or does not interpret the right as maximizing the good. (It should be noted that deontological theories are defined as non-teleological ones, not as views that characterize the rightness of institutions and acts independently from their consequences. All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.

MPP2-236 RAWLS SEEKS CONGRUENCE OF THE RIGHT AND THE GOOD

Norman Daniels, philosopher, Tufts, *READING RAWLS*, 1989, p.xviii

Nevertheless, we should read Rawls' constraints concerning feasibility--principles of justice must constitute a stable social arrangement, given the proper level of moral education--as an effort to produce coherence or congruence between what is right and what is good.

MPP2-237 RAWLS' INDIRECT CONSEQUENTIALISM IS COMPATIBLE WITH DEONTOLOGY

Thomas Pogge, professor of philosophy, Columbia, *REALIZING RAWLS*, 1989, p.42

In his second attempt Rawls has succeeded in taking a broadly consequentialist approach to the choice of social institutions (and natural duties) that is compatible with a deontological assessment of actors participating in these institutions (bound by these natural duties). The entire conception is a successful version of INDIRECT consequentialism--successful in that the broadly consequentialist justification of the ground rules does not corrupt the strictly deontological status these ground rules are to have for (individual and collective) actors.

MPP2-238 RAWLS' THEORY APPLIES ONLY TO THE BASIC STRUCTURE OF SOCIETY

Thomas Pogge, professor of philosophy, Columbia, *REALIZING RAWLS*, 1989, p.25

Rawls's criterion is also inapplicable to the design and assessment of the institutional structure of associations (such as firms) and subsystems (such as national education systems), no matter how large these may be. This must be so on pain of inconsistency, as there is every reason to believe that the global criterion and the local criteria are not cosatisfiable. The entire self-contained social system can be organized so as to optimize the worst position it tends to generate, or each part of this social system might be organized so as to optimize the worst position within that part, but we cannot have it both ways, because the two requirements would in practice conflict with each other.

MPP2-239 RAWLS' THEORY ONLY APPLIES TO THE BASIC STRUCTURE OF SOCIETY

John Rawls, professor of philosophy, Harvard, *A THEORY OF JUSTICE*, 1971, p.7

For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions.

MPP2-240 RAWLSIAN JUSTICE APPLIES INTER-GENERATIONALLY

Chandran Kukathas and Philip Pettit, professors, Australian National University, *RAWLS*, 1990, p.51

There is one other important constraint. Justice does not permit one generation to take advantage of its descendants by simply consuming its wealth. A just savings principle is a corollary of the difference principle, requiring one generation to save for the welfare of future generations. Interpreted through the contract doctrine, however, there is an upper bound on how much a generation can be asked to save for future people.

MPP2-241 RAWLSIAN JUSTICE DOESN'T APPLY INTERNATIONALLY

Thomas Pogge, professor of philosophy, Columbia, *REALIZING RAWLS*, 1989, p.10

Rawls's most important conservative stipulation is that his focus on major social institutions is to exclude the institution of the nation state. Rawls follows tradition in treating national borders as moral watersheds. Only within a national territory and the population it defines does he view the focus on the least advantaged as appropriate.

MPP2-242 RAWLSIAN CONTRACTORS ACCEPT PATERNALISTIC PRINCIPLES

John Kultgen, University of Missouri-Columbia Philosopher, *SOUTHERN JOURNAL OF PHILOSOPHY*, 1992, p.112-3

Murphy, adopting Rawls, argues that rational contractors in the original position under the veil of ignorance would negotiate arrangements for their own paternalistic care under various contingencies: 'Rational men, valuing primary goods, would see (a) that these goods could become compromised if a person became incompetent in any of the ways specified in this paper and (b) that no person has a guarantee that he will not become incompetent in any of the ways specified. Thus rational men, desiring above all else to protect themselves against such losses, might well agree to a principle which allowed a carefully limited paternalism--i.e., paternalism which would dictate interference in just those cases of incompetence in which primary goods are in grave and irreversible danger and in no other cases. Rawls believes that rational contractors would adopt provisions for paternalism despite the fact that they could not know whether they would ever be applied to them.

MPP2-243 RAWLS ACCEPTS SOFT PATERNALISM

Marion Smiley, SUNY-Albany political scientist, *JOURNAL OF VALUE INQUIRY*, 1989, p.317

John Rawls invokes primary goods, i.e. those things 'which it is rational to want whatever else one wants' in an effort to concretize his two principles of justice. While his primary concern is with these two principles, Rawls does discuss paternalism briefly. In a passage reminiscent of Dworkin's essay, he writes that: 'paternalistic intervention must be justified by the evident failure or absence of reason and will; and it must be guided by the principles of justice and what is known about the subject's more permanent aims and preferences, or by the account of primary goods.

MPP2-244 RAWLS PERMITS PATERNALISM

James Bakalar and Lester Grinspoon, Harvard Medical School Psychiatry Professors, *DRUG CONTROL IN A FREE SOCIETY*, 1988, p.7

John Rawls touches on the problem with his theory of the original position in which individuals meet to frame a social contract behind a veil of ignorance. Each fictive person in this imaginary situation is conceived as fully devoted to rational self-interest but completely ignorant of his or her personal characteristics and social circumstances in any real world. Rawls believes that paternalistic coercion or restraint is appropriate whenever someone in the original position would judge it necessary to ensure against the possibility of undeveloped powers of self-destructive impulses. In a way, this person is the solicitous parent of the empirical self--a child with whom he or she is truly one flesh. No one could be a better judge of the interests of this imperfect real person or a better guide to that person's self-development and self-realization, so both of Mill's arguments against paternalism are eliminated.

MPP2-245 RAWLS VIEWS PATERNALISM AS CONSISTENT WITH AUTONOMY

Douglas Husak, Philosopher at Rutgers University, *PHILOSOPHY AND PUBLIC AFFAIRS*, 1980, p.39

At least one philosopher who is sympathetic to this sense of autonomy does not regard all instances of paternalism as impermissible. John Rawls characterizes autonomous behavior as action 'from principles that we would consent to as free and equal rational beings.' Rawls believes that persons in the 'original position' would unanimously agree to a number of principles of justice and 'there is no violation of (their) autonomy as long as (these) principles are properly followed.' Hence the question of interest to the anti-paternalist is whether persons in the original position would consent to some degree of paternalistic treatment. Rawls remarks: 'It is rational for (the parties) to protect themselves against their own irrational inclinations by consenting to a scheme of penalties that may give them a sufficient motive to avoid foolish actions and by accepting certain impositions designed to undo the unfortunate consequences of their imprudent behavior.'

MPP2-246 RAWLSIAN PRINCIPLES JUSTIFY FREE SPEECH

Frederick Schauer, College of William & Mary Law professor, *FREE SPEECH: A PHILOSOPHICAL ENQUIRY*, 1982, p.69-70

Scanlon's argument although couched in the style of Kant and of the *APOLOGY*, also has a strong contractarian basis. Individual autonomy is closely related to the concept of a state with limited powers. Indeed, they are opposite sides of the same coin. The individual is sovereign and autonomous because, quite simply, this area of ultimate choice has not been ceded to the state. Writing in a more recent article, Scanlon associates his theory with the writings of Rawls, designating the argument for freedom of speech as the Principle of Limited Authority. Because the state has no authority ultimately 'to decide matters of moral, religious or philosophic doctrine (or of scientific truth), because those in the Original Position would not grant that authority, the state therefore has no mandate to limit the information upon which this choice may be made by the individual for the individual.

MPP2-247 FREE POLITICAL SPEECH IS A BASIC LIBERTY

John Rawls, Harvard Philosopher, *POLITICAL LIBERALISM*, 1993, p.156

In justice as fairness this kind of speech falls under the basic liberties, and while these liberties are not absolute, they can be restricted in their content (as opposed to being regulated in ways consistent with maintaining a full adequate scheme) only if this is necessary to prevent a greater and more significant loss, either directly or indirectly, to these liberties.

MPP2-248 FREE POLITICAL SPEECH IS FUNCTIONALLY ABSOLUTE

John Rawls, Harvard Philosopher, *POLITICAL LIBERALISM*, 1993, p.355

Focusing on the danger of political speech flawed the clear and present danger rule from the start. If failed to recognize that for free political speech to be restricted, a constitutional crisis must exist requiring the more or less temporary suspension of democratic political institutions, solely for the sake of preserving these institutions and other basic liberties. Such a crisis did not exist in 1862-64; and if not then, surely at no other time before or since. There was no constitutional crisis of the requisite kind when Schenck, Debs, or Dennis were decided, no political conditions which prevented free political institutions from operating. Never in our history has there been a time when free political speech, and in particular subversive advocacy, could be restricted or suppressed. And this suggests that in a country with a vigorous tradition of democratized institutions, a constitutional crisis need never arise unless its people and institutions are simply overwhelmed from the outside. For practical purposes, then in a well-governed democratic society under reasonably favorable conditions, the free public use of our reason in questions of political and social justice would seem to be absolute.

MPP2-249 POLITICAL SPEECH ALLOWS SOCIAL ADAPTATION

John Rawls, Harvard Philosopher, POLITICAL LIBERALISM, 1993, p.317-8

If free political speech is guaranteed however, serious grievances do not go unrecognized or suddenly become highly dangerous. They are publicly voiced; and in a moderately well-governed regime they are at least to some degree taken into account. Moreover, the theory of how democratic institutions work must agree with Locke that persons are capable of a certain natural political virtue and do not engage in resistance and revolution unless their social position in the basic structure is seriously unjust and this condition has persisted over some period of time and seems to be removable by no other means. Thus the basic institutions of a moderately well-governed democratic society are not so fragile or unstable as to be brought down by subversive advocacy alone. Indeed, a wise political leadership in such a society takes this advocacy as a warning that fundamental changes may be necessary, and what changes are required is known in part from the more comprehensive political view used to explain and justify the advocacy of resistance and revolution.

MPP2-250 SUBVERSIVE ADVOCACY IS KEY TO FREE THOUGHT

John Rawls, Harvard Philosopher, POLITICAL LIBERALISM, 1993, p.346

I mention these matters only to recall the obvious: that subversive advocacy is always part of a more comprehensive political view; and in the case of so-called criminal syndicalism (the statutory offense in many of the historical cases), the political view was socialism, one of the most comprehensive political doctrines ever formulated. As Kalven observes, revolutionaries don't simply shout: 'Revolt! Revolt!' They give reasons. To repress subversive advocacy is to suppress the discussion of these reasons, and to do this is to restrict the free and informed public use of our reason in judging the justice of the basic structure and its social policies. And thus, the basic liberty of freedom of thought is violated.

MPP2-251 GOVERNMENT PERSECUTION OF SPEECH UNDERMINE'S SELF-GOVERNMENT

John Rawls, Harvard Philosopher, POLITICAL LIBERALISM, 1993, p.343

The history of the use by governments of the crime of seditious libel to suppress criticism and dissent and to maintain their power demonstrates the great significance of this particular liberty to any fully adequate scheme of basic liberties. So long as this crime exists the public press and free discussion cannot play their role in informing the electorate. And, plainly, to allow the crime of seditious libel would undermine the wider possibilities of self-government and the several liberties required for its protection. Thus the great importance of NEW YORK TIMES V SULLIVAN in which the Supreme Court not only rejected the crime of seditious libel but declared the Sedition Act of 1798 unconstitutional now, whether or not it was unconstitutional at the time it was enacted. It has been tried, so to speak, by the court of history and found wanting.

MPP2-252 LIMITS ON TOLERANCE ONLY JUSTIFIED TO ENHANCE LIBERTY

John Rawls, Harvard Philosopher, A THEORY OF JUSTICE, 1971, p.219-20

Whether the liberty of the intolerant should be limited to preserve freedom under a just constitution depends on the circumstances. The theory of justice only characterizes the just constitution, the end of political action by reference to which practical decisions are to be made. In pursuing this end the natural strength of free institutions must not be forgotten, nor should it be supposed that tendencies to depart from them go unchecked and always win out. Knowing the inherent stability of a just constitution, members of a well-ordered society have the confidence to limit the freedom of the intolerant only in the special cases when it is necessary for preserving equal liberty itself.

MPP2-253 A JUST SOCIETY WILL COOPT THE INTOLERANT

John Rawls, Harvard Philosopher, A THEORY OF JUSTICE, 1971, p.218-9

So even if an intolerant sect should arise, provided that it is not so strong initially that it can impose its will straightaway, or does not grow so rapidly that the psychological principle has no time to take hold, it will tend to lose its intolerance and accept liberty of conscience. This is the consequence of the stability of just institutions, for stability means that when tendencies to injustice arise other forces will be called into play that work to preserve the justice of the whole arrangement.

MPP2-254 IF THE CONSTITUTION IS SECURE WE SHOULD TOLERATE INTOLERANCE

John Rawls, Harvard Philosopher, A THEORY OF JUSTICE, 1971, p.218-9

Suppose that, in some way or other, an intolerant sect comes to exist within a well-ordered society accepting the two principles of justice. How are the citizens of this society to act in regard to it? Now certainly they should not suppress it simply because the members of the intolerant sect could not complain were they to do so. Rather, since a just constitution exists, all citizens have a natural duty of justice to uphold it. We are not released from this duty whenever others are disposed to act unjustly. A more stringent condition is required: there must be some considerable risks to our own legitimate interests. Thus just citizens should strive to preserve the constitution with all its equal liberties as long as liberty itself and their own freedom are not in danger. They can properly force the intolerant to respect the liberty of others, since a person can be required to respect the rights established by principles that he would acknowledge in the original position. But when the constitution itself is secure, there is no reason to deny freedom to the intolerant.

MPP2-255 RAWLS' FAIR EQUALITY OF OPPORTUNITY PRINCIPLE JUSTIFIES HEALTH CARE

Norman Daniels, Professor of Philosophy at Tufts University, JUST HEALTH CARE, 1985, p.45.

Because meeting health-care needs has an important effect on the distribution of opportunity, the health-care institutions are regulated by a fair equality of opportunity principle. Once we note the special connection of normal species functioning to the opportunity range open to an individual, this strategy seems the natural way to extend Rawls's view noted earlier, about the scope of theories of social justice. Health-care institutions will help provide the framework of liberties and opportunities within which individuals can use their fair income shares to pursue their own conceptions of the good.

MPP2-256 PROTECTING THE LEAST WELL OFF JUSTIFIES HEALTH CARE

Norman Daniels, Professor of Philosophy at Tufts University, JUST HEALTH CARE, 1985, p.33-4.

For example, in Rawls's (1971) theory, socio-economic inequalities are allowed to work to the advantage of those with more marketable talents only if the inequalities also maximally benefit the worst-off individuals, who, we may suppose, have less marketable talents. I can now state a fact central to my approach: impairment of normal functioning through disease and disability restricts an individual's opportunity relative to that portion of the normal range his skills and talents would have made available to him were he healthy. If an individual's fair share of the normal range is the array of life plans he may reasonably choose, given his talents and skills, then disease and disability shrink his share from what is fair.

MPP2-257 BOTH LOCKEAN AND KANTIAN REASONS SUPPORT THE NATURAL RIGHTS OF INDIVIDUALS

Eric Mack, Professor of Philosophy, Tulane, READING NOZICK, Jeffrey Paul, ed., 1981, p.287

Reading in the history of philosophy I find a sustained, though ill-defined, tendency to link the notion of each person's life being his ultimate value and the notion of individual (natural) human rights. For Locke, persons should not be subordinated to others because they are not made for one another's purposes. A secularized Locke might say that each person's life is that person's purpose. Classical natural rights theory, as in Locke, affirms the propriety of each individual's pursuit of his own self-preservation and self-interest. Rights sanctify this pursuit by establishing a sphere for each person within which this pursuit is (morally) immune from interference. In more Kantian language, it is because each person has a dignity or value in himself that each person should be treated as an end-in himself, not as an object at the disposal of other persons. In "Two Concepts of Liberty," Isaiah Berlin maintains that the view that the individual must not be manipulated even for his own benefit is founded on the view that ".....there is no value higher than the individual.

MPP2-258 HUMAN RIGHTS DERIVE FROM THE SEPARATENESS OF INDIVIDUALS

Eric Mack, Professor of Philosophy, Tulane, READING NOZICK, Jeffrey Paul, ed., 1981, p.287

Often the underlying importance for human rights of this moral individualism is expressed obliquely in terms of the importance of the fact that persons are separate beings one from another. For instance, in Anarchy, State and Utopia, Robert Nozick cites, as the notions and contentions that motivate the natural rights point of view, the 'principle that individuals are ends and not merely means. they may not be sacrificed or used for the achieving of other ends without their consent,' and the views that, "To use a person . . . does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has," and "that there are different individuals with separate lives and so no one may be sacrificed for others. . . ."

MPP2-259 NATURAL RIGHTS FOLLOW FROM THE VALUE OF EACH PERSON'S LIFE

Eric Mack, Professor of Philosophy, Tulane, READING NOZICK, Jeffrey Paul, ed., 1981, p.286

The basis for each person's possessing natural (i.e., non-contractual, non-special) rights against all other persons is the moral truth that for each person his living (his life) well is what is of ultimate value.

MPP2-260 LIFE IS AN ULTIMATE VALUE, SO THERE IS A RIGHT TO LIFE

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.283-4.

1. Life is the ultimate value for each being because it is the precondition for the holding of all other values. Without life no valuation process is possible.

2. Life being the ultimate good for each existent being, each agent, he has a right to seek those life-sustaining means which are requisite to his existence. Hence, a right to life. (To deny this would be to become ensnared in a contradiction-that is to say that life is the ultimate value but it is wrong to attempt to sustain it.)?

MPP2-261 THE RIGHT TO LIBERTY FOLLOWS FROM THE RIGHT TO LIFE

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.284

3. Life is justifiable (it is the ultimate good for him who has it); hence, there is a justification for the performance of acts essential to its preservation, and consequently, a justification for those liberties which make such acts possible. Hence, a right to liberty.

MPP2-262 AUTONOMY IS KEY TO A SUCCESSFUL LIFE

Eric Mack, Professor of Philosophy, Tulane, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.290

Self-directedness or autonomy is an essential aspect of living well. Unless a person's activity is his own it will not contribute to or be constitutive of his living well (or his living well). A person whose activities are not his own does not live successfully.

MPP2-263 LIBERTARIANISM BEST RESPECTS THE NATURE OF HUMANS AS FREE, RATIONAL INDIVIDUALS

Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.48

Once an individual chooses to live, that individual has committed himself to living well or properly, namely in accordance with his nature; libertarianism is the political theory which best takes into account man's nature, namely, his essence as a free, rational living being whose conduct can only be made morally worthwhile by the individual himself by sustaining his commitment. This kind of life, with all of the diversity and universality it entails - based on the broad human and highly specialized individual and other characteristics every individual possesses - is what should be chosen by each individual.

MPP2-264 LIBERTY IS NEEDED FOR FULFILL OUR HUMANITY

Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.47

When life emerges in reality, objective values emerge too. The living have a lot to lose by dying. And in the case of human life, value considerations take on a moral component because individual human beings are responsible to identify the values that will sustain and improve their lives - that is, because of the phenomenon of free will. Since we are responsible - like it or not - for living well or badly, we must eschew any substitute for this responsibility lest we shed our very humanity in the process. Thus political liberty. The philosophy that underlies the robust theory of libertarian politics can be seen, thus, to secure a natural - as distinct from a supernatural - place for objective personal, social, and political norms.

MPP2-265 LIFE LIBERTY AND PROPERTY ARE ALL BASIC RIGHTS

John Hospers, Professor of Philosophy, University of Southern California, *THE LIBERTARIAN ALTERNATIVE*, Tibor Machan, ed., 1974, p.5

It will already be evident that libertarian doctrine is embedded in a view of the rights of man. Each human being has the right to live his life as he chooses, compatibly with the equal right of all other human beings to live their lives as they choose. All man's rights are implicit in the above statement. Each man has the right to life: any attempt by others to take it away from him, or even to injure him, violates this right, through the use of coercion against him. Each man has the right to liberty: to conduct his life in accordance with the alternatives open to him without coercive action by others. And every man has the right to property: to work to sustain his life (and the lives of whichever others he chooses to sustain, such as his family) and to retain the fruits of his labor.

MPP2-266 THE RIGHT TO PROPERTY FOLLOWS FROM THE RIGHT TO LIFE

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.284

From the rights to life and liberty (that is, from the essential motility requirements to sustain life, from [1], comes the right to property, i.e., the right to that with which one has a) mixed one's labor by removing it from a state of nonownership, or b) acquired by means of a voluntary exchange, bequest, gift or inheritance. Without property in that which one has labored to attain, one could not sustain one's life. Life is the good for any individual and property is a necessary requirement for preserving that good.

MPP2-267 PROPERTY IS NEEDED TO PROTECT OTHER RIGHTS

John Hospers, Professor of Philosophy, University of Southern California, *THE LIBERTARIAN ALTERNATIVE*, Tibor Machan, ed., 1974, p.5

People often defend the rights of life and liberty but denigrate property rights, and yet the right to property is as basic as the other two; indeed, without property rights no other rights are possible. Depriving you of property is depriving you of the means by which you live.

MPP2-268 ANY INTERFERENCE WITH PROPERTY VIOLATES RIGHTS

John Hospers, Professor of Philosophy, University of Southern California, *THE LIBERTARIAN ALTERNATIVE*, Tibor Machan, ed., 1974, p.6

Where do my rights end? Where yours begin. I may do anything I wish with my own life, liberty and property without your consent; but I may do nothing with your life, liberty and property without your consent. If we recognize the principle of man's rights, it follows that the individual is sovereign of the domain of his own life and property, and is sovereign of no other domain. To attempt to interfere forcibly with another's use, disposal or destruction of his own property is to initiate force against him and to violate his rights.

MPP2-269 PROPERTY RIGHTS ARE ESSENTIAL TO A RATIONAL LIFE PLAN

John Hospers, Professor of Philosophy, University of Southern California, *THE LIBERTARIAN ALTERNATIVE*, Tibor Machan, ed., 1974, p.8

Depriving people of property is depriving them of the means by which they live-the freedom of the individual citizen to do what he wishes with his own life and to plan for the future. Indeed, only if property rights are respected is there any point to planning for the future and working to achieve one's goals. Property rights are what makes long-range planning possible - the kind of planning which is a distinctively human endeavor, as opposed to the day-by-day activity of the lion who hunts, who depends on the supply of game tomorrow but has no real insurance against starvation in a day or a week. Without the right to property, the right to life itself amounts to little: how can you sustain your life if you cannot plan ahead? and how can you plan ahead if the fruits of your labor can at any moment be confiscated by government?

MPP2-270 SOCIAL LIFE REQUIRES MUTUAL RECOGNITION OF RIGHTS

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.284
1. From [II] (that life is the good for each existent being) follows the claim that life is a good for all beings. By proving that X has a right to life from X's nature and the "conditions of life," one has proved the same for all beings of the same nature subject to the same conditions. 2. Only beings who have the type of rational faculty that can enable them to recognize [III.1] have a right to life, liberty and property, because only they have a capacity to uphold the natural rights framework. 3. Men in close proximity are likely to interfere with one another, therefore, mutual recognition of rights is necessitated. 4. The fundamental condition of social life (i. e. , of men living together) is that individual rights be recognized and maintained.

MPP2-271 RIGHTS ARE PURELY NEGATIVE

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.284
It is apparent from this argument that men owe nothing to each other from their nature as separate entities except the recognition of the same rights to life, liberty, and property in others as they claim for themselves as a result of their nature and the "conditions of life and social life." Thus, there are no "rights to:" to a good education-to be provided by the labor of others; to a balanced diet-to be financed by the sacrifice of others; etc. There is, quite simply, the right to sustain your life by means which do not violate the same rights of others.

MPP2-272 HISTORICALLY, POLITICAL FREEDOM ACCOMPANIES ECONOMIC FREEDOM

Milton Friedman, Nobel laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.9-10

The nineteenth century and early twentieth century in the Western world stand out as striking exceptions to the general trend of historical development. Political freedom in this instance clearly came along with the free market and the development of capitalist institutions. So also did political freedom in the golden age of Greece and in the early days of the Roman era.

MPP2-273 NO SOCIETY IS FREE POLITICALLY WITHOUT ECONOMIC FREEDOM

Milton Friedman, Nobel Laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.9

Historical evidence speaks with a single voice on the relation between political freedom and a free market. I know of no example in time or place of a society that has been marked by a large measure of political freedom, and that has not also used something comparable to a free market to organize the bulk of economic activity.

MPP2-274 NO FREE SOCIETY EXISTS WITHOUT ECONOMIC FREEDOM

Milton Friedman, Nobel Laureate Economist, *FREE TO CHOOSE*, 1980, p.3

A predominantly voluntary exchange economy, on the other hand, has within it the potential to promote both prosperity and human freedom. It may not achieve its potential in either respect, but we know of no society that has ever achieved prosperity and freedom unless voluntary exchange has been its dominant principle of organization.

MPP2-275 ECONOMIC FREEDOM IS ESSENTIAL TO PRESERVING POLITICAL FREEDOM

Milton Friedman, Nobel Laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.8

Economic arrangements play a dual role in the promotion of a free society. On the one hand, freedom in economic arrangements is itself a component of freedom broadly understood, so economic freedom is an end in itself. In the second place, economic freedom is also an indispensable means toward the achievement of political freedom.

MPP2-276 LOSS OF ECONOMIC FREEDOM ENSURES TYRANNY

Milton Friedman, Nobel Laureate Economist, *FREE TO CHOOSE*, 1980, p.xvi-ii.

Economic freedom is an essential requisite for political freedom. By enabling people to cooperate with one another without coercion or central direction, it reduces the area over which political power is exercised. In addition, by dispersing power, the free market provides an offset to whatever concentration of political power may arise. The combination of economic and political power in the same hands is a sure recipe for tyranny.

MPP2-277 LOSS OF ECONOMIC FREEDOM UNDERMINES GROWTH

Milton Friedman, Nobel Laureate Economist, *FREE TO CHOOSE*, 1980, p.xx.

The experience of recent years--slowing growth and declining productivity--raises a doubt whether private ingenuity can continue to overcome the deadening effects of government control if we continue to grant ever more power to government, to authorize a "new class" of civil servants to spend ever larger fractions of our income supposedly on our behalf.

MPP2-278 GOVERNMENT CONTROL DESTROYS PROSPERITY

Milton Friedman, Nobel Laureate Economist, *FREE TO CHOOSE*, 1980, p.xx.

Sooner or later--and perhaps sooner than many of us expect--an ever bigger government would destroy both the prosperity that we owe to the free market and the human freedom proclaimed so eloquently in the Declaration of Independence.

MPP2-279 GOVERNMENT, NOT THE MARKET, CAUSED THE GREAT DEPRESSION

Henri Lepage, French Journalist, *TOMORROW, CAPITALISM*, 1982, p.40

Economic depressions - and particularly the notorious crash of 1929 - are another example of economic misfortune caused by government rather than by capitalism. The new economists attribute the Great Depression of the 1930s not to endemic breakdown in capitalist economies (as we have been in the habit of believing since Keynes) but to state intervention.

MPP2-280 GOVERNMENT IS MAINLY RESPONSIBLE FOR ECONOMIC INSTABILITY

Milton Friedman, Nobel Laureate Economist, *FREE TO CHOOSE*, 1980, p.81

In one respect the System has remained completely consistent throughout. It blames all problems on external influences beyond its control and takes credit for any and all favorable occurrences. It thereby continues to promote the myth that the private economy is unstable, while its behavior continues to document the reality that government is today the major source of economic instability.

MPP2-281 THE GREAT DEPRESSION RESULTED FROM MISTAKEN MONETARY POLICIES

Milton Friedman, Nobel Laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.50

The Great Depression in the United States, far from being a sign of the inherent instability of the private enterprise system, is a testament to how much harm can be done by mistakes on the part of a few men when they wield vast power over the monetary system of a country.

MPP2-282 ECONOMIC FREEDOM PROTECTS MINORITIES

Milton Friedman, Nobel Laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.21

No one who buys bread knows whether the wheat from which it is made was grown by a Communist or a Republican, by a constitutionalist or a Fascist, or, for that matter, by a Negro or a white. This illustrates how an impersonal market separates economic activities from political views and protects men from being discriminated against in their economic activities for reasons that are irrelevant to their productivity--whether these reasons are associated with their views or their color.

MPP2-283 ECONOMIC FREEDOM PROTECTS MINORITIES

Milton Friedman, Nobel Laureate in Economics, *CAPITALISM AND FREEDOM*, 1962, p.21

As this example suggests, the groups in our society that have the most at stake in the preservation and strengthening of competitive capitalism are those minority groups which can most easily become the object of the distrust and enmity of the majority - the Negroes, the Jews, the foreign-born, to mention only the most obvious.

MPP2-284 RESTRICTIONS ON THE MARKET SNOWBALL
Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.105

We have already seen that the close interdependence of all economic phenomena makes it difficult to stop planning just where we wish and that, once the free working of the market is impeded beyond a certain degree, the planner will be forced to extend his controls until they become all-comprehensive.

MPP2-285 ANY PLANNING UNDERMINES COMPETITION
Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.42

Both competition and central direction become poor and inefficient tools if they are incomplete; they are alternative principles used to solve the same problem, and a mixture of the two means that neither will really work and that the result will be worse than if either system had been consistently relied upon. Or, to express it differently, planning and competition can be combined only by planning for competition but not by planning against competition.

MPP2-286 EFFECTIVE NON-GOVERNMENT MEANS OF SOCIAL CONTROL WOULD EXIST IN LIBERTARIAN SOCIETY.

Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.45

Voluntary approaches to social direction, in the variety of ways we refer to as ostracism, rebuke, boycott, etc., are available for use to everyone and anyone. These ways can be developed into massive and severe instruments of social control and change. It would be quite illegitimate to dismiss these methods as ineffectual, especially in light of the entirely ineffectual character of coercive efforts to promote or stifle personal and social development. The libertarians cannot and will not give the false promise that coercion will guarantee the rooting out of evil and the promotion of good. The libertarian is prepared, however, to spell out realistic noncoercive prospects of achieving these ends. Outside the government's proper peace-keeping and retaliatory functions, there is ample room for the libertarian to introduce non-political means so as to cope with the problems and challenges of personal and social life.

MPP2-287 LIBERTARIANISM ALLOWS VOLUNTARY ALTERNATIVES TO STATE COERCION

Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.44-5

Libertarian political theory holds it as a violation of the nature of man to engage in coercive dictation of other people's social practices, sexual habits, religious affiliations, and so forth. Nevertheless libertarianism does not preclude other means for advancing social goals. Some of these are close voluntary substitutes for outright coercion. Moreover, parental responsibility in a free society (along libertarian lines) would not preclude the use of physical force against a child within the dictates of reason. A child is normally incapable of making rational decisions concerning its behavior and could, unless at times forcibly yet reasonably forbidden from doing so, place itself in severe danger. This form of coercion is not excluded in libertarian theory.

MPP2-288 LIBERTARIAN SOCIETY PROMOTES VIRTUE
Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.44

LIBERTARIAN POLITICAL THEORY implies that a government functions properly when it upholds justice in human relations by the standard of natural human rights--as initially developed in John Locke's *Second Treatise* and given more depth and scope by contemporary libertarians. Such a government would fulfill both the ancient and the modern role of state, namely, the encouragement of virtue and the promotion of peace and prosperity. The former would be achieved by securing liberty for all, which is a necessary condition for the virtuous life in society. If one acts because of coercion or its threat, one cannot make moral choices. A legal system in which freedom is not protected and preserved prevents individual moral responsibility. So government that protects and preserves human freedom encourages individual moral responsibility and human virtue.

MPP2-289 IT IS INAPPROPRIATE TO USE PHYSICAL FORCE TO BUILD CHARACTER

Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.38-9

The rest of human existence needs to be developed in an atmosphere of freedom, with all the creativity and ingenuity available to human beings. In these areas there may exist firm standards. But experimentation may also be proper. Political principles, stated explicitly, must however guide the most awesome and dangerous instrument of human interaction, namely physical force. Such force is permissible and useful only in repelling force, not in building character, love, faith, scientific knowledge, etc.

MPP2-290 THE STATE ISN'T FIT TO ENFORCE VIRTUE
Murray Rothbard, Professor of Economics, Polytechnic Institute of New York, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.94

Which group in society are to be the guardians of virtue, the ones who define and enforce their vision of what virtue is supposed to be? None other, I would say, than the state apparatus, the social instrument of legalized violence. Now, even if we concede legitimate functions to the policeman, the soldier, the jailer, it is a peculiar vision that would entrust the guardianship of morality to a social group whose historical record for moral behavior is hardly encouraging. Why should the sort of persons who are good at, and will therefore tend to exercise, the arts of shooting, gouging, and stomping, be the same persons we would want to select as our keepers of the moral flame?

MPP2-291 VIRTUE REQUIRES FREEDOM

Murray Rothbard, Professor of Economics, Polytechnic Institute of New York, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.92-3

In fact, Frank Meyer was, on this crucial issue, squarely in the libertarian camp. In my view, his most important contribution to conservatism was his emphasis that to be virtuous in any meaningful sense, a man's action must be free. It is not simply that freedom and virtue are both important, and that one hopes that freedom of choice will lead to virtuous actions. The point is more forceful: no action can be virtuous unless it is freely chosen. Suppose, for a moment, that we define a virtuous act as bowing in the direction of Mecca every day at sunset. We attempt to persuade everyone to perform this act. But suppose that instead of relying on voluntary conviction we employ a vast number of police to break into everyone's home and see to it that every day they are pushed down to the floor in the direction of Mecca. No doubt by taking such measures we will increase the number of people bowing toward Mecca. But by forcing them to do so, we are taking them out of the realm of action and into mere motion, and we are depriving all these coerced persons of the very possibility of acting morally. By attempting to compel virtue, we eliminate its possibility. For by compelling everyone to bow to Mecca, we are preventing people from doing so out of freely adopted conviction. To be moral an act must be free.

MPP2-292 STATE COERCION PRODUCES CHAOS

Murray Rothbard, Professor of Economics, Polytechnic Institute of New York, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.104-5

State coercion, on the other hand, is viewed by the libertarian as a pseudo-order which actually results in disorder and chaos. State imposed order is "artificial" and destructive of the harmony provided by following the natural order. Economic science has long shown that individuals, pursuing their own interests in the marketplace, will benefit everyone. The free market has been shown to be the only genuine economic order, while state coercion hampering that market only subverts genuine order and causes dislocation, general impoverishment and, eventually, economic chaos. Moreover, one of our most distinguished free-market economists, F.A. Hayek, has extended the concept of what he has trenchantly termed "spontaneous order" to include many other activities than the economic sphere. Hayek has pointed out that the evolution of human language itself was not imposed by coercion from above but emerged from the free and voluntary interaction of individual persons. To use a noted phrase of Hayek's, language, the origin of money, and the market itself were products or byproducts of human action, but not of human design.

MPP2-293 GOVERNMENT IS THE GREATEST SOURCE OF HARM IN HISTORY

John Hospers, Professor of Philosophy, University of Southern California, THE LIBERTARIAN ALTERNATIVE, Tibor Machan, ed., 1974, p.12

Government is the most dangerous institution known to man. Throughout history it has violated the rights of men more than any individual or group of individuals could do: it has killed people, enslaved them, sent them to forced labor and concentration camps, and regularly robbed and pillaged them of the fruits of their expended labor. Unlike individual criminals government has the power to arrest and try; unlike individual criminals, it can surround and encompass a person totally, dominating every aspect of one's life, so that one has no recourse from it but to leave the country (and in totalitarian nations even that is prohibited). Government throughout history has a much sordid record that any individual, even that of a ruthless mass murderer. The signs we see on bumper stickers are chillingly accurate: "Beware: the Government is Armed and Dangerous.

MPP2-294 LOSS OF COMMUNITY IS DUE TO THE STATE
Murray Rothbard, Professor of Economics, Polytechnic Institute of New York, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.99-100

The only genuine community among men, Meyer goes on to say is the result of free and voluntary individual interactions, not of the aridity and despotism of state-imposed "community." The problems which traditionalists like Kirk and Nisbet ascribe to "loss of community, Meyer points out, really stem from "an excess of state enforced community." In contrast, Meyer eloquently holds up associations of free persons: To assert the freedom and independence of the individual person implies no denial of the value of mutuality, of association and common action between persons. It only denies the value of coerced association. When men are free, they will of course form among themselves a multitude of associations to fulfill common purposes when common purposes exist. The potential relationships between one man and other men are multifarious; but they are relationships between independent conscious, self-acting beings. They are not the interactions of cells of a larger organism. When they are voluntary, freely chosen to fulfill the mutual needs of independent beings, they are fruitful and indeed essential. But . . . each man will find, as a free being, the relationships congenial to his specific needs.

MPP2-295 LIBERTARIANISM WOULD BENEFIT THE POOR

John Hospers, Professor of Philosophy, University of Southern California, THE LIBERTARIAN ALTERNATIVE, Tibor Machan, ed., 1974, p.20

Should government have no role in assisting the needy, in providing social security, in legislating minimum wages, in fixing prices and putting a ceiling on rents, in curbing monopolies, in erecting tariffs, in guaranteeing jobs, in managing the money supply? To these and all similar questions the libertarian answers with an unequivocal no. "But then you'd let people go hungry!" comes the rejoinder. This, the libertarian insists, is precisely what would not happen; with the restrictions removed, the economy would flourish as never before. With the controls taken off business, existing enterprises would expand and new ones would spring into existence satisfying more and more consumer needs; millions more people would be gainfully employed instead of subsisting on welfare, and all kinds of research and production, released from the stranglehold of government, would proliferate, fulfilling man's needs and desires as never before. It has always been so whenever government has permitted men to be free traders on a free market.

MPP2-296 THE FREE SOCIETY IS BEST FOR EVERYONE
Tibor Machan, Professor of Philosophy, University of San Diego, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.49

So as to achieve such feats as a matter of individual responsibility, it is necessary that everyone enjoy the freedom in society that human beings can insure for each other without in any way being required to become indentured to others. Therefore, the free society, via the respect of everyone's naturally derived rights to life, liberty and property, is the best political order for every human being.

MPP2-297 LIBERTARIANISM WOULD STIMULATE PRIVATE CHARITY

Richard A. Epstein, Professor of Law at University of Chicago, REASON, May 1993, p.60.

We have to let go of the allure of universality, which is today treated as though it were an undeniable ethical imperative. In part the slack will be picked up by a resurgence of private charitable care, which hospitals could provide if freed of their regulatory burdens.

MPP2-298 REDUCED STATISM INCREASES CHARITY

Richard A. Epstein, Professor of Law at University of Chicago, KANSAS LAW REVIEW, Winter 1992, p.314.

The first of these is to organize some voluntary charitable institutions whereby medical care is given out free of charge. Before the rise of the public assistance programs, hospitals and private physicians routinely provide health care on just this basis, in an effort to bridge the gap between utility and wealth.

MPP2-299 WELFARE PROGRAMS DON'T BENEFIT THE POOR

Douglas J. Den Uyl, Professor of Philosophy at Bellarmine College, SOCIAL PHILOSOPHY AND POLICY, Winter 1993, p.216-7.

In addition, in democratic systems welfare programs become "commodified," that is, traded like other goods or services in exchange for political concessions and like benefits through a process of log rolling and interest-group competition. This tends to make welfare less a moral matter of the relief of suffering and more a political mechanism for catering to middle-class desires for security.

MPP2-300 WELFARE CREATES DEPENDENCY

Douglas J. Den Uyl, Professor of Philosophy at Bellarmine College, SOCIAL PHILOSOPHY AND POLICY, Winter 1993, p.216.

But the problem with this sort of account is that putting it into practice may provide perverse incentives to free-ride on the provision of welfare by others and to strategically exploit the system, either by exaggerating one's own need for welfare, or by advancing programs for one's own benefit that others will have to pay for.

MPP2-301 LIBERTARIAN FOREIGN POLICY WOULD BE DEFENSIVE BUT NOT NECESSARILY ISOLATIONISM
Tibor Machan, Professor of Philosophy, University of San Diego, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.50

There is another, less fundamental but quite emotion-packed issue on which libertarians and conservatives are frequently in serious disagreement, namely, foreign policy. The foreign policy of a free society, as its domestic policy, stresses the social primacy of liberty. This amounts to a strict foreign policy of defensiveness, as explained in a recent essay by Professor Eric Mack. Some libertarians insist on an isolationist foreign policy, but that cannot be derived from the libertarian political framework, contrary to their contentions.

MPP2-302 RIGHTS ARE MORAL SIDE CONSTRAINTS; THEY CAN'T BE VIOLATED FOR THE GREATER GOOD
Robert Nozick, Professor of Philosophy at Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.30

The claim that the proponent of the ultraminimal state is inconsistent, we now can see, assumes that he is a "utilitarian of rights." It assumes that his goal is, for example, to minimize the weighted amount of the violation of rights in the society, and that he should pursue this goal even through means that themselves violate people's rights. Instead, he may place the nonviolation of rights as a constraint upon action, rather than (or in addition to) building it into the end state to be realized. The position held by this proponent of the ultraminimal state will be a consistent one if his conception of rights holds that your being forced to contribute to another's welfare violates your rights, whereas someone else's not providing you with things you need greatly, including things essential to the protection of your rights, does not itself violate your rights, even though it avoids making it more difficult for someone else to violate them.

MPP2-303 OVERALL SOCIAL GOOD DOESN'T JUSTIFY VIOLATING THE RIGHTS OF INDIVIDUALS

Robert Nozick, Professor of Philosophy at Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.33.

The moral side constraints upon what we may do, I claim, reflect the fact of our separate existences. They reflect the fact that no moral balancing act can take place among us: there is no moral outweighing of one of our lives by others so as to lead to a greater overall social good. There is no justified sacrifice of some of us for others. This root idea, namely, that there are different individuals with separate lives and so no one may be sacrificed for others, underlies the existence of moral side constraints, but it also, I believe, leads to a libertarian side constraint that prohibits aggression against another.

MPP2-304 THE MINIMAL STATE DESCRIBED

Robert Nozick, Professor of Philosophy at Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.26-7

An ultraminimal state maintains a monopoly over all use of force except that necessary in immediate self-defense and so excludes private (or agency) retaliation for wrong and exaction of compensation; but it provides protection and enforcement services only to those who purchase its protection and enforcement policies. People who don't buy a protection contract from the monopoly don't get protected. The minimal (nightwatchman) state is equivalent to the ultraminimal state conjoined with a (clearly redistributive) Friedmansque voucher plan, financed from tax revenues. Under this plan all people, or some (for example, those in need), are given tax-funded vouchers that can be used only for their purchase of a protection policy from the ultraminimal state.

MPP2-305 ONLY THE MINIMAL STATE RESPECTS THE INVIOLEATE RIGHTS OF INDIVIDUALS

Robert Nozick, Professor of Philosophy at Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.333-4.

The minimal state treats us as inviolate individuals, who may not be used in certain ways by others as means or tools or instruments or resources; it treats us as persons having individual rights with the dignity this constitutes. Treating us with respect by respecting our rights, it allows us, individually or with whom we choose, to choose our life and to realize our ends and our conception of ourselves, insofar as we can, aided by the voluntary cooperation of other individuals possessing the same dignity. How dare any state or group of individuals do more. Or less.

MPP2-306 PEOPLE ARE ENTITLED TO WHAT THEY ACQUIRE BY JUST MEANS

Robert Nozick, Professor of Philosophy at Harvard, *ANARCHY, STATE AND UTOPIA*, 1974, p.232.

On the entitlement conception of justice in holdings, one cannot decide whether the state must do something to alter the situation merely by looking at a distributional profile or at facts such as these. It depends upon how the distribution came about. Some processes yielding these results would be legitimate, and the various parties would be entitled to their respective holdings.

MPP2-307 THE HISTORICAL BASIS FOR A DISTRIBUTION DETERMINES ITS MORAL STATUS

Robert Nozick; Professor of Philosophy at Harvard ANARCHY, STATE AND UTOPIA, 1974, p.154

Most persons do not accept current time-slice principles as constituting the whole story about distributive shares. They think it relevant in assessing the justice of a situation to consider not only the distribution it embodies, but also how that distribution came about. If some persons are in prison for murder or war crimes, we do not say that to assess the Justice of the distribution in the society we must look only at what this person has, and that person has, and that person has, . . . at the current time. We think it relevant to ask whether someone did something so that he deserved to be punished, deserved to have a lower share. Most will agree to the relevance of further information with regard to punishments and penalties.

MPP2-308 REDISTRIBUTION IGNORES JUST ENTITLEMENTS TO PROPERTY

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.160.

Things come into the world already attached to people having entitlements over them. From the point of view of the historical entitlement conception of justice in holdings, those who start afresh to complete "to each according to his _____" treat objects as if they appeared from nowhere, out of nothing.

MPP2-309 NO ONE HAS A RIGHT TO ANOTHER'S PROPERTY

Robert Nozick, Professor of Philosophy at Harvard ANARCHY, STATE AND UTOPIA, 1974, p.238

The major objection to speaking of everyone's having a right to various things such as equality of opportunity, life, and so on, and enforcing this right, is that these rights require a substructure of things and materials and actions; and other people may have rights and entitlements over these. No one has a right to something whose realization requires certain uses of things and activities that other people have rights and entitlements over. Other people's rights and entitlements to particular things (that pencil, their body, and so on) and how they choose to exercise these rights and entitlements fix the external environment of any given individual and the means that will be available to him. If his goal requires the use of means which others have rights over, he must enlist their voluntary cooperation.

MPP2-310 EFFECTS ON OTHERS DON'T CREATE ENTITLEMENTS TO ONE PERSON'S PROPERTY

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.269-70.

Suppose you own a station wagon or a bus and lend it to a group of people for a year while you are out of the country. During this year these people become quite dependent on your vehicle, integrating it into their lives. When at the end of the year you return, as you said you would, and ask for you bus back, these people say that your decision once more to use the bus yourself importantly affects their lives, and so they have a right to a say in determining what is to become of the bus. Surely this claim is without merit. The bus is yours; using it for a year improved their position which is why they molded their conduct around it and came to depend upon it.

MPP2-311 REDISTRIBUTION MAKES COMPASSION INVOLUNTARY

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.167.

We should note in passing the ambivalent position of radicals toward the family. Its loving relationships are seen as a model to be emulated and extended across the whole society, at the same time that it is denounced as a suffocating institution to be broken and condemned as a focus of parochial concerns that interfere with achieving radical goals. Need we say that it is not appropriate to enforce across the wider society the relationships of love and care appropriate within a family, relationships which are voluntarily undertaken.

MPP2-312 REDISTRIBUTION IMPLIES CONSTANT INTERFERENCE IN PEOPLE'S LIVES

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.163.

The general point illustrated by the Wilt Chamberlain example and the example of the entrepreneur in a socialist society is that no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives. Any favored pattern would be transformed into one unfavored by the principle, by people choosing to act in various ways; for example, by people exchanging goods and services with other people, or giving things to other people, things the transferrers are entitled to under the favored distributional pattern. To maintain a pattern one must either continually (or periodically) interfere to stop people from transferring resources as they wish to, or continually interfere to take from some persons resources that others for some reason chose to transfer to them.

MPP2-313 THE REDISTRIBUTIVE PRINCIPLE UNDERMINES THE RIGHT TO EMIGRATE

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.173.

In such a case, the person's only motive for leaving would be to avoid participating in the compulsory scheme of social provision. And if he does leave, the needy in his initial country will receive no (compelled) help from him. What rationale yields the result that the person be permitted to emigrate, yet forbidden to stay and opt out of the compulsory scheme of social provisions? If providing for the needy is of overriding importance, this does militate against allowing internal opting out; but it also speaks against allowing external emigration.

MPP2-314 REDISTRIBUTIVE JUSTICE DOESN'T RECOGNIZE DUTIES TO FAMILIES

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.167.

Patterned distributional principles do not give people what entitlement principles do, only better distributed. For they do not give the right to choose what to do with what one has; they do not give the right to choose to pursue an end involving (intrinsically, or as a means) the enhancement of another's position. To such views, families are disturbing; for within a family occur transfers that upset the favored distributional pattern.

MPP2-315 ACCEPTANCE OF ANY REDISTRIBUTION SNOWBALLS

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p. 27.

If some redistribution is legitimate in order to protect everyone, why is redistribution not legitimate for other attractive and desirable purposes as well? What rationale specifically selects protective services as the sole subject of legitimate redistributive activities?

MPP2-316 TAXATION IS FORCED LABOR

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.172.

Whether it is done through taxation on wages or on wages over a certain amount, or through seizure of profits, or through there being a big social pot so that it's not clear what's coming from where and what's going where, patterned principles of distributive justice involve appropriating the actions of other persons. Seizing the results of someone's labor is equivalent to seizing hours from him and directing him to carry on various activities. If people force you to do certain work, or unrewarded work, for a certain period of time, they decide what you are to do and what purposes your work is to serve apart from your decisions. This process whereby they take this decision from you makes them a part owner of you; it gives them a property right in you. Just as having such partial control and power of decision, by right, over an animal or inanimate object would be to have a property right in it.

MPP2-317 THERE'S NO OVERALL SOCIAL GOOD

Robert Nozick, Professor of Philosophy at Harvard, ANARCHY, STATE AND UTOPIA, 1974, p.33.

There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Intentionally?) To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person that his is the only life he has. He does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him--least of all a state or government that claims his allegiance (as other individuals do not) and that therefore scrupulously must be neutral between its citizens.

MPP2-318 ANARCHY, STATE, AND UTOPIA IS THE FINEST WORK OF MODERN POLITICAL PHILOSOPHY

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, READING NOZICK, 1981, p.2-3

Thus, Hillel Steiner in MIND could write: Although similar claims have become common, it would seem almost churlish not to acknowledge that this book is the best piece of sustained analytical argument in political philosophy to have appeared in a very long time. Moreover it is, in its way, an extremely moving book, not the least because of the engaging manner in which it is written.

MPP2-319 EGOISM IS JUSTIFIED BY VIEWING EACH PERSON AS AN END IN HIM OR HERSELF

Ayn Rand, philosopher and novelist, THE VIRTUE OF SELFISHNESS, 1964, p.27

The basic social principle of the Objectivist ethics is that just as life is an end in itself, so every living human being is an end in himself, not the means to the ends or the welfare of others--and, therefore, that man must live for his own sake, neither sacrificing himself to others nor sacrificing others to himself. To live for his own sake means that the achievement of his own happiness is man's highest moral purpose.

MPP2-320 HUMAN LIFE REQUIRES SELFISHNESS

Leonard Peikoff, Professor of Philosophy, Hunter College, THE OMINOUS PARALLELS, 1982, p.308-9

Man's mind requires selfishness, and so does his life in every aspect: a living organism has to be the beneficiary of its own actions. It has to pursue specific objects--for itself, for its own sake and survival. Life requires the gaining of values, not their loss; achievement, not renunciation; self-preservation, not self-sacrifice. Man can choose to value and pursue self-immolation, but he cannot survive or prosper by such a method.

MPP2-321 ALTRUISM INEVITABLY LEADS TO THE AUTHORITARIAN STATE

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.302

If sacrifice is equated with virtue, there is no stopping the advance of the totalitarian state. "It goes on and will go on," said Howard Roark, the hero of *The Fountainhead*, so long as men believe that an action is good if it is unselfish. That permits the altruist to act and forces his victims to bear it." "The world," said Roark, "is perishing from an orgy of self-sacrificing." It was true in 1943, when *The Fountainhead* was published. It is just as true and much more obvious today.

MPP2-322 ALTRUISM UNDERMINES FREEDOM

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.95

America's inner contradiction was the altruist-collectivist ethics. Altruism is incompatible with freedom, with capitalism and with individual rights. One cannot combine the pursuit of happiness with the moral status of a sacrificial animal.

MPP2-323 COERCION IS THE FLIP SIDE OF ALTRUISM

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.81

Humility and presumptuousness are always two sides of the same premise, and always share the task of filling the space vacated by self-esteem in a collectivized mentality. The man who is willing to serve as the means to the ends of others, will necessarily regard others as the means to his ends. The more neurotic he is or the more conscientious in the practice of altruism (and these two aspects of his psychology will act reciprocally to reinforce each other), the more he will tend to devise schemes "for the good of mankind" or of "society" or of "the public" or of "future generations" or of anything except actual human beings.

MPP2-324 CHARITY IS A PERSONAL NOT A COLLECTIVE CHOICE

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.80

Only individual men have the right to decide when or whether they wish to help others; society - as an organized political system - has no rights in the matter at all.

MPP2-325 RATIONAL EGOISM CONTRIBUTES TO THE WELFARE OF OTHERS

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.309

Moral selfishness does not mean a license to do whatever one pleases, guided by whims. It means the exacting discipline of defining and pursuing one's rational self-interest. A code of rational self-interest rejects every form of human sacrifice, whether of oneself to others or of others to oneself. The ethics of rational self-interest upholds the exercise of one's mind in the service of one's life, and all of the specific value-choices and character attributes which such exercise entails. It upholds the virtues of rationality, independence, integrity, honesty, justice, productiveness, pride. It does not advocate "survival at any price."

MPP2-326 RIGHTS ARE THE POLITICAL EXPRESSION OF MORAL LAW

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.92

"Rights" are a moral concept-the concept that provides a logical transition from the principles guiding an individual's actions to the principles guiding his relationship with others - the concept that preserves and protects individual morality in a social context-the link between the moral code of a man and the legal code of a society, between ethics and politics. Individual rights are the means of subordinating society to moral law.

MPP2-327 RIGHTS ARE THE SOCIAL EXPRESSION OF MORAL PRINCIPLES

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.254

Rand is quite clear on this matter as we see from the following passages. Rights are a moral concept-the concept that provides a logical transition from the principle guiding an individual's actions to the principles guiding his relationship with others . . . the link between the moral code of a man and the legal code of society, between ethics and politics. The principle of man's individual rights represent[s] the extension of morality into the social system. . . (emphasis added)

MPP2-328 RIGHTS GUARD HUMANS AGAINST VIOLENCE

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.310

Man's rights, Ayn Rand observes, can be violated only by physical force (fraud is an indirect form of force). A political system based on the recognition of rights is one that guards man against violence. Men therefore deal with one another not as potential killers, but as sovereign traders, according to their own independent judgment and voluntary consent. This kind of system represents the methodical protection of man's mind and of his self-interest, i.e., of the function and purpose on which human life depends.

MPP2-329 RIGHTS ARE KEY TO THE PROPER SURVIVAL OF HUMANS

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.309-10

The proper political system, in essence--the system which guards the freedom of man's mind--is the original American system, based on the concept of inalienable individual rights. "[T]he source of man's rights is not divine law or congressional law, but the law of identity. A is A and Man is Man. Rights are conditions of existence required by man's nature for his proper survival."

MPP2-330 LIFE IS THE NECESSARY CONDITION FOR ALL VALUES

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.210-11

Before proceeding, we should have before us another aid, John Hospers's sympathetic presentation in his *Introduction to Philosophical Analysis* (Second Edition): Suppose someone said, 'Prove to me that life is valuable.' Rand would hold that his request contains an inconsistency. It is, she holds, the existence and nature of life that sets the conditions for what is valuable; it is the distinctive nature of life that gives rise to the need for values. In saying this, one is saying much more than simply that man must be alive in order to pursue values: one is saying that man must pursue values in order to remain alive--and that this is the base of ethics and of all questions of moral value. Just as (Rand would say) it is only the concept of life that gives rise to such concepts and health and disease--just as it would be meaningless to talk of health and disease except with reference to the standard and goal of life, and talk about health is meaningful only in that context--so it is meaningless to speak of values, of good and evil except with reference to the needs of a living organism. The concept of value, Rand maintains, is genetically and epistemologically dependent upon the concept of life, just as the concept of health and disease are genetically and epistemologically dependent upon the concept of life. Thus to say 'Prove that it is morally obligatory to value life' is similar to saying 'Prove that it is medically obligatory (that is, necessary for health) to value life.'

MPP2-331 LIFE IS THE ONLY ULTIMATE END IN ITSELF

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.244

Rand holds that an ultimate value is, "the final goal or end to which all lesser goals are the means--and it sets the standard by which all lesser goals are evaluated." Is there anything that constitutes a final goal or end? From all that has been said, we see that life is the ultimate or final goal of all goal-directed behavior. Otherwise, there would not be such behavior, and this is Rand's very point when she states: Without an ultimate goal or end, there can be no lesser goals or means a series of means going off into an infinite progression toward a non-existent end is a metaphysical and epistemological impossibility. It is only an ultimate end, an end in itself, that makes the existence of values possible. Metaphysically, life is the only phenomenon that is an end in itself: a value gained and kept by a constant process of action. Epistemologically, the concept of "value" is genetically dependent upon and derived from the antecedent concept of "life."

MPP2-332 LIFE IS THE ULTIMATE MORAL STANDARD

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.244

Rand has spoken of the ultimate end as the standard by which all other ends are evaluated. When the ends to be evaluated are chosen ones the ultimate end is the standard for moral evaluation. Life as the sort of thing a living entity is, then, is the ultimate standard of value; and since only human beings are capable of choosing their ends, it is the life as a human being--man's life qua man--that is the standard for moral evaluation.

MPP2-333 LIFE IS THE END TOWARD WHICH ALL PURPOSIVE ACTION IS DIRECTED

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.244-5

Why should this be the standard for moral evaluation? Why must this be the ultimate moral value? Why not "death" or "the greatest happiness for the greatest number"? Man's life must be the standard for judging moral value because this is the end toward which all goal-directed action (in this case purposive action) is directed, and we have already shown why goal-directed behavior depends on life. Indeed, one cannot make a choice without implicitly choosing life as the end.

MPP2-334 LIFE IS THE PREREQUISITE TO ALL OTHER VALUES

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.245

In so far as one chooses, regardless of the choice, one must choose (value) man's life. It makes no sense to value some X without also valuing that which makes the valuing of X possible (notice that this is different from saying "that which makes X possible"). If one lets X be equivalent to "death" or "the greatest happiness for the greatest number," one is able to have such a valuation only because of the precondition of being a living being. Given that life is a necessary condition for valuation, there is no other way we can value something without also (implicitly at least) valuing that which makes valuation possible.

MPP2-335 THE CONCEPT OF VALUE PRESUPPOSES THE VALUE OF LIFE

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.245

Therefore, we cannot "suppose" death or anything else (other than life) as the ultimate value, for the very activity of "holding something as a value," let alone as an ultimate one, depends on life being the ultimate value in the sense of "ultimate" discussed earlier. Thus there is an inconsistency in the request, "Prove life is valuable." The very meaning of "valuable" presupposes the value of life.

MPP2-336 THE FUNDAMENTAL RIGHT IS THE FREEDOM TO PURSUE ONE'S OWN LIFE

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.93-4

A "right" is a moral principle defining and sanctioning a man's freedom of action in a social context. There is only one fundamental right (all the others are its consequences or corollaries): a man's right to his own life. Life is a process of self-sustaining and self-generated action; the right to life means the right to engage in self-sustaining and self-generated action--which means: the freedom to take all the actions required by the nature of a rational being for the support, the furtherance, the fulfillment and the enjoyment of his own life. (Such is the meaning of the right to life, liberty and the pursuit of happiness.) The concept of a "right" pertains only to action--specifically, to freedom of action. It means freedom from physical compulsion, coercion or interference by other men.

MPP2-337 LIFE IN ACCORD WITH ONE'S NATURE IS THE ULTIMATE END

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.247

As stated in Section II, the ultimate end is not just life. It is impossible for a living being to be and not be a living being of some kind--there is no such thing as an unspecified life, i.e., life existing in some abstract way. Thus, the nature of a living thing--the kind of thing it is--determines whether the life of the entity is achieved. Life as the sort of thing it is, then, is the ultimate end.

MPP2-338 RELIANCE ON RATIONALITY IS NECESSITATED BY HUMAN NATURE

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.248

It is because life requires certain things for its maintenance that a human being, with no automatic form of knowledge, must use the only tool available to him--his conceptual ability. The principle of rationality is dictated by the nature of the human being and the life of a human being necessitates the adoption of such a principle.

MPP2-339 THE BASIC POLITICAL REQUIREMENT OF LIFE IS FREEDOM

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.309

The basic political requirement of Man's Life is freedom. Freedom in this context means the power to act without coercion by others. It means an individual's power to act according to his own judgment, while respecting the same right in others. In a free society, men renounce a lethal method of dealing with disagreements: the initiation of physical force.

MPP2-340 FREEDOM IS ESSENTIAL TO SURVIVAL

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.17

Since knowledge, thinking, and rational action are properties of the individual, since choice to exercise his rational faculty or not depends on the individual, man's survival requires that those who think be free of the interference of those who don't. Since men are neither omniscient nor infallible, they must be free to agree or disagree, to cooperate or to pursue their own independent course, each according to his own rational judgement. Freedom is the fundamental requirement of man's mind.

MPP2-341 INDIVIDUAL RIGHTS ARE KEY TO A PEACEFUL SOCIETY

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.108

If men are to live together in a peaceful, productive, rational society and deal with one another to mutual benefit, they must accept the basic social principle without which no moral or civilized society is possible: the principle of individual rights. (See Chapters 12 and 13.) To recognize individual rights means to recognize and accept the conditions required by man's nature for his proper survival.

MPP2-342 FREEDOM FROM COERCION IS KEY TO SURVIVAL

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.94

The Declaration of Independence stated that men "are endowed by their Creator with certain unalienable rights." Whether one believes that man is the product of a Creator or of nature, the issue of man's origin does not alter the fact that he is an entity of a specific kind - a rational being - that he cannot function successfully under coercion, and that rights are a necessary condition of his particular mode of survival.

MPP2-343 PROPERTY RIGHTS ARE ESSENTIAL TO ALL OTHER RIGHTS

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.18

In regard to political economy, this last requires special emphasis: man has to work and produce in order to support his life. He has to support his life by his own effort and by the guidance of his own mind. If he cannot dispose of the product of his effort, he cannot dispose of his life. Without property rights, no other rights can be practiced.

MPP2-344 AN EFFECTIVE RIGHT TO LIFE REQUIRES PROPERTY RIGHTS

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.94

The right to life is the source of all rights--and the right to property is their only implementation. Without property rights, no other rights are possible. Since man has to sustain his life by his own effort, the man who has no right to the product of his effort has no means to sustain his life. The man who produces while others dispose of his product, is a slave.

MPP2-345 POSITIVE RIGHTS ENSLAVE OTHERS

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.96

Jobs, food, clothing, recreation (!), homes, medical care, education, etc., do not grow in nature. These are man-made values-goods and services produced by men. Who is to provide them? If some men are enticed by right to the products of the work of others, it means that those others are deprived of rights and condemned to slave labor. Any alleged "right" of one man, which necessitates the violation of the rights of another, is not and cannot be a right. No man can have a right to impose an unchosen obligation, an unrewarded duty or an involuntary servitude on another man. There can be no such thing as "the right to enslave."

MPP2-346 THERE ARE NO GROUP RIGHTS, ONLY UNIVERSAL RIGHTS

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.97

There is no such thing as "a right to a job"-there is only the right of free trade, that is: a man's right to take a job if another man chooses to hire him. There is no right to a home," only the right of free trade: the right to build a home or to buy it. There are no "rights to a 'fair' wage or a 'fair' price" if no one chooses to pay it, to hire a man or to buy his product. There are no "rights of consumers" to milk, shoes, movies or champagne if no producers choose to manufacture such items (there is only the right to manufacture them oneself). There are no "rights" of special groups, there are no "rights of farmers, of workers, of businessmen, of employees, of employers, of the old, of the young, of the unborn." There are only the Rights of Man-rights possessed by every individual man and by all men as individuals.

MPP2-357 COERCION IS THE ULTIMATE DISVALUE

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.258

Anything which threatens the precondition for living the life of a rational animal is of ultimate disvalue. In a social context, the initiation of physical force (and by extension the threat thereof) by one man against another serves to destroy the precondition for living the life of a rational animal, since acting upon one's judgment becomes impossible. Thus, the initiation of physical force is an ultimate disvalue.

MPP2-358 PROTECTING INDIVIDUAL RIGHTS IS THE SOLE FUNCTION OF GOVERNMENT

Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.110

Since the protection of individual rights is the only proper purpose of a government, it is the only proper subject of legislation: all laws must be based on individual rights and aimed at their protection. All laws must be objective (and objectively justifiable): men must know clearly, and in advance of taking an action, what the law forbids them to do (and why), what constitutes a crime and what penalty they will incur if they commit it.

MPP2-359 MORAL PRINCIPLES ARE UNCOMPROMISING
Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.70

There can be no compromise on moral principles. "In any compromise between food and poison, it is only death that can win. In any compromise between good and evil, it is only evil that can profit." (Atlas Shrugged.) The next time you are tempted to ask: "Doesn't life require compromise?" translate that question into its actual meaning: "Doesn't life require the surrender of that which is true and good to that which is false and evil?" The answer is that precisely is what life forbids-if one wishes to achieve anything but a stretch of tortured years spent in progressive self-destruction.

MPP2-360 MORAL AGNOSTICISM DESTROYS CULTURE
Ayn Rand, philosopher and novelist, *THE VIRTUE OF SELFISHNESS*, 1964, p.71

Nothing can corrupt and disintegrate a culture or a man's character as thoroughly as does the precept of moral agnosticism, the idea that one must never pass moral judgments others, that one must be morally tolerant of anything, that the good consists of never distinguishing good from evil.

MPP2-361 MORAL STANDARDS ARE UNIVERSAL BECAUSE WE SHARE A COMMON HUMAN NATURE

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.248

In the last paragraph, Nozick notes that it has not been shown (by Rand) "why each person must follow the same principles, and why I may not, as a rational being, have a clause in mine [my principle] which recommends parasitism under certain conditions." But the answer to this has already been implied. Each person has the same human nature and because of this the principles of action that guide that person's actions must be the same principles that apply to others as well. There cannot be a special clause allowing parasitism because then we would not be talking about principles.

MPP2-362 SUBJECTIVISM LEADS TO FORCE AS THE ONLY COURT OF APPEAL

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.22-3

If a man believes that the good is a matter of arbitrary, subjective choice, the issue of good or evil becomes, for him, an issue of: my feelings or theirs? No bridge, understanding, or communication is possible to him. Reason is the only means of communication among men, and an objectively perceivable reality is their only common frame of reference; when these are invalidated (i.e., held to be irrelevant) in the field of morality, force becomes men's only way of dealing with one another.

MPP2-363 CAPITALISM HAS IMMENSELY RAISED LIVING STANDARDS

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.28

The magnificent progress achieved by capitalism in a brief span of time - the spectacular improvement in the conditions of man's existence on earth-is a matter of historical record.

MPP2-364 LAISSEZ-FAIRE CAPITALISM IS THE ONLY ALTERNATIVE TO TYRANNY

Leonard Peikoff, Professor of Philosophy, Hunter College, *THE OMINOUS PARALLELS*, 1982, p.310

The government of a free society is prohibited from emulating the criminals it is created to apprehend. It is prohibited from initiating force against innocent men. It cannot inject the power of physical destruction into the lives of peaceful citizens, not for any purpose or in any realm of endeavor, including the realm of production and trade. This means the rejection of any dichotomy between political and economic freedom. It means the separation of state and economics. It means the only alternative to tyranny that has ever been discovered: laissez-faire capitalism.

MPP2-365 ECONOMIC FREEDOM PRESERVES INTELLECTUAL FREEDOM

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.19

The right to agree with others. is not a problem in any society, it is the right to disagree that is crucial. It is the institution of private property that protects and implements the right to disagree - and thus keeps the road open to man's most valuable attribute (valuable personally, socially, and objectively): the creative mind.

MPP2-366 CAPITALISM ABOLISHED SERFDOM

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.12

The institution of serfdom had lasted, in one form or another, till well into the nineteenth century; it was abolished, politically, only by the advent of capitalism.

MPP2-367 CAPITALISM PRODUCED THE LONGEST HISTORICAL PERIOD OF PEACE

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.38

Let those who are actually concerned with peace observe that capitalism gave mankind the longest period of peace in history--a period which there were no wars involving the entire civilized world--from the end of the Napoleonic wars in 1815 to the outbreak of World War I in 1914.

MPP2-368 THE WORLD WARS WERE ORIGINATED BY CONTROLLED ECONOMIES

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.38

Observe that the major wars of history were started by the more controlled economies of the time against the freer ones. For instance, World War I was started by monarchist Germany and Czarist Russia, who dragged in their freer allies. World War II was started by the alliance of Nazi Germany with Soviet Russia and their joint attack on Poland.

MPP2-369 ONLY CAPITALISM FUNDAMENTALLY OPPOSES WAR

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.38

Laissez-faire capitalism is the only social system based on the recognition of individual rights and, therefore, the only system that bans force from social relationships. By the nature of its basic principles and interests, it is the only system fundamentally opposed to war.

MPP2-370 ECONOMIC DECENTRALIZATION PROMOTES PEACE

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.38

Economically, wars cost money; in a free economy, where wealth is privately owned, the costs of war come out of the income of private citizens-there is no overblown public treasury to hide that fact-and a citizen cannot hope to recoup his own financial losses (such as taxes or business dislocations or property destruction) by winning the war. Thus his own economic interests are on the side of peace.

MPP2-371 LIMITED GOVERNMENT BETTER RESISTS WAR PRESSURES

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.40

Remember that private citizens-whether rich or poor, whether businessmen or workers-have no power to start a war. That power is the exclusive prerogative of a government. Which type of government is more likely to plunge a country into war: a government of limited powers, bound by constitutional restrictions-or an unlimited government, open to the pressure of any group with warlike interests or ideologies, a government able to command armies to march at the whim of a single chief executive?

MPP2-372 DEFENSE INDUSTRIES MERELY CASH IN ON POLITICAL TENDENCIES

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.40

So long as a country is even semi-free, its mixed-economy profiteers are not the source of its warlike influences or policies and are not the primary cause of its involvement in war. They are merely political scavengers cashing-in on a public trend.

MPP2-373 CORPORATE INTERESTS GENERALLY OPPOSE WAR

Ayn Rand, philosopher and novelist, *CAPITALISM: THE UNKNOWN IDEAL*, 1967, p.41-2

Just as Wilson, a "liberal" reformer, led the United States into World War I, "to make the world safe for democracy"- so Franklin D. Roosevelt, another "liberal" reformer, led it into World War II in the name of the "Four Freedoms." In both cases, the "conservatives" and the big-business interests-were overwhelmingly opposed to war but were silenced.

MPP2-374 NOZICK MISREPRESENTS RAND'S VIEWS

Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.234

Before this can be done, however, we must note that the conclusion Nozick sets up for consideration seems not to be one that Rand holds! Nozick's conclusion that "only living things have values with a point" seems to mean that values have a purpose or serve a function only for living beings, but Rand's contention is that only living beings can have values. not that only living beings have values with a purpose. Rand holds that "value is that which one acts to gain and/or keep." In other words, value, when most generally considered, is an object of an action, an end, a goal or purpose. Thus, when Rand states that "only a living entity can have goals or can originate them," she is contending that values period exist only for living things.

MPP2-375 AN APPROPRIATE MORAL THEORY CONSIDERS BOTH RIGHTS AND OUTCOMES

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.200

A political theory that reflected these moral complexities would assign society the function of promoting certain goods and preventing certain evils, within limits set by the differing constraints of different individual rights. It would not judge processes and procedures solely by their tendency to produce certain outcomes, nor would it judge outcomes solely by the processes that had produced them. Social institutions and the procedures defining them would be assessed by reference both to their respect for individual rights and liberty, and to their tendency to promote desirable ends like the general welfare.

MPP2-376 RIGHTS CARRY DIFFERENT WEIGHTS

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.199

There is no reason to think that either in personal life or in society the force of every right will be absolute or nearly absolute, i.e., never capable of being overridden by consequential considerations. Rights not to be deliberately killed, injured, tormented, or imprisoned are very powerful and limit the pursuit of any goal. More limited restrictions of liberty of action, restrictions on the use of property, restrictions on contracts, are simply less serious and therefore provide less powerful constraints.

MPP2-377 RIGHTS CAN BE OVERRIDDEN

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.196

The sources of morality are not simple but multiple; therefore its development in political theory will reflect that multiplicity. Rights limit the pursuit of worthwhile ends, but they can also sometimes be overridden if the ends are sufficiently important.

MPP2-378 NOZICKIAN RIGHTS MUST BE WEIGHED AGAINST OTHER INTERESTS

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, *READING NOZICK*, 1981, p.13

Moreover, Nagel argues, the desirability of living a meaningful life cannot by itself imply as Nozick suggests it does, an absolute right against interference by others. For the effect of such non-interference upon those others who must, according to Nozick, forbear from intrusive activity has to be weighed against the interests of persons whose alleged rights are transgressed.

MPP2-379 THE RIGHT TO LIFE ISN'T ABSOLUTE

Jonathan Glover, Oxford philosopher, *CAUSING DEATHS AND SAVING LIVES*, 1977, p.85

But, if we say that the right to life is the only right, or the one right that always has priority over others, 'this no trade-off' view seems too strong. Suppose there were a tyrant who, although he never killed people, inflicted hideous tortures on many of them, and who could only be stopped from this by assassination? Are we to say that there is no amount of misery whose prevention would justify killing him? Those of us who cannot accept this must reject the strong version of the view that there is an absolute right to life.

MPP2-380 FREEDOM IS A TOOL, NOT AN END IN ITSELF

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.145

But as Rawls recognized, once we say this, then the principle of greatest equal liberty does no work. For the reason it is important to be free in a particular respect is not the amount of freedom it provides, but the importance of the various interests it serves. As Dworkin puts it: If we have a right to basic liberties not because they are cases in which the commodity of liberty is somehow especially at stake, but because an assault on basic liberties injures us or demeans us in some way that goes beyond its impact on liberty, then what we have a right to is not liberty at all, but to the values or interests or standing that this particular constraint defeats. (Dworkin 1977: 271) In making liberty-claims, therefore, we are entitled, not to the greatest equal amount of this single commodity of freedom, but to equal consideration for the interests that make particular liberties important.

MPP2-381 LIBERTY ISN'T A VALID BASIS FOR POLITICAL THEORY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.151

None of the three definitions of liberty supports the view that libertarianism increases freedom. Moreover, the failure of these three approaches suggests that the very idea of a liberty-based theory is confused. Our commitment to certain liberties does not derive from any general right to liberty, but from their role in the best theory of equality (or mutual advantage). The question is which specific liberties are most valuable to people, given their essential interests, and which distribution of those liberties is legitimate, given the demands of equality or mutual advantage? The idea of freedom as such, and lesser or greater amounts of it, does no work in political argument.

MPP2-382 FREEDOM ISN'T VALUABLE IN THE ABSTRACT

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.151

There is no philosophical and political problem of freedom as such, only the real problem of assessing specific freedoms. Whenever someone says that we should have more freedom, we must ask who ought to be more free to do what from what obstacle? Contrary to Gordon, it is not the specification of these things, but the failure to specify them, that obscures the real issues. Whenever someone tries to defend the free market, or anything else, on the grounds of freedom, we must demand that they specify which people are free to do which sorts of acts - and then ask why those people have a legitimate claim to those liberties - i.e. which interests are promoted by these liberties, and which account of equality or mutual advantage tells us that we ought to attend to those interests in that way. We cannot pre-empt these specific disputes by appealing to any principle or category of freedom as such.

MPP2-383 THE RIGHT TO NON-INTERFERENCE DEPENDS ON RELATIVELY EQUAL ABILITIES

John Christman, Professor of Philosophy at Virginia Polytechnic Institute, *PHILOSOPHY AND PUBLIC AFFAIRS*, Spring 1986, p.173

A natural right to noninterference with free actions is well grounded when there are not appreciable disparities among the abilities of people to freely move and use their bodies. If the world were different-if say, in the state of nature most people were helplessly crippled and dependent on the healthy minority to make wheelchairs and such in order that they could survive - the intuition that all people have natural rights to act or to refrain from action however they choose would be strained.

MPP2-384 AUTONOMY ISN'T AN ABSOLUTE PRINCIPLE
Tom Beauchamp, Department of Philosophy at the Kennedy Institute of Ethics, Georgetown University, **RIGHTS OF HEALTH CARE**, Thomas Bole III and William Bonderson, ed., 1991, p 76-7.

In order to show that there is something so special about principles of liberty or autonomy that principles of beneficence and non-maleficence can never override them, a libertarian theory of rights would have to be expressed so that it always protects autonomy at the expense of welfare, no matter the level of the coercive constraint placed on autonomy (0.0001% of one's salary through taxation, e.g., would be excessive for the libertarian because coercive) or the significance of the benefit conferred upon others (life-saving technology, say). I believe that no reasonable theory of morals would hold that liberty is an absolute value, above life and above all forms of welfare; and yet this seems precisely the final libertarian solution. The libertarian is right to insist that respect for autonomy is a necessary condition of morality, but this does not make autonomy an absolute principle. Our shared general scheme of moral values cannot possibly accommodate such a claim of absoluteness.

MPP2-385 LIBERTARIANISM OVEREMPHASIZES PROPERTY RIGHTS

Norman Daniels, Professor of Philosophy at Tufts University, **JUST HEALTH CARE**, 1985, p.121.

Other philosophers (e.g., Scanton 1977, Scheffler 1976) have noted that the theory gives undue prominence to some liberties at the expense of others - that a more balanced theory of justice would have to constrain property rights in the name of other basic liberties, such as rights to citizen participation and due process.

MPP2-386 PROPERTY RIGHTS AREN'T ABSOLUTE

Tom Beauchamp, Department of Philosophy at the Kennedy Institute of Ethics, Georgetown University, **RIGHTS OF HEALTH CARE**, Thomas Bole III and William Bonderson, 1985, p.121

The rights not to be coerced and to private property are rights of great importance, but not so important or precise in scope as to be absolute. Nothing about either right suggests more than prima facie status. Accordingly, any moral right - such as the right not to be harmed -- that is weightier in the circumstances can override the right not to be coerced or the right to hold property.

MPP2-387 PROPERTY RIGHTS CAN BE OVERRIDDEN

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, **READING NOZICK**, 1981, p.9-10

Like Scanlon, Judith Jarvis Thomson is skeptical about the possibility of defending the absolutely inviolable character of Nozickian property rights. This skepticism derives from a number of examples in which our intuitions incline us toward the view that the property rights in question may be overridden by other considerations. Thomson then asks what is it, at the margin, which sustains the moral invincibility of a property claim and conversely, what is it that justifies the infringement of a property right when we are morally persuaded to ignore it? Property claims are to be sustained, she argues, when, in addition to having acquired title to an object in suitable ways, we value that object highly. Such claims may be overridden when a life will be lost in the absence of an infringement of rights. This demonstrates, Thomson argues, that rights are derivable from human interests and needs and this in turn suggests that the constraints that rights impose upon redistribution are not as inflexible as Nozick's deontological conception of them leads him to believe.

MPP2-388 ENTITLEMENT CLAIMS ARE RELATIVE

Jonathan Wolff, philosopher, **ROBERT NOZICK**, 1991, p.141
From this Rawlsian point of view, the error of libertarianism is to take principles of legitimate expectations from within the structure and claim that the structure should be formed in accordance with those principles. That is, all claims of entitlement, are for Rawls, relative to a prior structure of justice. Nothing is 'mine absolutely' but only 'mine given the rules'. Libertarianism forgets this essential relativism of claims of entitlement. Thus we can accept the great appeal of entitlement principles, yet also argue that they do not constitute the deepest truth about justice.

MPP2-389 PROPERTY RIGHTS DON'T NECESSARILY ENHANCE LIBERTY

Jonathan Wolff, philosopher, **ROBERT NOZICK**, 1991, p.100
Finally, and most radically yet, on a Hobbesian conception of liberty, according to which one's liberty is restricted whenever there is something one is prohibited from doing, it is not clear that liberty demands private property rights rather than, say, socialist common property, or some other arrangement altogether. Thus, there is even a case that liberty requires patterns.

MPP2-390 PRIVATE PROPERTY MAY LIMIT FREEDOM

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, **READING NOZICK**, 1981, p.20

Furthermore it can be plausibly contended, according to Ryan, that private property inhibits freedom rather than expands it. The transition from common ground to enclosed ground in England rendered large tracts of land inaccessible to those who formerly had the free use of it. Indeed, Ryan argues against Nozick that the right to acquire personal property from nature is a source of increasingly constricted autonomy.

MPP2-391 PROPERTY RIGHTS RESTRICT FREEDOM

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.147
That property-rights increase some people's freedom by restricting others' is obvious when we think of the origin of private property. When Amy unilaterally appropriated land that had previously been held in common, Ben was legally deprived of his freedom to use the land. Since private ownership by one person presupposes non-ownership by others, the 'free market' restricts as well as creates liberties, just as welfare-state redistribution both creates and restricts liberties. Hence, as Cohen puts it, 'the sentence "free enterprise constitutes economic liberty" is demonstrably false'.

MPP2-391A THERE'S NO RIGHT TO PROFIT FROM UNDESERVED TALENTS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.125
But there is a deeper problem with Nozick's self-ownership argument. Nozick has not adequately confronted Rawls's claim that people do not have a legitimate claim to the rewards of the exercise of their undeserved talents. I have tried to show that we can get a Rawlsian distributive scheme even without denying self-ownership, since redistribution could arise from the requirements of a fair theory of access to external resources. But I still think that Rawls's denial of self-ownership was perfectly sound. I think that we can treat people's talents as part of their circumstances, and hence as possible grounds, in and of themselves, for compensation. People have rights to the possession and exercise of their talents, but the disadvantaged may also have rights to some compensation for their disadvantage. It is wrong for people to suffer from undeserved inequalities in circumstances, and the disadvantaged have direct claims on the more fortunate, quite independently of the question of access to external resources.

MPP2-391B PROPERTY RESTS ON FORCE, HENCE IT CAN BE LEGITIMATELY REDISTRIBUTED.

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.108
The historical answer is often that natural resources came to be someone's property by force, which raises a dilemma for those who hope Nozick's theory will defend existing inequalities. Either the use of force made the initial acquisition illegitimate, in which case current title is illegitimate, and there is no moral reason why governments should not confiscate the wealth and redistribute it. Or the initial use of force did not render the acquisition illegitimate, in which case we can, with equal justification, use force to take it away from its current owners and redistribute it. Either way, the fact that initial acquisition often involved force means that there is no moral objection to redistributing existing wealth.

MPP2-391C RADICALLY DIFFERENT INHERITANCES ARE INTUITIVELY UNJUST

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.41
Both the strengths and the weaknesses of the entitlement theory are immediately apparent. On the one hand, can it really be just that one baby should come into the world with a multi-million dollar trust fund, the best possible schooling, and family connections with the nation's leading politicians and financiers awaiting him, while another baby faces life in a dingy apartment with no money and nothing else to help him on his way in the world? Neither baby at the moment of birth can possibly deserve anything; an equal division would therefore seem the only just one.

MPP2-391D MARKET TRANSACTIONS INVOLVE MORE THAN SELF-OWNED POWERS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.107
Nozick claims that market exchanges involve the exercise of individuals' powers, and since individuals own their powers, they also own whatever comes from the exercise of those powers in the marketplace. But this is too quick. Market exchanges involve more than the exercise of self-owned powers. They also involve legal rights over things, over external goods, and these things are not just created out of nothing by our self-owned powers. If I own some land, I may have improved the land, through the use of my self-owned powers. But I did not create the land, and so my title to the land (and hence my right to use the land in market exchanges) cannot be grounded solely in the exercise of my self-owned powers.

MPP2-391E ILLEGITIMATE INITIAL ACQUISITION OF RESOURCES JUSTIFIES REDISTRIBUTION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.109
Because most initial acquisition was in fact illegitimate, Nozick's theory cannot protect existing holdings from redistribution. But we still need to know how acquisition could have arisen legitimately. If we cannot answer that question, then we should not only postpone the implementation of Nozick's principle of transfer until historical titles are ascertained or rectified, we should reject it entirely. If there is no way that people can appropriate unowned resources for themselves without denying other people's claim to equal consideration, then Nozick's right of transfer never gets off the ground.

MPP2-391F SINCE INITIAL ACQUISITION WAS UNJUST, THERE ARE NO LEGITIMATE ENTITLEMENTS

Jonathan Wolff, philosopher, ROBERT NOZICK, 1991, p.141
Second, initial appropriation remains undefended by Nozick, and this may well be because it is indefensible on libertarian grounds. Allowing people virtually unlimited appropriation of the world will importantly restrict what others can do, thus undermining their liberty and self-ownership. Thus Nozick's concept of ownership itself generates conflicts, and so the project of allowing no restrictions upon ownership itself falls into incoherence.

MPP2-392 PROPERTY IN THE STATE OF NATURE IS PUBLICLY OWNED

John E. Roemer, University of California-Davis, CANADIAN JOURNAL OF PHILOSOPHY, December 1988, p.699.

Recently, G.A. Cohen and James Grunebaum have challenged the libertarian proposal by questioning the second premise of Nozick's argument, that in the state of nature the external world is properly viewed as unowned. There is another alternative: that it is properly viewed as publicly owned. (Public ownership is not the same as common ownership, as I will clarify below.) Why should not the land be held in trusteeship, as it were, for future generations by the living generation, and therefore not up for grabs? Cohen's and Grunebaum's suggestion points out the implicit individualism of the libertarian argument. Just because no individual should be viewed as owning a natural resource in the state of nature does not mean that groups should not be viewed as owning it.

MPP2-393 BECAUSE TALENTS ARE UNDESERVED THERE IS NO RIGHT TO BENEFIT FROM THEM MATERIALLY

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.105-6.

There are many ways in which liberals respect individuals' claims over their own talents. Liberals accept that I am the legitimate possessor of my talents and that I am free to use them in accordance with my chosen projects. However, liberals say that because it is a matter of brute luck that people have the talents they do, their rights over their talents do not include the right to accrue unequal rewards from the exercise of those talents. Because talents are undeserved, it is not a denial of moral equality for the government to consider people's talents as part of their circumstances, and hence as a possible ground for claims to compensation. People who are born naturally disadvantaged have a legitimate claim on those with advantages, and the naturally advantaged have a moral obligation to the disadvantaged. Thus, in Dworkin's theory, the talented owe insurance premiums that get paid out to the disadvantaged, while in Rawls's theory, the talented only benefit from their talents if it also benefits the disadvantaged.

MPP2-394 OUR NATURAL TALENTS AREN'T OUR PROPERTY

Norman Daniels, Professor of Philosophy at Tufts University, JUST HEALTH CARE, 1985, p.121

Still others (Rawls 1971) challenge the implicit assumption that our natural talents and skills are our property in the sense that we deserve, and are entitled to benefit from, their use in any way that we can through free exchanges. They argue that such endowments are themselves 'undeserved' and should work to the advantage of everyone, not just their possessors.

MPP2-395 DESERTS DON'T JUSTIFY PROPORTIONAL BENEFITS

John Christman, Professor of Philosophy at Virginia Polytechnic Institute, PHILOSOPHY AND PUBLIC AFFAIRS, Spring 1986, p.167.

All that this notion of desert (the concept constitutive of morality per se) entails is that after a laborer develops an unowned resource, she or he deserves gratitude or praise (if developing the resource benefits everyone). But this does not imply that the laborer deserves a proportional or fitting benefit for the service. I do not wish to claim that principles of desert overall are without justification (though some doubts on this score can be raised), but it should be clear that the concept of desert that is necessarily included in any system of morals leaves open the question of what is deserved besides praise or blame itself: what is deserved beyond that is a question answerable only with a separate moral argument, one which takes into consideration the distribution of benefits generally.

MPP2-396 LIBERTARIANISM IGNORES THE UNFAIR BARGAINING POWER OF THE WEALTHY

John Christman, Professor of Philosophy at Virginia Polytechnic Institute, PHILOSOPHY AND PUBLIC AFFAIRS, Spring 1986, p.175.

Nozick does not take seriously the special disadvantage that besets a person who is comparatively worse off than her neighbors. I am not here referring only to envy but for example to the differential bargaining power among individuals that is made possible by severe inequalities in wealth. By owning all those oil wells you will be able to outbid me for any new object or resource that comes along and thus worsen my entire life prospects by your presence.

MPP2-397 PURE CAPITALISM ISN'T JUSTIFIED BY SELF-OWNERSHIP

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.118-9.

I have tried to show that the principle of self-ownership does not by itself generate a moral defence of capitalism, since a capitalist requires not only ownership of her self, but also ownership of resources. Nozick believes that self-ownership inevitably leads to unrestricted property-rights, but we are in fact confronted by a variety of economic regimes that are compatible with self-ownership, depending on our theory of legitimate appropriation, and our assumptions about the status of the external world. Nozick believes that self-ownership requires that people be entitled to all the rewards of their market exchanges, but different regimes vary in the extent to which they allow self-owning individuals to retain their market rewards. Some will allow the naturally talented to translate their natural advantages into unequal ownership of the external world (although not necessarily to the extent allowed by Nozick); others will redistribute market income so as to ensure that the naturally disadvantaged have equal access to resources (as in Rawls or Dworkin). Self-ownership is compatible with all these options.

MPP2-398 ONLY A LIMITED NUMBER OF PEOPLE WOULD HAVE WORTHWHILE LIVES WITH ONLY NEGATIVE RIGHTS

Jonathan Wolff, philosopher, *ROBERT NOZICK*, 1991, p.31

The problem with this is that if people have only negative rights then there is no guarantee that many individuals will in fact be in a position to lead lives worth living. Perhaps in such a society many people will have to endure unrelieved poverty. Some may starve and others lead menial lives. In other words the cost of creating a world in which talented people with luck on their side live a life of great meaning might be that a significant section of the population can do little better than strive to secure their day-today survival.

MPP2-399 INCOME REDISTRIBUTION ENHANCES SELF-DETERMINATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.122
 Libertarians claim that liberal welfare programmes, by limiting property-rights, unduly limit people's self-determination. Hence the removal of welfare redistribution programmes (Nozick), or their limitation to an absolute minimum (Fried), would be an improvement in terms of self-determination. But that is a weak objection. Redistributive programmes do restrict the self-determination of the well off to a limited degree. But they also give real control over their lives to people who previously lacked it. Liberal redistribution does not sacrifice self-determination for some other goal. Rather, it aims at a fairer distribution of the means required for self-determination. Libertarianism, by contrast, allows undeserved inequalities in that distribution-its concern with self-determination does not extend to a concern for ensuring the fair distribution of the conditions required for self-determination. In fact, it harms those who most need help in securing those conditions. If each person is to be treated as an end in herself, as Nozick says repeatedly, then I see no reason for preferring a libertarian regime to a liberal redistributive one.

MPP2-400 REDISTRIBUTION ISN'T AN AFFRONT TO DIGNITY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.122-3

Finally, Nozick might argue that welfare redistribution denies people's dignity, and this dignity is crucial to treating people as equals (e.g. Nozick 1974: 334). Indeed Nozick often writes as if the idea that other people have claims on the fruits of my talents is an assault on my dignity. But this is implausible. One problem is that, Nozick often ties dignity to self-determination, so that it will be liberal regimes, not libertarian ones, which best promote each person's dignity. In any event, dignity is predicated on, or a byproduct of, other moral beliefs. We only feel something to be an attack on our dignity if we are already convinced that it is wrong. Redistribution will feel like an assault on dignity only if we believe it is morally wrong. If we believe instead that redistribution is a required part of treating people as equals, then it will serve to promote, rather than attack, people's sense of equal dignity.

MPP2-401 NOZICK'S CONCEPT OF DIGNITY REQUIRES ACCESS TO RESOURCES

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.150
 But, we have seen, the notion of dignity and agency that Nozick relies on, based on the idea of acting on one's conception of oneself, requires rights over resources as well as one's person. Having independent access to resources is important for our purposes, and hence our purposive freedom, but that argues for liberal equality not libertarianism.

MPP2-402 IF MEANINGFUL LIFE HAS VALUE, WE HAVE A DUTY TO PROVIDE FOR ITS MATERIAL BASIS

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, *READING NOZICK*, 1981, p.10-11

Scheffler rejects these political inferences drawn by Nozick from the intrinsic value of leading a meaningful life. For Scheffler, if there is such value then the rights which it sanctions are qualitatively different from Nozickian ones. Scheffler argues that if a meaningful life has moral value then the capacities required to nurture them are valuable as well. These capacities cannot be employed unless the material conditions necessary to their support are met. The provision of those conditions includes that quantity of distributable goods necessary to ensure a reasonable chance to all of leading a meaningful life. Hence, the centerpiece of Nozick's axiology leads to the very welfare rights which he set out to oppose, according to Scheffler.

MPP2-403 REDISTRIBUTION IS JUSTIFIED ON UTILITARIAN GROUNDS

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.50

Utilitarianism has no problem in justifying a substantial amount of compulsory redistribution from the rich to the poor. We all recognize that \$1,000 means far less to people earning \$100,000 than it does to people trying to support a family on \$6,000. Therefore in normal circumstances we increase the total happiness when we take from those with a lot and give to those with little. Therefore that is what we ought to do. For the utilitarian it is as simple as that. The result will not absolute equality of wealth. There may be some who need relatively little to be happy, and others whose expensive tastes require more to achieve the same level of happiness. If resources are adequate the utilitarian will give each enough to make him happy, and that will mean giving some more than others.

MPP2-404 UTILITARIANISM JUSTIFIES THE WELFARE STATE

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.50-1

None of the arguments Nozick uses against Rawls is decisive when invoked against a utilitarian position. Utilitarianism gives a clear and plausible defense not merely of progressive taxation, welfare payments, and other methods of redistribution, but also of the general right of the state to perform useful functions beyond the protection of its citizens from force and fraud. Utilitarianism also provides an argument in defense of the claim behind Williams's argument for equality-that society should, so far as its resources allow, provide for the most important needs of its members.

MPP2-405 DEMOCRATIC MAJORITIES SUPPORT THE WELFARE STATE

Elim Papadakis, University of New England, *POLITICAL STUDIES*, 1992, p.22.

One of the contributions of studies of public opinion has been to question assumptions about the crisis of the welfare state. Studies of attitudes to taxation and spending in advanced industrialized countries have found strong support for most of the major programs commonly associated with the welfare state.

MPP2-406 VIOLATIONS OF CIVIL LIBERTIES DON'T JUSTIFY REJECTING THE WELFARE STATE

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.193

Naturally any opposition to the power of governments will meet with a certain sympathy from observers of the contemporary scene, and Nozick emphasizes the connection between his view and the fight against legal regulation of sexual behavior, drug use, and individual life styles. It is easy to develop an aversion to state power by looking at how actual states wield it. Their activities often include murder, torture, political imprisonment, censorship, conscription for aggressive war, and overthrowing the governments of other countries-not to mention tapping the phones, reading the mail, or regulating the sexual behavior of their own citizens. The objection to these abuses, however, is not that state power exists, but that it is used to do evil rather than good. Opposition to these evils cannot be translated into an objection to welfare, public education, or the graduated income tax.

MPP2-407 TAXES ARE JUSTIFIED BY SUFFICIENTLY GOOD ENDS

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.199

Moreover, there is a big difference between suddenly expropriating half of someone's savings and attaching monetary conditions in advance to activities, expenditures, and earnings-the usual form of taxation. The latter is a much less brutal assault upon the person. Whether this kind of limitation of individual liberty should be permitted, to acquire resources for the promotion of desirable ends, is a function of the gravity of the violation and the desirability of the ends.

MPP2-408 TAXATION LEGITIMATELY CORRECTS NATURAL INEQUALITIES

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.100
 Let us assume that I specified an initial distribution D1 that was in line with Rawls's difference principle. Hence each person starts with an equal share of resources, regardless of their natural talents. But at the end of the basketball season, Chamberlain will have earned \$250,000, while the handicapped person, who may have no earning power, will have exhausted her resources, and will be on the verge of starvation. Surely our intuitions still tell us that we can tax Chamberlain's income to prevent that starvation. Nozick has persuasively drawn on our intuition about acting on our choices, but his example ignores our intuition about dealing fairly with unequal circumstances.

MPP2-409 TAXATION ISN'T FORCED LABOR--PEOPLE STILL CHOOSE THEIR WORK

Jonathan Wolff, philosopher, *ROBERT NOZICK*, 1991, p.91
 Further, most people have a measure of choice as to the nature of the activity at which they work, and who in particular employs them. These, too, are uncharacteristic of forced labor.

MPP2-410 THE AMOUNT ONE WORKS IS STILL SELF-DETERMINED, DISTINGUISHING IT FROM FORCED LABOR

Jonathan Wolff, philosopher, *ROBERT NOZICK*, 1991, p.91
 Under a modern system of progressive taxation you will be taxed if you earn more than a certain amount of money, and how much you will be taxed depends in part on how much work you decide to do. Forced labor rarely includes the option of deciding how much labor to do.

MPP2-411 TAXATION DOESN'T SIGNIFICANTLY DAMAGE SELF-DETERMINATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.122
 A liberal regime which taxes the unequal rewards of undeserved talents does limit some people's self-determination. But it is an acceptable limit. Being free to choose one's own career is crucial to self-determination, but being free from taxation on the rewards which accrue from undeserved natural talents is not. Even if one's income is taxed in accordance with Rawlsian principles, one still has a fair share of resources and liberties with which to control the essential features of one's life. Taxing income from the exercise of natural talents does not unfairly disadvantage anyone in their substantive self-ownership, their ability to act according to their conception of themselves.

MPP2-412 TAXATION REDISTRIBUTES FREEDOM RATHER THAN LIMITING IT

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.147
 As soon as we ask that question, Flew's equation of capitalism with freedom is undermined. For it is the owners of the resource who are made free to dispose of it, while non-owners are deprived of that freedom. Suppose that a large estate you would have inherited (in the absence of an inheritance tax) now becomes a public park, or a low-income housing project (as a result of the tax). The inheritance tax does not eliminate the freedom to use the property, rather it redistributes that freedom. If you inherit the estate, then you are free to dispose of it as you see fit, but if I use your backyard for my picnic or garden without your permission, then I am breaking the law, and the government will intervene and coercively deprive me of the freedom to continue. On the other hand, my freedom to use and enjoy the property is increased when the welfare state taxes your inheritance to provide me with affordable housing, or a public park. So the free market legally restrains my freedom, while the welfare state increases it.

MPP2-413 TAXES DON'T VIOLATE RIGHTS

John Christman, Professor of Philosophy at Virginia Polytechnic Institute, *PHILOSOPHY AND PUBLIC AFFAIRS*, Spring 1986, p.165.

Also, as Karl has pointed out, persons who gain entitlements through embedded labor may enter into a market, the function of which serves to reduce inefficiencies, reduce externalities, and lower negotiation costs which all increase the net social product produced from those entitlements without demanding extra labor from individual traders. Thus, taxation which redistributes that extra product would amount to a limitation of the ownership rights of the traders over the commodities in question but not constitute an encroachment on the rights anyone has to her or his labor (since the product redistributed is from the increased efficiencies of the market mechanism, not increased labor).

MPP2-414 CHARITY ISN'T A SUBSTITUTE FOR STATE REDISTRIBUTION

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.199

Nozick would reply that such ends can be achieved by voluntary donations rather than by compulsion, and that people who are well-off and who deplore the existence of poverty should donate significant portions of their assets to help those who are unfortunate. But this is no more plausible coming from Nozick than it was coming from Barry Goldwater. Most people are not generous when asked to give voluntarily, and it is unreasonable to ask that they should be.

MPP2-415 REDISTRIBUTIVE TAXATION IS PREFERABLE TO VOLUNTARY CONTRIBUTION

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.200

It is acceptable to compel people to contribute to the support of the indigent by automatic taxation, but unreasonable to insist that in the absence of such a system they ought to contribute voluntarily. The latter is an excessively demanding moral position because it requires voluntary decisions that are quite difficult to make. Most people will tolerate a universal system of compulsory taxation without feeling entitled to complain, whereas they would feel justified in refusing an appeal that they contribute the same amount voluntarily. This is partly due to lack of assurance that others would do likewise and fear of relative disadvantage; but it is also a sensible rejection of excessive demands on the will, which can be more irksome than automatic demands on the purse.

MPP2-416 RELIANCE ON VOLUNTARY REDISTRIBUTION THREATENS SOCIAL STABILITY

Madison Powers, Senior Researcher at the Kennedy Institute of Ethics, *YALE LAW AND POLICY REVIEW*, 1992, p.354.

Social stability may depend upon more than the provision for individual acts of benevolence. It may be important to the preservation of the bonds of community, not simply that the needs of its least fortunate are met, but that they are met in a way which emphasizes the communal rather than the purely individual character of beneficence. If our overriding aim is to preserve individual liberty while maintaining strong allegiance to public institutions, then it is plausible to argue that commitment to those institutions is most effectively promoted when their needs of its members are met through collective action undertaken by government. Leaving the needs of the less fortunate to be met by private charity, for example, may reinforce in the recipients a sense that society has simply left their fate to the good will of the privileged few. A collective societal response to individual need, by contrast, affirms a stronger commitment to the well-being of its members, and it is likely to generate less fragile bonds of loyalty. If this is true, then we should value public provision for basic needs such as health care over the sum of individual acts of private charity meeting human needs at the same level of benefit to the beneficiaries.

MPP2-417 LIBERTARIAN ECONOMIC ARRANGEMENTS CAN RESULT IN FUNCTIONAL SLAVERY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.120-1

Libertarians cannot guarantee each person substantive control over her life, and indeed, Nozick explicitly says that formal self-ownership is all that people can legitimately claim. He says that the worker who lacks any property, and who must sell her labour on adverse terms to the capitalist, has full self-ownership (1974: 262-4). She has full self-ownership even though, Nozick concedes, she may be forced to agree to whatever terms the capitalist is offering her in order to survive. The resulting 'agreement' might well, as in Victorian England, be essentially equivalent to the enslavement of the worker. The fact that the worker has formal rights of self-ownership means that she cannot be the legal possession of another person (unlike the chattel slave), but economic necessity may force her to agree to terms which are just as adverse.

MPP2-418 LIBERTARIANISM LEADS TO EXPLOITATION OF WORKERS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.121

Libertarianism not only restricts the self-determination of the propertyless worker, it makes her a resource for others. Those who enter the market after others have appropriated all the available property are 'limited to gifts and jobs others are willing to bestow on them', and so 'if they are compelled to co-operate in the scheme of holdings, they are forced to benefit others. This forced compliance with the property system constitutes a form of exploitation and is inconsistent with the most basic of [Nozick's] root ideas, rendering as it does the latecomers mere resources for others.

MPP2-419 SELF-OWNERSHIP DOESN'T PRECLUDE THE EQUIVALENT OF SLAVERY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.124

Unfortunately, the fact that I have legal rights of self-ownership does not mean that I have the ability to avoid what is in effect enslavement to another. Even if the capitalist does not have the same legal rights over me that slave-owners had over slaves, I may not have any real ability to decide on the nature and terms of my living. The best way to prevent the sort of denial of equality that occurs in slavery is not to reverse the legal rights involved, but rather to equalize the substantive control each person possesses, in the form of equal liberties and resources.

MPP2-420 LIMITING GOVERNMENT WON'T ENHANCE INDIVIDUAL RIGHTS

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.193-4

A reasonably persuasive practical argument for reducing the power of governments can perhaps be based on the unhappy results of that power. But it is doubtful that a government limited to the functions of police courts, prisons, and national defense would be conspicuously benign, or that it would be especially protective of individual rights. In practice, it would probably include the worst parts of what we have now, without much of the best. That is why those concerned with individual liberty are usually not opposed to strong government with power to promote desirable ends, so long as the exercise of that power is limited by strong safeguard. Governments should promote what is good and prevent evils, as well as protecting rights. How could anyone disagree?

MPP2-421 LIBERALISM, NOT LIBERTARIANISM, MAXIMIZES SELF-DETERMINATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.121-2.

What regime best promotes substantive self-ownership? Self-determination requires resources as well as rights over one's physical being. We are only able to pursue our most important projects, free from the demands of others, if we are not forced by economic necessity to accept whatever conditions others impose on us in return for access to needed resources. Since meaningful self-determination requires both resources and liberties, and since each of us has a separate existence, each person should have an equal claim to these resources and liberties. But, if so, then the concern for self-determination leads us towards liberal regimes, not libertarian ones.

MPP2-422 REDISTRIBUTION PROVIDES THE GREATEST EQUAL FREEDOM

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.150
What if libertarians adopt the purposive definition, and claim that the free market provides us with the most important liberties? Whether or not unrestricted property-rights promote one's most important purposes depends on whether or not one actually has property. Being free to bequeath property can promote one's most important purposes, but only if one has property to bequeath. So whatever the relationship between property and purposive freedom, the aim of providing the greatest equal freedom suggests an equal distribution of property, not unrestricted capitalism.

MPP2-423 LIBERTARIANISM UNDERMINES SELF-DETERMINATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.152
Libertarianism shares with liberal equality a commitment to the principle of respect for people's choices, but rejects the principle of rectifying unequal circumstances. Taken to the extreme, this is not only intuitively unacceptable, but self-defeating as well, for the failure to rectify disadvantageous circumstances can undermine the very values (e.g. self-determination) that the principle of respect for choices is intended to promote. The libertarian denial that undeserved differences in circumstances give rise to moral claims suggests an almost incomprehensible failure to recognize the profound consequences of such differences.

MPP2-424 CAPITALISM DOESN'T NECESSARILY PRESERVE CIVIL LIBERTIES

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.96
But this defence of market freedom must also be a contingent one for history does not reveal any invariable link between capitalism and civil liberties. Countries with essentially unrestricted capitalism have sometimes had poor human rights records (e.g. McCarthyism in the United States), while countries with an extensive welfare state have sometimes had excellent records in defending civil and political rights (e.g. Sweden).

MPP2-425 LIBERTARIANISM UNDERMINES SOCIAL AUTHORITY, LEADING TO OPPRESSION

Robert Nisbet, Professor of Sociology, Columbia, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.22

Libertarians, on the other hand, appear to see social and moral authority and despotic political power as elements of a single spectrum, as an unbroken continuity. If, their argument goes, we are to be spared Leviathan we must challenge any and all forms of authority, including those which are inseparable from the social bond. Libertarians seem to me to give less and less recognition to the very substantial difference between the coercions of, say, family, school, and local community and those of the centralized bureaucratic state. For me it is a generalization proved countless times in history that the onset of ever more extreme political-military power has for its necessary prelude the erosion and collapse of the authorities within the social bond which serve to give the individual a sense of identity and security, whose very diversity and lack of unconditional power prevents any escape-proof monopoly, and which in the aggregate are the indispensable bulwarks against the invasion of centralized political power - which of course is unconditional. But I do not often find among libertarians these days any clear recognition of the point I have just made.

MPP2-426 UNFETTERED LIBERTY LEADS TO SELF-DEFEATING CONCENTRATIONS OF POWER

Norman Daniels, Professor of Philosophy at Tufts University, *JUST HEALTH CARE*, 1985, p.120.

Some critics argue that such a system of unfettered liberty will tend over time to accumulate concentrations of power and wealth which undermine the possibility of there being fair and truly free exchanges between economic and political unequals. Thus, even in the name of liberty, it is important to constrain liberty.

MPP2-427 LIBERTARIANISM WOULD LEAD TO A RETURN TO THE STATE OF NATURE

Walter Berns, Professor of Government, Georgetown, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.30-1

What is our situation in the United States right now? Of the millions of FBI index crimes committed annually, 98.3 percent go unpunished. That statistic alone is sufficient to demonstrate the foolishness of the libertarian argument. We live in a state profoundly influenced by Hobbesian principles, and a state that still employs a police force. But the radical (or extreme) libertarians would do away with the police force. They are Hobbesians without Leviathan. They would substitute private police forces. But why, on the basis of their own principles, should the private police forces, however well paid they are, protect their employers? I said earlier that the libertarians were Hobbesians but with a difference, and that this difference was of some magnitude. By advocating this abolition of public authority and its replacement by private arrangements, they are advocating, Hobbes would say, a return to the state of nature. What reason have they for thinking this state of nature will not be a state of war of everyman against everyman? Who among them has done the studies proving Hobbes was wrong about the nature of man? Or, why this confidence that the "spontaneous society" will be a decent society?

MPP2-428 EXCESS LIBERTY CREATES A MORAL VACUUM

Robert Nisbet, Professor of Sociology, Columbia, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.20

For the conservative, individual freedom lies in the interstices of social and moral authority. Only because of the restraining and guiding effects of such authority does it become possible for human beings to sustain so liberal a political government as that which the Founding Fathers designed in this country and which flourished in England from the late seventeenth century on. Remove the social bonds, as the more zealous and uncompromising of libertarian individualists have proposed ever since William Godwin, and you emerge with, not a free but a chaotic people, not creative but impotent individuals. Human nature, Balzac correctly wrote, cannot endure a moral vacuum.

MPP2-429 LIBERTARIANISM WOULD UNDERMINE THE MORAL BASIS OF THE LIBERAL STATE

Walter Berns, Professor of Government, Georgetown, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.32-3

I think what I have said above is sufficient to illustrate my point: we were founded on liberal principles, but we used the public authority in nonliberal ways. We did so partly out of habit, I suppose, and partly because there were men--Horace Mann, of course, the central figure in American public schooling, is a good example--who reflected on our situation and who knew that a liberal state could not be perpetuated with simply self-interested citizens. Men had to be taught to be public-spirited, to care for others, to be at least somewhat altruistic. In the course of time, and partly as the result of Supreme Court decisions affecting public education, public support of private education, and, of course, the censorship of obscenity, we have ceased to use the public authority in these ways. We can now be said to be living off the fat we built up in the past. I shudder to think of what would happen if we moved all the way from liberalism to libertarianism.

MPP2-430 WITHOUT THE MORAL EDUCATION OF LAW, CRIME WOULD FLOURISH

Walter Berns, Professor of Government, Georgetown, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.32

To repeat: the question to be answered by the libertarians is this: what will be the effect of a system of law that says only that it is not in the interest of a man to commit a crime? Rousseau's answer was: there will be more crime. There will be more crime because once people are not governed by decent morals/manners, once people are no longer morally educated by the laws, once people are not governed by decent habits instilled in them with the assistance of the law, "they will soon enough discover the secret of how to evade the laws"(Narcisse, ou L'Amant de Lui-Meme, Preface). Rousseau was commenting on the Hobbesian state. It is not difficult to imagine what he would say about the libertarian version of the Hobbesian state, the Hobbesian state without Leviathan.

MPP2-431 AUTHORITY NEED NOT DESTROY INDIVIDUAL CREATIVITY

Robert Nisbet, Professor of Sociology, Columbia, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.20

So argue, as some libertarians have, that a solid, strong body of authority in society is incompatible with individual creativity is to ignore or misread cultural history. Think of the great cultural efflorescences of the fifth century B.C. in Athens, of first century Augustan Rome, of the thirteenth century in Europe, of the Age of Louis XIV, and Elizabethan England. One and all, these were ages of social and moral order, powerfully supported by moral codes and political statutes. But the Aeschyluses, Senecas, Roger Bacons, Moliere's, and Shakespeares flourished nonetheless.

MPP2-432 LIBERTARIANISM IGNORES THE PERSPECTIVE OF THE VICTIM

Tom Beauchamp, Department of Philosophy at the Kennedy Institute of Ethics, Georgetown University, RIGHTS OF HEALTH CARE, Thomas Bole III and William Bonderson, ed., 1991, p.76.

A major problem for libertarians is that their doctrine compels them to gloss over the following important thesis: It does not matter from the perspective of one who might suffer harm (and, in some cases be compensated for the harm) whether the origin of the harm is (1) intentional, as in an act of malice such as attempted murder, (2) accidental, as in an automobile accident, or (3) natural, as in an earthquake.

MPP2-433 NOZICK'S LIBERTARIANISM WOULD STARVE 10% OF THE PUBLIC

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, READING NOZICK, 1981, p.3

While Brian Barry could inveigh in Political Theory, . . . the intellectual texture is of a sort of cuteness that would be wearing in a graduate student and seems to me quite indecent in someone who, from the lofty heights of a professorial chair, is proposing to starve or humiliate ten percent or so of his fellow citizens (if he recognizes the word) by eliminating all transfer payments through the state, leaving the sick, the old, the disabled, the mothers with young children and no breadwinner and so on, to the tender mercies of private charity, given at the whim and pleasure of the donors and on any terms they choose to impose. The varied responses to the Nozick book in contrast to its predecessor, largely reflect the chasm which separates their respective visions of the good society.

MPP2-434 MILITARY STRENGTH IS NEEDED FOR NATIONAL SURVIVAL

Robert Nisbet, Professor of Sociology, Columbia, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.23

Unfortunately we do not live in a clement world so far as conservative and libertarian ideals are concerned. It is a world in which despotisms as huge and powerful as the Soviet Union and China survive and prosper- at least in political and diplomatic respects. For the United States to ignore or to profess indifference to the aggressive acts of these and many other military despotisms would be in time suicidal. As Montesquieu wrote in a different context, it takes a power to check a power. Nothing short of a strong, well armed, alert and active American nation can possibly check the Soviet or Chinese or Cuban nation.

MPP2-435 LIBERTARIANISM WOULD LEAD TO MILITARY WEAKNESS

Robert Nisbet, Professor of Sociology, Columbia, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.24

To libertarians, on the other hand, judging from many of their writings and speeches, it is as though the steps necessary to recovery of this eminence and international authority are more dangerous to Americans and their liberties than any aggressive, imperialist totalitarianism in the world. Conservatives will, or certainly should, also be alert to these dangers and seek with every possible strength to reduce them, all the while the American nation is recovering its lost leadership, in domestic as well as international affairs. But for conservatives the supreme danger will be, I imagine, and personally hope, the danger posed by current American weakness in a world of dangerously aggressive military despotisms. Nothing at the moment suggests that this consideration will be overriding for libertarians. .

MPP2-436 LIBERTARIANS IGNORE THREATS TO NATIONAL SECURITY

John Hospers, Professor of Philosophy, University of Southern California, FREEDOM AND VIRTUE, George Carey, ed., 1984, p.66-7

Many libertarians see that such efforts might be inefficient and wasteful, and conducive to one's own defeat. And so they adopt quite a different tactic: seeing that in the present stage of the world's history any massive defense effort would have to be national in scope, and that national defense calls for one unified plan and not a variety of conflicting plans, they try to circumvent the whole problem by systematically underplaying the possibility of any threat to America's security, in which case the problem does not even arise. They do not believe in taxes; they disapprove of nations as political entities; all this goes against the Autonomy Principle. And so they push the whole uncomfortable question under the rug. The argument, which never surfaces in this naked form, comes, I think, to this: "If there were a threat, it would have to be met. But if it has to be met by a national defense force, this would violate the individual Autonomy Principle, and that would be quite un-libertarian. Therefore, there is no threat."

MPP2-437 LIBERTARIANS DOWNPLAY DEFENSE THREATS

John Hospers, Professor of Philosophy, University of Southern California, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.67

And thus do many libertarians hide their heads in the sand on matters of foreign policy. Many of them, as I read the libertarian literature, are not above distorting the facts of the case in order to soft-pedal the necessity to defend the nation against outside aggression. One constantly hears such arguments as "Russians can't even grow enough grain, how could they possibly devise an efficient war machine?" and "When you see how inefficient their civilian industries are, how can you doubt that their military machine is just as bad?" - forgetting that their best minds are given over to the military, that much of their best technology comes from the U.S., and that in a dictatorship you can bypass little things like Congress and go in for as much military preparedness as you like without the people having anything to say about it.

MPP2-438 LIBERTARIANISM IS GENERALLY ISOLATIONIST

John Hospers, Professor of Philosophy, University of Southern California, *FREEDOM AND VIRTUE*, George Carey, ed., 1984, p.67-8

In general libertarians have favored coming to terms with the Soviet Union, even though the terms are their terms. If the conservatives have sometimes been too interventionist in foreign policy, libertarians have been all-out isolationists, to the extent of removing American forces from around the world and retreating to Fortress America. That in many areas of the world the vacuum left by American influence would be instantly filled by Soviet influence, doesn't bother these libertarians a bit.

MPP2-439 NOZICK DOESN'T JUSTIFY HIS MORAL ASSUMPTIONS

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, *READING NOZICK*, 1981, p.5

Williams quarrels, as well, with the plausibility of Nozick's hypothetical narrative which depicts the development of the minimal state. It represents, according to Williams, a bizarre departure from any common sense account. Finally, he makes the point that Nozick's view of distributive justice relies on moral intuitions rather than on argument and that competing intuitions can always be found with as great a claim upon our moral sensibilities as those propounded by Nozick.

MPP2-440 NOZICK DOESN'T DEFEND HIS BASIS FOR NATURAL RIGHTS

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.192-3

To present a serious challenge to other views, a discussion of libertarianism would have to explore the foundations of individual rights and the reasons for and against different conceptions of the relation between those rights and other values that the state may be in a position to promote. But Nozick's book is theoretically insubstantial: it does not take up the main problems, and therefore fails to make the kind of contribution to political theory that might have been hoped for from someone of his philosophical attainments. In the preface he announces that he was converted to libertarianism by the decisive force of the arguments, but no such arguments appear in the book. He has left the establishment of the moral foundations to another occasion, and his brief indication of how the basic views might be defended is disappointing.

MPP2-441 NOZICK'S INTUITIONS CONCERNING ENTITLEMENT AREN'T WIDELY SHARED

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.195

Nozick's intuition is that each person is entitled to his talents and abilities, and to whatever he can make, get, or buy with his own efforts, with the help of others, or with plain luck. He is entitled to keep it or do anything he wants with it, and whomever he gives it to is thereby equally entitled to it. Moreover, anyone is entitled to whatever he ends up with as a result of the indefinite repetition of this process, over however many generations. I assume that most readers of Nozick's book will find no echo of this intuition in themselves, and will feel instead that they can develop no opinion on the universal principles of entitlement, acquisition and transfer of property, or indeed whether there are any such universal principles, without considering the significance of such principles in their universal application.

MPP2-442 NOZICK DOESN'T DISTINGUISH BETWEEN THE RELATIVE IMPORTANCE OF RIGHTS

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.196

The fact is, however, that Nozick's moral intuitions seem wrong even on a small scale. He denies that any of the rights he detects may be overridden merely to do good or prevent evil. But even if it is not permissible to murder or maim an innocent person to promote some highly desirable result, the protected rights do not all have the same degree of importance. The things one is supposed to be protected against are, in order of gravity; killing, injury, pain, physical force, deprivation of liberty of many different kinds (movement, association, and activity), destruction of one's property, taking of one's property, or the threat of any of the above (with all their variations in gravity). It is far less plausible to maintain that taking some of an innocent man's property is an impermissible means for the prevention of a serious evil, than it is to maintain that killing him is impermissible. These rights vary in importance and some are not absolute even in the state of nature.

MPP2-443 NOZICK DOESN'T MORALLY JUSTIFY THE MINIMAL STATE

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.203-4

Nozick's attempt to refute the anarchist view that even a minimal state will violate individual rights is not, I think, successful. He argues at length that a minimal state could arise by an invisible process from a state of nature without the process violating anyone's rights people could voluntarily join private protective associations, one of which would naturally achieve dominance over a territory even if not everyone had agreed to join. It could then exercise limited control without violating anyone's rights. This is supposed to show that a minimal state is morally permissible. But why should the mere conceivability of such a process persuade an anarchist of that conclusion? He would already have been prepared to admit that a minimal state established by unanimous agreement of the participants would be allowable. He just believes no actual state will be of this sort. Similarly, he may credit Nozick with having imagined another way in which a minimal state "could" arise which violated no one's rights, even though based on less than unanimous agreement. But the likelihood of any actual state meeting these moral conditions will be almost as low. The rejection of anarchism requires the rejection of its moral premises.

MPP2-444 THE UTILITARIAN ARGUMENTS REQUIRED TO REJECT ANARCHY UNDERMINE NOZICK'S LIBERTARIANISM

Jeffrey Paul, Professor of Philosophy, Bowling Green State University, *READING NOZICK*, 1981, p.11

In his essay, "Nozick on Unproductivity: The Unintended Consequences," Eric Mack draws a still more startling conclusion. He argues that the deontically fixed moral boundaries delineated in Nozick's theory of rights are systematically undercut by him through the introduction of the utilitarian criteria for compensation that he employs to support his rejection of anarchism in Part I of *Anarchy, State, and Utopia*. If Mack is right, then Nozick has eviscerated his own libertarian-entitlement theory of rights in ways that would delight many of his critics but are clearly unintended.

MPP2-445 NOZICK'S UTOPIAN EXPERIMENTS WOULD PROBABLY FAIL

Peter Singer, Professor of Philosophy, Monash University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.38

All three sections are well worth reading, although the third is the slightest. Here Nozick, finding incredible the supposition that there is one best form of society for everyone, proposes instead a "metautopia"-a framework for many diverse utopian experiments, all formed of voluntary communities, so that no one can impose his version of utopia on others. Within a community people may voluntarily adopt redistributive measures, and those refusing to participate may be excluded from the community; but within a nation, which would include many communities, there should be no compulsory redistribution. The idea is appealing because it enhances individual freedom. But there are serious objections that are not adequately considered. Could a community that wanted a lot of redistribution survive the departure of the wealthy members whose moral principles are weaker than their desire for wealth? Could it withstand the pressure of applications to join from the down-and-outs left to starve in neighboring communities run by ruthless capitalists?

MPP2-446 NOZICK'S RECTIFICATION PRINCIPLE JUSTIFIES RAWLSIAN JUSTICE

Jonathan Wolff, philosopher, *ROBERT NOZICK*, 1991, p.116

Indeed, Nozick notes that after a long period of injustice, and in the absence of detailed historical information, it may be appropriate to introduce as a rough rule of thumb something like this principle: 'organize society so as to maximize the position of whatever group ends up least well-off in the society'. That is to say, Nozick's theory of justice in rectification may, in certain cases, lead us to Rawls's Difference Principle!

MPP2-447 NOZICK NOW RECOGNIZES THAT LIBERTARIANISM UNDERMINES SOLIDARITY

Robert Nozick, Professor of Philosophy at Harvard, *THE EXAMINED LIFE*, 1989, p.286-7

The libertarian position I once propounded now seems to me curiously inadequate, in part because it did not fully knit the humane considerations and joint cooperative activities it left room for more closely into its fabric. It neglected the symbolic importance of an official political concern with issues or problems, as a way of marking their importance or urgency, and hence of expressing, intensifying, channeling, encouraging, and validating our private actions and concerns toward them. Joint goals that the government ignores completely - it is different with private or family goals - tend to appear unworthy of our joint attention and hence to receive little. There are some things we choose to do together through government in solemn marking of our human solidarity, served by the fact that we do them together in this official fashion and often also by the content of the action itself.

MPP2-448 POLITICAL ACTION TO HELP THE LESS WELL OFF IS JUSTIFIED BY RELATIONAL TIES

Robert Nozick, Professor of Philosophy at Harvard, *THE EXAMINED LIFE*, 1989, p.288.

Joint political action does not merely symbolically express our ties of concern, it also constitutes a relational tie itself. The relational stance, in the political realm, leads us to want to express and instantiate ties of concern to our fellows. And if helping those in need, as compared to further bettering the situation of those already well off, counts as relational more intense and enduring from our side and from the side of the receivers also, then the relational stance can explain what puzzles utilitarianism, viz, why a concern for bettering others' situation concentrates especially upon the needy.

MPP2-449 PRIVATE CHARITY DOESN'T PRODUCE SOLIDARITY

Robert Nozick, Professor of Philosophy at Harvard, *THE EXAMINED LIFE*, 1989, p.289.

"Well, why don't those who want and need such a society voluntarily contribute to pay for its public programs rather than taxing the others, who don't care anything about it"? But a program thus supported by many people's voluntary contributions, worthy though it might be, would not constitute the society's solemn marking and symbolic validation of the importance and centrality of those ties of concern and solidarity. That can occur only through its official joint action, speaking in the name of the whole.

MPP2-450 RAND'S CONCEPT OF ALTRUISM IS DEFECTIVE

William O'Neill, Professor of Philosophy, University of Southern California, *WITH CHARITY TOWARD NONE*, 1971, p.201

At basis, Miss Rand's concept of altruism is defective on three grounds: 1) Altruism is neither the opposite nor the contrary of egoism. It is merely one way in which egoism manifests itself. It is, in essence, that type of self-gratification which is achieved by identifying oneself with, and subsequently participating in, the well-being of others on a psychological level. 2) The goal of altruism is neither "suffering" nor "pain" but the active elimination of suffering and pain-which is a substantially different thing altogether. 3) Altruism does not require the creation of suffering (pain) as a condition for its alleviation, because suffering is a continuing aspect of the human condition. In addition, altruism does not exclude a concern with additional non-altruistic (or extra-altruistic) values. Since it is basically a manifestation of egoism, it in no sense excludes non-contradictory types of purely personal commitment, and there is no particular reason why altruism cannot be supplemented by other, and essentially non-altruistic, types of behavior as well.

MPP2-451 RAND'S ATTACK ON ALTRUISM IS BEATING A DEAD HORSE

William O'Neill, Professor of Philosophy, University of Southern California, *WITH CHARITY TOWARD NONE*, 1971, p.200

In large degree, Miss Rand is guilty of destroying her customary straw man. Her attacks on altruism are not attacks on the type of rational altruism which is founded upon enlightened self-interest as is represented, for example, in the utilitarianism of John Stuart Mill. Instead, she concentrates her fire on the outdated metaphysical altruism of Kant, explaining that ". . . it is Kant's version of altruism that people, who have never heard of Kant, profess when they equate self-interest with evil." "The ultimate monument to Kant and to the whole altruist morality," she continues, "is Soviet Russia." This is nonsense. Kant's intuitive altruism is basically a dead letter today and has very little influence which extends beyond small pockets of professional philosophers. In refuting absolute altruism Miss Rand does not validate absolute egoism, she simply beats a dead horse.

MPP2-452 RAND ARTIFICIALLY SEPARATES EGOISM AND ALTRUISM

William O'Neill, Professor of Philosophy, University of Southern California, WITH CHARITY TOWARD NONE, 1971, p.201

Miss Rand's definition of the term "altruism" is both untenable and slanted. To begin with, she sets up a totally artificial dichotomy between egoism and altruism. There are few modern philosophers who are willing to accept the basic findings of contemporary empirical psychology who would not agree with Miss Rand's basic contention that man is at basis self-seeking and capable of realizing value only through the medium of subjective (and therefore personal) satisfaction. To say, however, that subjective satisfaction precludes a realization of pleasure through some sort of ego-identification with the well-being of others simply does not follow.

MPP2-453 RAND'S IDEA OF ALTRUISM IS TOO SIMPLISTIC

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.135

One can be concerned for and attach value to what pleases others without thereby giving up all interest in oneself. Rand uses "altruism" as though it always and only meant preferring another's good at the expense of one's own. Rand, in denouncing altruists, includes such diverse groups as the early Christians, the Medieval Church, nineteenth-century Utilitarians and the Democratic proponents of the New Deal. (For the Kennedy administration, she adds the epithet "Fascist.") When she uses "altruism" in argumentative passages like the one just referred to, Rand presents altruism as a concept closely related to the Christian idea of Original Sin.

MPP2-454 EGOISM IS SELF-CONTRADICTORY

G.E. Moore, Professor of Philosophy Cambridge University, PRINCIPIA ETHICA, 1903, p.99

The only reason I can have for aiming at 'my own good,' is that it is good absolutely that what I so call should belong to me - good absolutely that I should have something, which, if I have it, others cannot have. But if it is good absolutely that I should have it, then everyone else has as much reason for aiming at my having it, as I have myself. If, therefore, it is true of any single man's 'interest' or 'happiness' that it ought to be his sole ultimate end, this can only mean that man's 'interest' or 'happiness' is the sole good, the Universal Good, and the only thing that anybody ought to aim at. What Egoism holds, therefore, is that each man's happiness is the sole good - that a number of different things are each of them the only good thing there is - an absolute contradiction! No more complete and thorough refutation of any theory could be desired.

MPP2-455 IF SOMETHING IS GOOD, IT MUST BE GOOD FOR EVERYONE, NOT JUST ONE PERSON

G.E. Moore, Professor of Philosophy Cambridge University, PRINCIPIA ETHICA, 1903, p.100

The thing is impossible: for the Egoist's happiness must either be good in itself, and so a part of Universal Good, or else it cannot be good in itself at all: there is no escaping this dilemma. And if it is not good at all, what reason can he have for aiming at it? How can it be a rational end for him? That qualification 'for himself' has no meaning unless it implies 'not for others'; and if it implies 'not for others,' then it cannot be a rational end for him, since it cannot be truly good in itself: the phrase 'an ultimate rational end for himself' is a contradiction in terms.

MPP2-456 EVEN RAND CAN'T CONSISTENTLY DEFEND EGOISM

Robert Nozick, Professor of Philosophy, Harvard, READING NOZICK, Jeffrey Paul, ed, 1981, p.219

"To live for his own sake means that the achievement of his own happiness is man's highest moral purpose". Is it? We have action, endorsed by Miss Rand, in the novel Atlas Shrugged, which appears incompatible with this. In the novel, John Galt risks his life to save that of Dagny Taggart, whom he loves, and he says that he will kill himself if she is tortured to make him talk.

MPP2-457 RAND'S CONCEPT OF RIGHTS IS NONSENSICAL

Ayn Rand, philosopher and novelist, THE VIRTUE OF SELFISHNESS, 1964, p.118

Rand maintains that "Basically, there is only one way to do it [violate a person's "rights"]: by the use of physical force." By her use of the word "basically" she has protected herself against rigid dogmatism on the point. However, the question immediately arises, cannot a man violate his own "rights"? If it is "right" for him to work for his values and to keep the product of his work, is it not wrong and therefore a violation of his "rights" if he refuses to work or works and gives away his income? If it is "right" for him to act on his own free judgment, is he not violating his own right by allowing his judgment to become un-free? If it is "right" for him to use his mind, is it not wrong and therefore a violation of his "rights" for him to live on a "subhuman" level? If one is inclined to object that these questions make nonsense of Rand's theory of "rights," I can only reply that, if they do, it is only because the concept "right" as developed by Rand is nonsensical.

MPP2-458 RAND MAKES RIGHTS CONDITIONAL

William O'Neill, Professor of Philosophy, University of Southern California, WITH CHARITY TOWARD NONE, 1971, p.207

What makes this position particularly difficult to go along with is that Miss Rand finds it virtually impossible to establish any sort of operational morality within the context of her own metaphysical assumptions. As a result, she consistently violates her own definitions. Thus, she defines the inalienable right of the pursuit of happiness as "man's right to live for himself . . . so long as he respects the right of others." If this is not the qualification of an absolute, the conditionalizing of a right, it would be difficult to say what it is. In a similar sense, she defines the right of life to consist of the fact that man "cannot be deprived of his life for the benefit of another man nor of any number of other men." She then proceeds to advocate a criminal code which sanctions the use of physical force to restrict the actions of those who violate ethical standards. Again, if this is not a violation of the transgressor's life, liberty and pursuit of happiness on behalf of society, what is it.

MPP2-459 RAND IS UNWILLING TO ACT TO PROTECT RIGHTS

William O'Neill, Professor of Philosophy, University of Southern California, WITH CHARITY TOWARD NONE, 1971, p.210-1

In a peculiar sense, then, it becomes evident that, while Miss Rand unequivocally favors inalienable human rights, she just as unequivocally opposes virtually any sort of legislation which would prevent the abuse of these rights.

MPP2-460 RAND'S GOVERNMENT WOULD LOGICALLY FORCE PEOPLE TO EXERCISE THEIR RIGHTS

John Robbins, ANSWER TO AYN RAND, 1974, p.119

If the proper function of government is "to secure these rights" then does it not follow that it is the proper function of government to see that every man uses his mind, his free judgment, and forces him to work and to keep the product of his work, i.e., to do those things that Objectivism says are right? If one finds these consequences distasteful, one should re-read the argument and find where the train of thought has derailed. Petulance is not an argument. In short, If the source of man's "rights" is himself, then he also becomes the source of violations of those "rights." "Rights" may then be violated by a Robinson Crusoe-his own-simply because he may act against his own best interests.

MPP2-461 THE RETALIATORY FORCE RAND PERMITS ALSO VIOLATES RIGHTS

John Robbins, ANSWER TO AYN RAND, 1974, p.119-20

"Rights" as developed by Rand is an ambiguous concept. Yet she proceeds, as though she had provided a justification for "rights," to conclude that the government ". . . may use force only in retaliation and only against those who initiate its use." Rand has just informed us that "Basically, there is only one way [to violate rights]: by the use of physical force." Now she tells us that government may use physical force, as long as it is in "retaliation" and not "initiation." As with her other central ideas, Rand offers little argument in justification of this distinction. If Rand were guided by logic, she would be forced to conclude that retaliatory force is a violation of right. That is the conclusion of logic, but not of Rand.

MPP2-462 RAND'S STANCE WOULD REQUIRE PACIFISM

John Robbins, ANSWER TO AYN RAND, 1974, p.121

If, as Rand maintains, force may be properly used only in retaliation and only against those who initiate its use, she has declared implicitly that all wars are immoral, and that a free society cannot morally defend itself against international aggression. It is one of the most prominent characteristics of war that force is used against those who have not initiated it.

MPP2-463 RAND DOESN'T JUSTIFY EACH PERSON'S LIFE BEING HIS OR HER GREATEST VALUE

Robert Nozick, Professor of Philosophy, Harvard, READING NOZICK, Jeffrey Paul, ed, 1981, p.216

Starting with: (1) For each person, the living and prolongation of his own life is a value for him to get to (2) No person should sacrifice his life for another we would need, in addition to (1) (1') For each person, the living and prolongation of his own life (as a rational being) is the greatest value for him. [and: Each person ought to pursue his greatest value.] No argument has been offered, yet, for (1'). Miss Rand has some things to say about life being an ultimate value, which might lead her to accept (1'), but these things, in view of our earlier discussion in Section 11 of life as a value, aren't sufficiently clear and forceful to establish (1').

MPP2-464 DERIVING RIGHTS FROM LIFE LEADS TO RIGHTS FOR PLANTS AND ANIMALS

John Robbins, ANSWER TO AYN RAND, 1974, p.133

The advocates of the Rights of Man will undoubtedly angrily reject this argument for the Rights of Animals other than Men, yet they will lack logic in their angry rejection, for Rand's derivation of Rights applies equally well to all animals, human or otherwise. Indeed, it might even be argued that the rights argument establishes rights for plants, who, as Rand says, have values, live on earth, work for their values and keep them. Unfortunately plants do not have minds or make judgments, although some recent authors might dispute this, but this impairs the validity of the argument only a little: plants live, they have an automatic morality and therefore have a right to live...

MPP2-465 RAND UNDERRATES THE IMPORTANCE OF CULTURE FOR REASON

William O'Neill, Professor of Philosophy, University of Southern California, *WITH CHARITY TOWARD NONE*, 1971, p.200

As Miss Rand is radically wrong about the etiology of rational thought. Man is potentially rational by nature. He is operationally (or practically) rational by means of culture. Knowledge is both cumulative and transferable. Even the most "creative individual initiates far less than he acquires as a social legacy by virtue of his membership in the cultural collective.

MPP2-466 REASON DOESN'T ANSWER ALL PROBLEMS
Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.130

What Rand ignores is that there is a wrong, avoidable manner of employing emotions instead of reason and a necessary and proper way in which emotions must come to the aid of reason in all fully conscious and significant living. One must, for example, choose between the possibilities of a low-keyed existence and a life of more intense happiness but with more anxiety and suffering. One must somehow balance a short-time peak of happiness against a longer-term possession of more subdued content. One may be obliged to choose between a higher salary with greater prestige in an unattractive location against less money and fame in a place one loves. Reason cannot decide here. Even if someone claims that the qualitative may somehow be transformed into a quantitative calculation, the process of deciding is not a mathematical one.

MPP2-467 REASON ISN'T THE HUMAN ESSENCE

Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.128

Reason, instead of being essence and self-evident guiding principle, is but one part of man. Rand, like Aristotle, sees man as differentiated from other animals by his reason and so concludes that reason, being the essentially human, is that which mankind should most develop. Without quibbling as to whether animals in reality do or do not possess a rudimentary reason, we may point out that reason is not the only distinguishing factor of the human. It seems equally clear that human emotions are not all or always the same as animal emotions. The primary difference appears to be the emergence of self-consciousness in the human being, but to equate self-consciousness with reason is simply wrong.

MPP2-468 NOT ACTING RATIONALLY DOESN'T DESTROY THE HUMAN ESSENCE

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.213

What man is, qua man, is determined by his essence, which is rationality. He should act so as to continue his essence. (a) If the essence mentioned in this argument is real essence, it's a dubious theory. Also, it (e.g., a man) would no longer exist if its essence changed (but another thing would), so that if its continued existence is a value, so is the continued existence of its essence. However, in the case of this argument, its essence doesn't change, it's just not exercised. The being continues to exist. And the conclusion of II is too frail a reed to hang such an argument on. For if it stops existing, another kind of value pursuer, intimately connected with it, will exist. And why should it care which does?

MPP2-469 RATIONAL EFFORT ISN'T NECESSARY; ONE CAN LIVE AS A PARASITE

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.214

There are two forms to the parasite argument, a consequential one and a formal one. The consequential argument is that being a parasite won't work in the long run. Parasites will eventually run out of hosts, out of those to live off, imitate, steal from. (The novel *Atlas Shrugged* argues this view.) But in the short run, one can be a parasite and survive; even over a whole lifetime and many generations. And new hosts come along. So, if one is in a position to survive as a parasite, what reasons have been offered against it?

MPP2-470 THAT AN ATTRIBUTE IS UNIQUELY HUMAN DOESN'T MAKE IT PARTICULARLY IMPORTANT

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.212

What man is, qua man, is completely determined by what's special to man (which is rationality). And what's special to beings should be preserved and should flourish. Why? Ignoring the dodo argument (viz., it's a tragedy if any bit of diversity becomes extinct), we focus on the idea that what is special to a thing marks its function and from this we can get its peculiarly appropriate form of behavior. But no conclusion could depend, in this way, on some property P being special to man. For suppose it turned out that dolphins or some other being somewhere also had property P; would this stop the conclusion? It might be said that here we would discover a new kind of thing (viz. man or dolphin) and P would be special to it, But there might be nothing special to man, for all his nice properties might be had by other things which have further superduper properties Q also, which man doesn't have. (Call these things, merely for a label, angels.) It might now be said that man (or dolphin) does have something special, namely P and not-Q. But how could one think that anything depended on its being special.

MPP2-471 HAPPINESS ISN'T THE ULTIMATE VALUE

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.221

Driving the point further, suppose we read the biography of a man who felt happy, took pride in his work, family life, etc. But we also read that his children, secretly, despised him; his wife, secretly, scorned him having innumerable affairs; his work was a subject of ridicule among all others, who kept their opinion from him; every source of satisfaction in this man's life was built upon a falsehood, a deception. Do you, in reading about this man's life think: "what a wonderful life. I wish I, or my children, could lead it"? And don't say that you wouldn't want to lead the life because all the deceptions and falsehoods might come out making the man unhappy. They didn't. Of course, it is difficult to imagine the others behaving appropriately, and the person himself not being nagged by doubts. But is this the ground of one's reaction? Was it a good life? Does it lack happiness?

MPP2-472 RATIONALITY IS A VALUE INDEPENDENT OF HAPPINESS

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.220-1

It seems as though one can describe a case where "rationality" (and rational self awareness) and happiness diverge; where someone less rationally self aware will be more happy. If in contemplating this case you would choose rational self awareness and moral rectitude, then the former have independent value, and are not justified in your eyes only because they lead to happiness.

MPP2-473 RAND DOESN'T JUSTIFY NOT INTERFERING WITH OTHERS TO FULFILL YOUR OWN INTERESTS

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.218

Miss Rand falls in this optimistic or Platonic tradition in ethics, believing that there are no objective conflicts of interest among persons, and that there is no situation in which it is in one person's interests to force another to do something which it is not in his interests to do; no situation where one person's forcibly stopping another from advancing his interests, advances his own interests. No knock-down argument has been offered for this thesis, and Miss Rand has not produced (or tried to produce) any reason why, if such conflicts are possible, I, in following my interests should limit myself so as not to interfere forcibly in your pursuit of your life as a rational being.

MPP2-474 RAND DOESN'T JUSTIFY NOT INTERVENING IN OTHERS' LIVES

Robert Nozick, Professor of Philosophy, Harvard, *READING NOZICK*, Jeffrey Paul, ed, 1981, p.226-7

If rights are explained as "conditions of existence required by man's nature for his proper survival", then we can reconstruct the Randian argument for a right to life, but this argument will not answer the question: why should I not violate another's right to life; why should I not intervene by force to eliminate one of the conditions of another man's existence required by his nature for his proper survival? That is, with this explanation of rights, argument is needed for (6) above. If we assume that rights are not to be violated, and others should not forcibly intervene in the exercise of someone's rights, then argument is needed to the conclusion that a person does have a right to his own life, that is, that others shouldn't forcibly intervene in it, even granting that its maintenance is his highest value. Taking either approach, we face the question of why one person shouldn't intervene by force to thwart the conditions of another man's existence.

MPP2-475 RAND FALSELY ASSUMES THAT ACTS HAVE OBJECTIVE VALUE

Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.147

Rand argues that in all human relations one must give justice, not mercy. A man's success is measured by the objective value of what he has produced. Clearly implied here is the idea that the man himself is measured, that he has his objective value. It is on this basis only that any absolute justice or absolute judgment can be based. Such absolute judgments could be defended only if acts were in themselves tangible entities which could be weighed without reference to their inner subjective environment. This the existentialist denies while Objectivism surreptitiously assumes it to be true.

MPP2-476 RAND FALSELY ASSUMES THE CERTAINTY OF MORAL STANDARDS

Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.132-3

Rand goes much farther than this. For her, values and morals are subject to the same sort of rational appraisal as tables are. In many ways, it would be a great relief if this were so. It would all be so easy. The stakes are as clearly outlined as the First National Bank. The rules are laid down and written out. Best of all, one need never ask whether the game is really worth playing or what constitutes good sportsmanship. The existentialist, on the other hand, confronts his freedom in anguish. What he sees is not a twofold choice as definite as the old one which Christianity proffered. He realizes that all is open. His freedom is not just the choice between thinking and not thinking, between seeing what is right or refusing to see it. He knows that being free means creating standards of right and wrong. It means that there is no one right pattern for man, but many possible patterns to be discovered and invented. God Almighty has not been deposed merely in order that Mother Nature-or Daddy Warbucks-might sit there, passing out the blueprints.

MPP2-477 RAND FALSELY ASSUMES AN ABSOLUTE OBJECTIVE POINT OF VIEW

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.131

There is always in Rand's work an implicit reference to an absolute judgment which stands outside the immediate involvements of the individual life, which remains human and yet is never caught up in human affairs. The truth is that her system needs Aristotle's Unmoved Mover. John Galt cannot replace him. The assumption that the totally objective point of view exists and is accessible for everyone is only wishful thinking.

MPP2-478 RAND DOESN'T OBJECTIVELY ESTABLISH HER CONCLUSIONS

Robert Nozick, Professor of Philosophy, Harvard, READING NOZICK, Jeffrey Paul, ed, 1981, p.222

Let me, in closing, reiterate that my purpose has been to examine Miss Rand's arguments for her conclusions. It has not been to argue that death is a value, or that we should sacrifice others to ourselves, or that people don't have rights to our non-interference in their lives, or to demean the virtues of rationality, honesty, integrity, productiveness, pride independence, justice. It has been to see whether, in her published work, Miss Rand indeed objectively establishes her conclusions. She doesn't.

MPP2-479 NOT EVERYONE NEEDS TO FOLLOW THE SAME PRINCIPLES

Robert Nozick, Professor of Philosophy, Harvard, READING NOZICK, Jeffrey Paul, ed, 1981, p.215

One final way to get a formal principle should be mentioned. It might be said that a rational person follows principles, general policies and so we must consider those principles of action which make man's survival possible. But it has not been shown why each person must follow the same principles, and why I may not, as a rational being have a clause in mine which recommends parasitism under certain conditions.

MPP2-480 RAND FALSELY ASSUMES AN A PRIORI HUMAN NATURE

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.128

Rand's view of man retains the old acorn theory. Man's potentialities may be hidden, but they resemble the embryo oak tree. The question is simply whether the individual will be, as it were, a bigger, stronger oak or a more feeble one. Everyone knows what a good oak tree ought to be and how to judge it. Oak tree nature and human nature are equally limiting. Sartre has pointed out that it is precisely this ideal pattern which is in question. Being a man means deciding what man will be.

MPP2-481 OBJECTIVISM HAS TOO NARROW A VIEW OF THE SELF

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.140

I reject Objectivism, not because it is self-centered or because it seeks self-aggrandizement. I criticize it for being selfish in the pejorative sense of restricting the horizons of the Self so as to leave the self-center, not enriched but impoverished, not blown up but withered and blighted. The Self of the Objectivists runs the risk of the only child-it is not unloved, but it is likely to be spoiled, ailing, and fretful, due to overprotection and the too close attention which prevents the growth of responsible freedom.

MPP2-482 OBJECTIVISM IGNORES AUTHENTIC CHOICE AND SOCIALITY

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.148

Objectivist Man is both an ideal and a reality. He represents only one of the possibilities for the human species. Existentialism rejects Objectivism because it ignores the two sources of existentialist despair instead of seeking some way to overcome them. Objectivism hides the fact that to be free to become what one chooses means also that one must choose what one feels one ought to become. Objectivism tries to evade the knowledge that to exist means not only to be-in-the-world but to-be-with-others.

MPP2-483 RAND VASTLY OVERSIMPLIFIES THE NATURE OF SOCIETY

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.131

It is the same sort of wish which underlies Rand's breathtaking statement that if businessmen lived in a perfectly laissez-faire society and followed pure self-interest, there would never arise any conflict among them. Rand yearns so nostalgically for a world of simple absolutes, where black is black and white is white and nobody color blind that she is willing to live recklessly by the assumption that reality (including human reality) is in fact this simple.

MPP2-484 OBJECTIVISM LEADS TO ANARCHY THEN TYRANNY

John Robbins, ANSWER TO AYN RAND, 1974, p.133

I must conclude, then, that as Rand has failed to present a coherent ethical theory, so she has failed to present an intelligible political theory. Her political philosophy, like all secular political philosophies, leads logically to anarchy and/or totalitarianism. It cannot furnish the basis for a free society, despite the brilliant rhetoric that seeks to persuade in lieu of pedestrian logic. Its acceptance by a large segment of the American citizenry will hasten the future of the "boot stamping on the human face forever," for it will first fire the flames of anarchy, and, second, load the guns of tyranny.

MPP2-485 OBJECTIVISM LOGICALLY LEADS TO ANARCHY

John Robbins, ANSWER TO AYN RAND, 1974, p.125-6
 Objectivism leads logically to anarchy, because if the individual is sovereign he may not properly be forced to "delegate" his rights to the state or government. The Sovereign Individual has every right to refuse to pay taxes, ignore subpoenas, refuse to serve in the armed forces, ignore courts of laws avoid jury duty, retaliate against the police force, and take all measures necessary to the preservation of his rights, including, one supposes, since government is entirely derivative, issuing subpoenas, forming his own armies, and establishing his own courts and judicial procedures.

MPP2-486 RAND'S ACCEPTANCE OF GOVERNMENT MONOPOLY ON FORCE WOULD LEAD TO TYRANNY

John Robbins, ANSWER TO AYN RAND, 1974, p.122
 Rand believes, after Max Weber, that ". . . government holds a monopoly on the legal use of physical force " Such an assertion is simply and obviously untrue. Parents legally use physical force regularly; moreover, they initiate it regularly. Secondly, In the United States, at least in theory (and in practice at one time) no government has a legal monopoly on the use of force. The genius of federalism (a system of government that Rand has never given any indication she understands) is to deny explicitly that any government could have a legal monopoly of the use of force. When such a monopoly is present, can tyranny be far off?

MPP2-487 OBJECTIVISM WOULD LEAD TO A POLICE STATE OR GENOCIDE

William O'Neill, Professor of Philosophy, University of Southern California, WITH CHARITY TOWARD NONE, 1971, p.217-8

This being the case, Miss Rand is once again, faced with two alternatives: (1) the maintenance of a police state (a sort of free enterprise Sparta, characterized by the passive elimination of the helots as a logical and therefore unavoidable consequence of progressive penury) or (2) the active elimination of the deprived poor in a morally-legitimized purge in retaliation against real or threatened revolution. In either case, of course, the end-result would be a clear victory for the reigning elite of economic Ubermensch.

MPP2-488 OBJECTIVIST WOULD LEAD TO GENOCIDE

John Robbins, ANSWER TO AYN RAND, 1974, p.132
 Since infants, as well as unborn children are not human by Rand's definition, there would be no immorality in infanticide. To my knowledge Rand has not publicly endorsed that position, but on pain of inconsistency, she must. For the same reason, her philosophy leads logically to the approbation of euthanasia. In fact, because men make themselves, some are better made than others, who are rather poorly made. Logically, then, Rand will be forced to approve the liquidation of imbeciles, morons, idiots, the retarded and mediocre who don't think, the men who . . . do not choose to think, but survive by imitating and repeating, like trained animals, the routine of sounds and motions they learned from others, never making an effort to understand their own work, . . . mental parasites....

MPP2-489 RAND'S VIEW OF HUMANITY WOULD JUSTIFY ABORTION AND INFANTICIDE

John Robbins, ANSWER TO AYN RAND, 1974, p.131
 Once one has accepted the Aristotelian definition of man as the rational animal as Rand does, and also Rand's notion of man as a being of volitional consciousness, the doctrine of forfeiture follows. The implication of the doctrine of forfeiture is that some beings who look like men are not men, for man's differentia is metaphysical, not physical. Abortion, for example, becomes moral, for one is not initiating force against a human being. Since a human being is by definition a being who has chosen to think conceptually, it is quite clear that an unborn child is not a human being. Rand has not drawn back from this consequence of her anthropology. She has publicly supported permissive abortion laws, a position quite consistent with her view of man. But there are further implications of the view. Not only are unborn children not human, born children are not human, too.

MPP2-490 LIBERTARIAN SOCIETY WOULD BE MASSIVELY STRATIFIED AND UNSTABLE

William O'Neill, Professor of Philosophy, University of Southern California, WITH CHARITY TOWARD NONE, 1971, p.217

At basis, then, Miss Rand's categorical rejection of all violence, with the exception of justified retaliation in response to actual threats to one's own person or property, is not quite as ingenuous as it first sounds. Indeed, in a society which would, in all likelihood, be characterized by a snowballing monopolization of economic and therefore political power, there would be no incentive for anyone to resort to physical violence or confiscation except for those deprived of economic opportunity. The poor, in Miss Rand's vision of the world, would be faced with but two logical alternatives: (1) submission to immoral poverty or (2) revolt against the moral rich. Since they would already be both deprived and depraved, it seems reasonable to assume that they would opt for the latter course of action if they were given half an opportunity.

MPP2-491 OBJECTIVISM IGNORES OTHERS' VIEWPOINTS

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.148

Acting upon the fiction of one impersonal world, the Objectivist may classify and ignore the need of another and reject any demand that we see things from his point of view. Existentialism refuses this easy fiction. As the existentialist asks for tolerance of his own authentic value system, he grants the same to others.

MPP2-492 OBJECTIVISM FAILS TO VALUE OTHERS

Ayn Rand, philosopher and novelist, CAPITALISM: THE UNKNOWN IDEAL, 1967, p.146

The indifference with which Objectivist heroes regard all who do not minister to their own self-interest amounts finally to regarding them as objects. Rand and Branden may caution us to remember that the other is an end in himself; somehow he never becomes an end to anyone except himself.

MPP2-493 OBJECTIVISM CAN'T ENSURE EQUAL OPPORTUNITY

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.146

There is no way to insure that a free market will actually foster the potentialities of all free minds. Since the family structure is left intact, Objectivism certainly makes no provision for equal opportunity for all children. The intellectual elite, whose superior talents and rational morality will have won their place at the top, will owe a large part of their success to chance. Rand's rejection of the demand to love and look after the worthless members of one's family might reduce nepotism a bit; it seems unlikely that leading industrialists will try hard to seek out and develop those who can't make it in their given circumstances but who might if help were given.

MPP2-494 RAND'S SOCIETY WOULD FAVOR THE STRONG OVER THE WEAK

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.144

When Rand says she wants to do away with altruism, she really means it. Her ideal of the perfect government is, in very fact, a perfect laissez-faire, approached but not quite fully attained in American capitalism of the nineteenth century. Such a society would inevitably tend to give still further protection to the strong, who least need it. This fact we see neatly illustrated in the article on racism.

MPP2-495 OBJECTIVISM LETS US IGNORE VIOLENCE AGAINST OTHERS

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.145

Some time ago, a large number of people in a New York apartment house watched while a man attacked and killed a woman on the sidewalk. In such a situation, an Objectivist in that apartment might have come to the woman's aid either because he valued her or because he was righteously indignant over the violation of a principle which he valued. Nothing in his philosophy would make him feel guilty if he did not decide that intervention ministered to his own self-interest. He might simply pull the drapes and complain of the inadequacy of the police force and the faulty education system. If we allow this incident to symbolize the broader social environment, we must say that Objectivism goes beyond nonintervention. It comes dangerously close to defending the right of the attacker to act in the light of his own mistaken doctrine. This fact I insist upon despite the fact that one of the frequent Objectivist laments is directed toward our leniency toward the criminal.

MPP2-496 OBJECTIVISM REJECTS RESPONSIBILITY AND DOESN'T LEAD TO INDIVIDUALISM

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.140-1

Objectivism claims to be a humanism and to reaffirm the essential worth and dignity of the human being. In reality it is one more form of evasion, seeking to escape the vision of what it really means to be human. Objectivism declares that every man is an end in himself and that it respects the right of every person to seek his own self-interest. Yet its basic ethics is a refusal to acknowledge any positive responsibility for others. Objectivism proclaims that individual freedom is its starting point and goal. But for the Objectivist, this freedom does not direct itself toward the creation of a unique self. Free enterprise is its summum bonum, not the free choice of values.

MPP2-497 OBJECTIVISM CREATES A NEW HIERARCHICAL CONFORMITY

Hazel Barnes, Professor of Philosophy, University of Colorado, AN EXISTENTIALIST ETHICS, 1967, p.141

"We do not live or work with any form of the non-objective," John Galt says of himself and his companions. That is true for Rand as well, and it is what is fundamentally wrong with her Objectivist ethics. In turning her eyes away from whatever cannot be reduced to the objective, she cancels out vast areas of human experience. Subtly a new conformism is introduced. Those who approve of this portrait of man and who have the best ability to liken themselves unto it form a distinct elite at the top. Those with less talent but who accept the validity of the model have smaller rewards but dwell in relative content lower down in the pyramid. Anyone else lives as discarded rubble on the surface. He is not incorporated into the structure of things. He is tolerated and ignored-so long as he does not interfere.

MPP2-498 OBJECTIVISM WON'T LEAD TO AN OPEN SOCIETY

Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.148

Finally we see that existentialism and not Objectivism is really in favor of an open society to foster the growth of unique self-centers, each one pursuing its genuine self-interest and allowing every other to do the same. Objectivism is for free enterprise but not for the free creation of values.

MPP2-499 OBJECTIVISM CREATES AN ATOMISTIC SOCIETY

Hazel Barnes, Professor of Philosophy, University of Colorado, *AN EXISTENTIALIST ETHICS*, 1967, p.137

Objectivism proposes the ideal of an atomistic society, which has often been falsely attributed to existentialism. The irony is that this world of isolated self-centers is supported by the notion of a common objectivity. The latter, of course, is lacking in existentialism, which nevertheless proposes an ethics of positive responsibility. It is the interplay of the doctrine of absolute standards of judgment and absolute individualism which makes Objectivism unique. It simultaneously declares that nobody has any responsibility for others and yet retains the right to judge others.

MPP2-500 ONLY A MINIMAL STATE IS LEGITIMATE

Ellen Frankel Paul, Professor of Political Science, University of Colorado, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.274
Under the time-frame theory a government is legitimate only if it is a non-rights violating government and it guarantees the rights of its citizens from invasion by other individuals or states. In other words it must be a minimal state, limited in its functions to internal and external defense promulgating the natural law and establishing a judicial system with a final arbiter of disputes.

MPP2-501 THE STATE ISN'T NEEDED FOR PATERNALISTIC SELF-REGULATION

Robert Nozick, Harvard Philosopher, *ANARCHY, STATE AND UTOPIA*, 1974, p.14

People tend to forget the possibilities of acting independently of the state. (Similarly, persons who want to be paternalistically regulated forget the possibilities of contracting into particular limitations on their own behavior or appointing a given paternalistic supervisory board over themselves. Instead, they swallow the exact pattern of restrictions a legislature happens to pass. Is there really someone who, searching for a group of wise and sensitive persons to regulate him for his own good would choose that group of people who constitute the membership of both houses of Congress?) Diverse forms of judicial adjudication, differing from the particular package the state provides, certainly could be developed.

MPP2-502 ONLY LIBERTARIANISM IS STRONGLY ANTI-PATERNALISTIC

Rolf Sartorius, University of Minnesota Philosopher, *PATERNALISM*, 1983, p.xi

As a matter of principle, it is only a libertarian such as Robert Nozick, adopting the view that coercion may only be permissibly employed to prevent people from violating the rights of others, who is in a position to defend an absolute prohibition on paternalistic intervention of the sort that Mill so boldly proclaimed.

MPP2-503 INDIVIDUAL INTERESTS MUST BE BALANCED WITH COMMUNITY INTERESTS

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.26-7

When Communitarians argue that the pendulum has swung too far toward the radical individualistic pole and it is time to hurry its return, we do not seek to push it to the opposite extreme, of encouraging a community that suppresses individuality. We aim for a judicious mix of self-interest, self-expression, and commitment to the commons--of rights and responsibilities, of I and we. Hence the sociological recommendation to move from 'I' to 'we' is but a form of shorthand for arguing that a strong commitment to the commons must now be added to strong commitments to individual needs and interests that are already well ensconced. Balancing the me-istic forces with a fair measure of resumed we-ness will bring our society closer to a balanced position, without a significant tilt toward either side, a society able to steer a stable course.

MPP2-504 INDIVIDUAL RIGHTS AND SOCIAL NEEDS MUST BE BALANCED

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.182

At one extreme is the Radical Individualist position that no changes may be made whatsoever in Miranda, as if this legal measure, which did not take effect until 1966, was part of the Bill of Rights or carried the endorsement of the Founding Fathers. On the other hand, Authoritarians argue that Miranda, in toto, is but one of those many rights that accord criminals greater constitutional protection than is accorded to their victims. Indeed, former attorney general Edwin Meese wanted to do away with reading Miranda rights altogether. He believed that 'it provides incentives for criminals not to talk' and 'only helps guilty defendants.' The Office of Legal Policy of the US Attorney General under the Reagan administration issued a position paper that called for a wholesale overturning of Miranda. Here, as in many other matters, social wisdom and justice may well lie in third, intermediate positions, which balance individual rights with social needs.

MPP2-505 INDIVIDUAL RIGHTS MUST INHERENTLY BE BALANCED AGAINST PUBLIC SAFETY

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.264

The American moral and legal tradition has always acknowledged the need to balance individual rights with the need to protect the safety and health of the public. The Fourth Amendment, for example, guards against unreasonable searches but allows for reasonable ones.

MPP2-506 CURRENT STATE OF AMERICAN SOCIETY NEEDS COMMUNITY OVER INDIVIDUAL

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.25-6

This is our particular American course. The people of China, Eastern Europe, and Japan for that matter may well need to move in the opposite direction: to make more room for self-expression, to slash excessive government control, and to roll back severely enforced moral codes that suppress creativity and impinge on individual rights. But this is not our problem at this stage of American history. To worry now about excessive 'we-ness' is like suggesting in the depths of winter that we shouldn't turn on a space heater because it might make us sweat. People can freeze to death that way. Our society is suffering from a severe case of deficient we-ness and the values only communities and their moral voice is what our current conditions require.

MPP2-507 COMMUNITY NEEDS PRIORITIZATION OVER INDIVIDUAL FREEDOM

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.25

The eighties was a decade in which 'I' was writ large, in which the celebration of the self became a virtue. (The period was not unique, however, since such tendencies run far and deep in our national tradition.) Now is the time to push back the pendulum. The times call for an age of reconstruction, in which we put a new emphasis on 'we' on values we share, on the spirit of the community.

MPP2-508 RESPONSIBILITIES NEED TO BE PRIORITIZED OVER RIGHTS

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.4

Correcting the current imbalance between rights and responsibilities requires a four-point agenda: a moratorium on the minting of most, if not all, new rights; reestablishing the link between rights and responsibilities; recognizing that some responsibilities do not entail rights; and most carefully, adjusting some rights to the changed circumstances.

MPP2-509 THE 4TH AMENDMENT NEEDS REBALANCING IN FAVOR OF PUBLIC SAFETY

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.11

Finally, some areas in which legal rights have been interpreted in ways that hobble public safety and health are to be reinterpreted. Thus, the Fourth Amendment outlaws unreasonable searches and seizures. The question of what is deemed reasonable versus unreasonable is subject to change over time. In several areas of public life, the times now call for a modest increase in what we can reasonably be asked to do for the sake of the community, for public safety and public health.

MPP2-510 AUTONOMOUS INDIVIDUALISM UNDERMINES COMMUNITY COMMITMENTS

Michael J. Sandel, Professor of Government-Harvard University, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.179

If the deontological ethic fails to redeem its own liberating promise, it also fails plausibly to account for certain indispensable aspects of our moral experience. For deontology insists that we view ourselves as independent selves, independent in the sense that our identity is never tied to our aims and attachments. Given our 'moral power to form, to revise and rationally to pursue a conception of the good' the continuity of our identity is unproblematically assured. No transformation of my aims and attachments could call in to question the person I am, for no such allegiances, however deeply held, could possibly engage my identity to begin with. But we can't regard ourselves as independent in this way without great cost to those loyalties and convictions whose moral force consists partly in the fact that living by them is inseparable from understanding our selves as the particular persons we are--as members of this family or community or nation or people, as bearers of this history, as sons and daughters of that revolution, as citizens of this republic. Allegiances such as these are more than values I happen to have or aims I 'espouse at any given time'. They go beyond the obligation I voluntarily incur and the natural duties I owe to human beings as such. They allow that to some I owe more than justice requires or even permits, not be reason of agreements I've made but instead in virtue of those ...conventions which...define the person I am.

MPP2-511 THE LIBERAL VIEW OF THE SELF PRECLUDES A TRULY STRONG COMMUNITY

Michael J. Sandel, Professor of Government-Harvard University, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.86-7

This notion of independence carries consequences for the kind of community of which we are capable. Understood as unencumbered selves we are of course free to join in voluntary association with others, denied to the unencumbered self is the possibility of membership in any community bound by moral ties antecedent to choice, he cannot belong to any community where the self itself could be stake. Such a community--call it constitutive as against merely cooperative--would engage the identity as well as the interests of the participants, and so implicate its members in a citizenship more thoroughgoing than the unencumbered self can know.

MPP2-512 RADICAL INDIVIDUALISM UNDERMINES COMMUNITY FEELING

Michael J. Sandel, Professor of Government-Harvard University, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.90

Can we view ourselves as independent selves, independent in the sense that our identity is never tied to our aims and attachments? I do not think we can, at least not without cost to those loyalties and convictions whose moral force consists partly in the fact that living by them is inseparable from understanding ourselves as the particular persons we are--as members of that family or community or nation or people, as bearers of that history, as citizens of this republic. Allegiances such as these are more than values I happen to have, and to hold, at a certain distance. They go beyond the obligations I voluntarily incur and the 'natural duties' I owe to human beings as such. They allow that to some I owe more than justice requires or even permits, not by reason of agreements I have made but instead in virtue of those more or less enduring attachments and commitments that, taken together, partly define the person I am. To imagine a person incapable of constitutive attachments such as these is not to conceive an ideally free and rational agent, but to imagine a person wholly without character, without moral depth. For to have character is to know that I move in a history I neither summon nor command, which carries consequences nonetheless for my choices and conduct.

MPP2-513 INDIVIDUALISM LEADS TO ATOMISM

Robert Nisbet, Columbia Sociologist, PREJUDICES, 1982, p.186

Today recitation of the bare creed of individualism is more likely to conjure up a vision of alienation from society that has the lonely and fearful old person at one end of the spectrum and the mugger or terrorist at the other. Americans have come to see individualism as Comte, Tocqueville, and Durkheim did, as an atomization of the social order, a conversion of society from *communitas communitatum* into what is best a sand heap of unattached particles, at worst a jungle occupied by lone but vicious predators.

MPP2-514 INDIVIDUALISM DESTROYS PUBLIC LIFE

Robert Nisbet, Columbia Sociologist, PREJUDICES, 1982, p.184

The disease of the Western world, Comte called it. Tocqueville said individualism 'at first saps only the virtues of public life, but in the long run it attacks and destroys all others and is at length absorbed in downright selfishness.' Moreover, Tocqueville continued, it throws man 'back forever upon himself alone and threatens in the end to confine him entirely within the solitude of his own heart.' Durkheim referred to individualism as a menacing 'social current' in the West, manifesting itself in rising rates of suicide, public disorder, and a general weakening of the collective conscience. De Gaulle declared individualism the primary cause of 'the moral malaise ...inherent in modern mechanical and materialist civilization.'

MPP2-515 RIGHTS TALK UNDERMINES COMMUNITY RESPONSIBILITY

Amitai Etzioni, George Washington University Government Professor, THE SPIRIT OF COMMUNITY, 1993, p.7-8

To put it differently, we all now on one level that our liberties are limited by those of others and that we can do what we want only as long as we do not harm others. Rights talk, however, pushes us to disregard this crucial qualification, the concern for one another and for the community. Soon 'I can do what I want as long as I do not hurt others' becomes 'I can do what I want, because I have a right to do it.'

MPP2-516 INDIVIDUAL RIGHTS THEORY VIEWS HUMANS ATOMISTICALLY

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.41

Why do we even begin to find it reasonable to start a political theory with an assertion of individual rights and to give these primacy? I want to argue that the answer to this question lies in the hold on us of what I have called atomism. Atomism represents a view about human nature and the human condition which (among other things) makes a doctrine of the primacy of rights plausible; or to put it negatively, it is a view in the absence of which this doctrine is suspect to the point of being virtually untenable.

MPP2-517 RIGHTS CAN CONFLICT WITH THE VALUE OF COMMUNITY

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.143

But just as the demands of utility and rights may diverge, so those of the citizen republic may conflict with both. For instance, the citizen republic requires a certain sense of community, and what is needed to foster this may go against the demands of maximum utility. Or it may threaten to enter into conflict with some of the rights of minorities.

MPP2-518 ACCEPTING SOME INTOLERANCE IS KEY TO COMMUNITY

Francis Fukuyama, Rand Corporation Policy Consultant, *THE END OF HISTORY AND THE LAST MAN*, 1992, p.326

In a situation in which all moralisms and religious fanaticisms are discouraged in the interest of tolerance, in an intellectual climate that weakens the possibility of belief in any one doctrine because of an overriding commitment to be open to all the world's beliefs and value systems, it should not be surprising that the strength of community life has declined in America. This decline has occurred not despite liberal principles, but because of them. This suggests that no fundamental strengthening of community life will be possible unless individuals give back certain of their rights to communities and accept the return of certain historical forms of intolerance.

MPP2-519 RIGHTS TALK EXAGGERATES CONFLICT

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.7

Even if lawyers and judges realize among themselves that individual rights are limited by the rights of others and the needs of the community, as the language of rights penetrates into everyday discourse, the discourse becomes impoverished and confrontational. It is one thing to claim that you and I have different interests and see if we can work out a compromise; or, better yet, that we both recognize the merit or virtue of a common cause, say, a cleaner environment. The moment, however, that I claim a right to the same piece of land or property or public space as you, we start to view one another like the Catholics and Protestants in Northern Ireland or the Palestinians and Israelis in the Middle East.

MPP2-520 RIGHTS TALK UNDERMINES DEMOCRATIC COMPROMISE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.6-7

Moreover, the expression of ever more wants, many quite legitimate, in the language of rights makes it difficult to achieve compromises and to reach consensus, processes that lie at the heart of democracy. A society that is studded with groups of true believers and special-interest groups, each brimming with rights, inevitably turns into a society overburdened with conflicts. Columnist John Leo of *US NEWS AND WORLD REPORT* declares: 'Rights talk polarizes debate; it tends to suppress moral discussion and consensus building. Once an agenda is introduced as a right sensible discussion and moderate positions tend to disappear.

MPP2-521 EVOKING RIGHTS AS TRUMPS CUTS OFF PRINCIPLED ARGUMENT

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.7

People treat rights-based arguments, unlike many others, as 'trump cards' that neutralize all other positions. Cass R. Sunstein, professor of jurisprudence at the University of Chicago, put it well when he pointed out that rights can 'be conclusions masquerading as reasons.' For example, he writes, those who defend even the most extreme kinds of what he labels violent pornography state that it is a form of free speech, period. Sunstein suggests that perhaps a person is entitled to this particularly abusive form of speech. But, he argues, an individual's entitlement should be established in detailed argumentation that would weigh the right at issue against the rights of those who are hurt by the given act, rather than simply asserting that it is a right, as if its evocation closed off all debate.

MPP2-522 THE PROCEDURAL REPUBLIC UNDERMINES COMMUNITY AND DEMOCRACY

Michael J. Sandel, Professor of Government-Harvard University, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.93

A full account of this transition would take a detailed look at the changing shape of political institutions, constitutional interpretation, and the terms of political discourse in the broadest sense. But I suspect we would find in the practice of the procedural republic two broad tendencies foreshadowed by its philosophy; first a tendency to crowd out democratic possibilities; second, a tendency to undercut the kind of community on which it nonetheless depends.

MPP2-523 THE PROCEDURAL REPUBLIC IS THE ALTERNATIVE TO COMMUNITY

Michael J. Sandel, Professor of Government-Harvard University, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.93

But this project failed. By the mid-or late twentieth century, the national republic had run its course. Except for extraordinary moments, such as war, the nation proved too vast a scale across which to cultivate the shared self-understandings necessary to community in the formative, or constitutive sense. And so the gradual shift, in our practices and institutions, from a public philosophy of common purpose to one of fair procedures, from a politics of good to a politics of right, from the national republic to the procedural republic.

MPP2-524 CENTRALIZED PROTECTION OF INDIVIDUAL RIGHTS UNDERMINES DEMOCRACY

Michael J. Sandel, Professor of Government-Harvard University, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.94

And even as politics flows to the nation, power shifts away from democratic institutions (such as legislatures and political parties) and toward institutions designed to be insulated from democratic pressures, and hence better equipped to dispense and defend individual rights (notably the judiciary and bureaucracy.)

MPP2-525 PROCEDURAL RIGHTS ARE IN OPPOSITION TO DEMOCRACY

Michael J. Sandel, Professor of Government-Harvard University, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.93-4

Where liberty in the early republic was understood as a function of democratic institutions and dispersed power, liberty in the procedural republic is defined in opposition to democracy, as an individual's guarantee against what the majority might will. I am free insofar as I am the bearer of rights, where rights are trumps.

MPP2-526 PROCEDURAL RIGHTS PRODUCE CONCENTRATION OF POWER

Michael J. Sandel, Professor of Government-Harvard University, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.94

Unlike the liberty of the early republic, the modern version permits-- in fact even requires--concentrated power. This has to do with the universalizing logic of rights. Insofar as I have a right, whether to free speech or a minimum income, its provision cannot be left to the vagaries of local preferences but must be assured at the most comprehensive level of political association. It cannot be one thing in New York and another in Alabama. As rights and entitlements expand politics is therefore displaced from smaller forms of association and relocated at the most universal form--in our case, the nation.

MPP2-527 FEDERALISM IS KEY TO DEMOCRATIC EMPOWERMENT

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.118-9

One of the important sources of the sense of powerlessness is that we are governed by large-scale, centralized, bureaucratic states. What can help mitigate this sense is decentralization of power, as Tocqueville saw. And so on in general devolution, or a division of power, as in a federal system, particularly one based on the principle of subsidiarity, can be good for democratic empowerment. And this is the more so if the units to which power is devolved already figure as communities in the lives of their members.

MPP2-528 PROBLEMS OF CONTEMPORARY CULTURE REQUIRE DEMOCRATIC EMPOWERMENT

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.118

The politics of resistance is the politics of democratic will-formation. As against those adversaries of technological civilization who have felt drawn to an elitist stance, we must see that a serious attempt to engage in the cultural struggle of our time requires the promotion of a politics of democratic empowerment. The political attempt to re-enframe technology crucially involves resisting and reversing fragmentation.

MPP2-529 DEMOCRACY CHECKS TOTALITARIANISM IN AMERICA

Amitai Etzioni, George Washington University Government Professor, THE SPIRIT OF COMMUNITY, 1993, p.47

Actually, a world of difference separates Eastern Europe's former Communist party regimes from ours. Laws in the United States are arrived at democratically and not imposed by a tyrannical government. They are limited in scope are neither omnipresent nor totalitarian. Moreover their enforcement is subject to public scrutiny, democratic approval, and constitutional checks; gulags, secret police, and torture chambers are alien to the American scene.

MPP2-530 DEMOCRATIC STATES HAVE NEVER EVOLVED INTO TOTALITARIAN ONES

Robert Nisbet, Columbia Sociologist, PREJUDICES, 1982, p.56

But there is one large and sufficing difference between even the most bureaucratized and paternalistic of the democracies and the totalitarian states we have seen thus far, in Russia and Germany foremost. In the total state there is no pretense of free elections, free political association, and free choice of representatives in political office. Moreover, there is no instance, thus far at least, of a heavily bureaucratized, ordinance-saturated, democratic Leviathan ever evolving into the total state as I have just described it. All totalitarian states we are familiar with are the consequences of armed revolution, are based upon their armies, and exist literally by command. There is no suggestion that apart from military and party command there is any kind of law that operates, certainly none of common-law character.

MPP2-531 SLOPE ARGUMENTS ARE ABSURDLY EXAGGERATED

Amitai Etzioni, George Washington University Government Professor, THE SPIRIT OF COMMUNITY, 1993, p.5

In Santa Monica, California, men were found dealing drugs in public women's rooms on the beaches and in parks. To combat the abuse, the city council passed an ordinance that prohibited men and women from using the opposite sex's facilities unless they were in urgent need (which was defined as a line of three or more in front of them). This did not satisfy a local activist, Gloria Allred, who saw in the ordinance a violation of a woman's right to urinate in any public facility, at any time. Referring to a similar ordinance in Houston, Texas, she stated, 'Little did I know that such a nightmare might soon be reenacted in this fair city.' Ms. Allred warned: 'This is the first step down a long road of restricting women's rights in the name of public safety.'

MPP2-532 SLIDES DOWN THE SLOPE ARE REGULARLY HALTED

Stanley Fish, Duke University Professor of English and Law, *THERE'S NO SUCH THING AS FREE SPEECH*, 1994, p.130
 But the slippery slope argument is another one of those exercises in abstract reasoning that imagines a worse-case scenario every time because nothing fills up its landscape but its own assumptions. That is, the slippery slope argument assumes that there is nothing in place, no underneath, to stop the slide; but in any complexly organized there will always be countervalues to invoke and invested persons to invoke them. Slippery slope trajectories are inevitable only in the head, where you can slide from A to B to Z with nothing to retard the acceleration of the logic. In the real world, however, the step even from A to B will always meet with resistance of all kinds from persons differently positioned, and, as a matter of fact, the chances of ever getting to Z are next to nothing. Somewhere along the route some asserted interest will stop the slide, and a line will be drawn beyond which regulators will be prevented from going, at least for a time, until new pressures and new resistances provoke a new round of debates, at the end of which still another line will be provisionally drawn.

MPP2-533 NOTCHES CAN CHECK THE SLOPE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.177
 We can notch the slope, formulate principles that allow us to stop, before we can reach a danger point. These principles are, of necessity, introduced one by one. However, when it comes to actually fashioning public policies, the guidelines must be applied jointly. That is, policies that qualify by the first measure are still to be examined to establish whether or not they meet the second and third criteria and so on.

MPP2-534 THE SLIPPERY SLOPE IS AN OVERUSED CLICHE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.175
 Probably the most common argument against any adjustments in the balance between individual rights and social responsibilities is a vastly overused piece of sociology; the notion that once one seeks to modify a tradition, it crumbles. This argument is often used by Orthodox Jews who oppose any changes in Jewish practice (such as seating men and women together in the synagogue) and, as well, in the Catholic tradition (as can be seen in the opposition to conducting mass in the vernacular). The opponents of change draw on various analogies, especially that old chestnut the slippery slope. Or we hear about the danger of allowing the camel's nose into the tent, lest all of it will follow, and about the risk of allowing in the thin edge of a wedge, which then might be used to pry open gates that ought to have been kept under seal. All of these cliched images evoke the fear that if we allow some limited, harmless, or even beneficial measures, they will lead us willy-nilly--without opportunities to examine and, above all, stop--to some dire consequences.

MPP2-535 NOT ALL SLOPES ARE SLIPPERY

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.177
 However, it is also evident that each time we individually or as a community negotiate a step on the top of what are potentially slippery slopes, we do not necessarily end up at the bottom. Not every young woman who allows herself to be kissed before marriage ends up a hooker, and not everyone who experiments with marijuana ends up a crackhead. Similarly, sexual education, introduced in many schools, has not led, as Authoritarians feared, to new heights of promiscuity, orgies, let alone to the destruction of American society. That is, societies can reset their moral codes without necessarily losing their grip. And, to reiterate, sliding down the slippery slope is not necessarily the result of an avalanche set off by bad precedents; it may well be the consequence of not attending to true needs of the community and thus in effect paving the way to Authoritarian voices and leaders.

MPP2-536 LIMITS ON LIBERTY NEED NOT SNOWBALL

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.167
 If we modify our concept of rights, will we start down the proverbial 'slippery slope'? That is, it is said that if we make small adjustments, which are sound in themselves, we will lose our grip on our liberties and end up on our collective rear ends on the low end of a hill. The answer, we shall see, lies in making notches on that slope so that we can advance ourselves as a society without slipping down into authoritarianism. How can this be achieved? My main proposal is that we agree with one another that we shall make a contribution to public safety and public health by accepting some measures that do encumber us to some extent but allow significant benefits to the community.

MPP2-537 EXCESSIVE FEAR OF AUTHORITARIANISM STIFLES EFFECTIVE PUBLIC POLICY

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.165
 If this philosophy is applied to a functioning democratic government --if you play on the fear that the government may exceed its powers to a point that it will turn Authoritarian--then you reach all kinds of untenable conclusions, including a stubborn refusal to reinterpret constitutional rights to meet compelling social need. You end up perceiving constitutional rights not as a basis for sound government policies, but as a way to hobble most, if not all, government actions.

MPP2-538 OVERREACTING TO TYRANNY RISK IN SHORT RUN ENSURES IT IN LONG RUN

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.166

This and other such Radical Individualist positions--the libertarian ethos--lead to a paralysis of public authorities that has grave human and moral consequences. If we do not act because we fear that somehow, someday, an innocent law may lead to tyranny, we may well set fourth conditions that raise social stress to a level that serves those who call for 'strong' government. What is needed is a lean, well-contained government--rather than to assume that no government act can be sanitized.

MPP2-539 RADICAL INDIVIDUALISM RISKS AUTHORITARIAN BACKLASH

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.164

It is here that Radical Individualists unwittingly play into the hands of the Authoritarians. By adhering to an absolutist, uncompromising line that focuses on the rights of individuals and pays no heed to the needs of the community, they help set the stage for a major right-wing Authoritarian backlash.

MPP2-540 PROTECTING INDIVIDUAL RIGHTS REQUIRES A COMMUNITARIAN PERSPECTIVE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.253

American men, women, and children are members of many communities-- families; neighborhoods; innumerable social, religious, ethnic, workplace, and professional associations; and the body politic itself. Neither human existence nor individual liberty can be sustained for long outside the interdependent and overlapping communities to which all of us belong. Nor can any community long survive unless its members dedicate some of their attention, energy and resources to shared projects. The exclusive pursuit of private interest erodes the network of social environments on which we all depend and is destructive to our shared experiment in democratic self-government. For those reasons, we hold that the rights of individuals cannot long be preserved without a Communitarian perspective.

MPP2-541 BALANCING RIGHTS AND RESPONSIBILITIES BEST AVOIDS AUTHORITARIANISM

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.11

Having presented this fourth part of the Communitarian agenda before scores of groups, my colleagues and I have learned that this element of balancing rights and responsibilities is the most controversial. Hence a special discussion is dedicated to showing that such adjustments can be made--if the set of principles spelled out is followed--without opening the floodgates to a police state or excessive intrusion by public health departments. On the contrary, the best way to curb authoritarianism and right-wing tendencies is to stop the anarchic drift by introducing carefully calibrated responses to urgent and legitimate public concerns about safety and the control of epidemics.

MPP2-542 EFFECTIVE PUBLIC SAFETY MEASURES ARE NEEDED TO PREVENT TYRANNY

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.163-4

Recently, even some authority figures have picked up on such extremist calls. The police superintendent of Chicago, Leroy Martin suggested that the United States emulate the Chinese penal system, in which drug dealers are shot. State district judge Michael McSpaden of Houston said he favored castrating violent criminals. The appeal of former Ku Klux Klan grand wizard David Duke to 39 percent of Louisiana's voters in the 1991 governor's race, and to financial contributors from all over the United States, is a troubling sign of the spread of utter frustration in growing segments of the public. True, so far as these Authoritarian recommendations and voices have not amounted to much (although if you were on the receiving end of their nightsticks, you might think otherwise). The main danger is that unless we fashion reasonable, carefully calibrated measures to enhance public safety and public health, these voices will gain in following. We should not underestimate the frustrations among many who must live behind triple-locked doors and barred windows; who fear to venture into most parks and many streets after dark; and who, in quite a few places, can't walk the streets safely even in broad daylight.

MPP2-543 LIFE IN SOCIETY IS NEEDED TO FULFILL ONE'S HUMAN POTENTIAL

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.42-3

To begin with, what is at stake is not self-sufficiency in the Great Slave Lake sense, but rather something else. What has been argued in the different theories of the social nature of man is not just that men cannot physically survive alone, but much more that they only develop their characteristically human capacities in society. The claim is that living in society is a necessary condition of the development of rationality, in some sense of this property, or of becoming a moral agent in the full sense of the term, or of becoming a fully responsible, autonomous being. These variations and other similar ones represent the different forms in which a thesis about man as a social animal have been or could be couched. What they have in common is the view that outside society, or in some variants outside certain kinds of society, this thesis, too, is irrelevant whether an organism born from a human womb would go on living in the wilderness; what is important is that this organism could not realize its specifically human potential.

MPP2-544 SOCIAL STRUCTURE IS NEEDED TO SUPPORT INDIVIDUAL AUTONOMY

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.56-7

In other words, the free individual or autonomous moral agent can only achieve and maintain his identity in a certain type of culture, some of whose facets and activities I have briefly referred to. But these and others of the same significance don't come into existence spontaneously each successive instant. They are carried on in institutions and associations which require stability and continuity and frequently also support from society as a whole--almost always the moral support of being commonly recognized as important but frequently also considerable material support. These bearers of our culture include museums, symphony orchestras, universities, laboratories, political parties, law courts, representative assemblies, newspapers, publishing houses, television stations, and so on. And I have to mention also the mundane elements of infrastructure without which we couldn't carry on these higher activities: buildings, railroads, sewage plants, power grids, and so on. Thus the requirement of a living and varied culture is also the requirement of a complex and integrated society, which is willing and able to support all these institutions.

MPP2-545 PARTICIPATION IN POLITICS NEEDED FOR FULL EXPRESSION OF FREEDOM

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.58-9

Now, if it is possible that a society and culture propitious for freedom might arise from the spontaneous association of anarchist communes. But it seems much more likely from the historical record that we need rather some species of political society. And if this is so then we must acknowledge an obligation to belong to this kind of society in affirming freedom if we can help determine the shape of this society and culture. And this we can only do through instruments of common decision. This means that the political institutions in which we live may themselves be a crucial part of what is necessary to realize our identity as free beings.

MPP2-546 THE MORAL TONE OF SOCIETY MUST BE PRESERVED TO PRESERVE FREEDOM

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.58

The crucial point here is this: since the free individual can only maintain his identity within a society/culture of a certain kind, he has to be concerned about the shape of this society/culture as a whole. He cannot, following the libertarian anarchist model that Nozick sketched, be concerned purely with his individual choices and the associations formed from such choices to the neglect of the matrix in which such choices can be open or closed, rich or meager. It is important to him that certain activities and institutions flourish in society. It is even of importance to him what the moral tone of the whole freedom and individual diversity can only flourish in a society where there is a general recognition of their worth. They are threatened by the spread of bigotry, but also by other conceptions of life--e.g., those which look on originality, innovation and diversity as luxuries which society can ill afford given the need for efficiency, productivity, or growth, or those which in a host of other ways depreciate freedom.

MPP2-547 ALL LAW LIMITS LIBERTY

Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.267

It diminishes a man's liberty when we prevent him from talking or making love as he wishes, but it also diminishes his liberty when we prevent him from murdering or defaming others. These latter constraints may be justifiable, but only because they are compromises necessary to protect the liberty or security of others, and not because they do not, in themselves, infringe the independent value of liberty. Bentham said that any law whatsoever is an infraction of liberty, and though some such infractions might be necessary, it is obscurantist to pretend that they are not infractions after all. In this neutral, all embracing sense of liberty as license, liberty and equality, and laws are inevitably compromises of liberty.

MPP2-548 THE RIGHT TO LIBERTY IS MEANINGLESSLY VAGUE

Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.268

In spite of this tradition, however, the neutral sense of liberty seems to me to have caused more confusion than it has cured, particularly when it is joined to the popular and inspiring idea that men and women have a right to liberty. For we can maintain that idea only by so watering down the idea of a right that the right to liberty is something hardly worth having at all.

MPP2-549 THERE IS NO GENERAL RIGHT TO LIBERTY
Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.259

If we settle on this concept of a right, however, then it seems plain that there exists no general right to liberty as such. I have no political right to drive up Lexington Avenue. If the government chooses to make Lexington Avenue one-way down town, it is a sufficient justification that this would be in the general interest, and it would be ridiculous for me to argue that for some reason it would nevertheless be wrong. The vast bulk of the laws which diminish my liberty are justified on utilitarian grounds, as being in the general interest or for the general welfare; if, as Bentham supposes, each of these law diminishes my liberty, they nevertheless do not take away from me any thing that I have a right to have. It will not do, in the one-way street case, to say that although I have a right to drive up Lexington Avenue, nevertheless the government for special reasons is justified in overriding that right. That seems silly because the government needs no special justification--but only a justification--for this sort of legislation. So I can have a political right to liberty, such that every act of constraint diminishes or infringes that right, only in such a weak sense of right that the so called right to liberty is not competitive with strong rights, like the right to equality, at all. In any strong sense of right, which would be competitive with the right to equality there exists no general right to liberty at all.

MPP2-550 THE BASIC RIGHT IS TO EQUALITY, NOT LIBERTY

Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.268

I should want to claim, for example, that people have a right to equality in a much stronger sense, that they do not simply want equality but that they are entitled to it, and I would therefore not recognize the claim that some men and women want liberty as requiring any compromise in the efforts that I believe are necessary to give other men and women the equality to which they are entitled.

MPP2-551 ASSUMING A RIGHT TO LIBERTY UNDERMINES POLITICAL THOUGHT

Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.271

The idea of a right to liberty is a misconceived concept that does a dis-service to political thought in at least two ways. First, the idea creates a false sense of a necessary conflict between liberty and other values when social regulation, like the busing program, is proposed. Second, the idea provides too easy an answer to the question of why we regard certain kinds of restraints, like the restraint on free speech or the exercise of religion, as especially unjust. The idea of a right to liberty allows us to say that these constraints are unjust because they have a special impact on liberty as such. Once we recognize that this answer is spurious, then we shall have to face the difficult question of what is indeed at stake in these cases.

MPP2-552 A RIGHT TO LIBERTY ISN'T PSYCHOLOGICALLY JUSTIFIED

Ronald Dworkin, New York University Professor of Law, *TAKING RIGHTS SERIOUSLY*, 1978, p.272

Second, we lack a psychological theory which would justify and explain the idea that the loss of civil liberties, or any particular liberties, involves inevitable or even likely psychological damage. On the contrary, there is now a lively tradition in psychology, led by psychologists like Ronald Laing, who argue that a good of mental instability in modern societies may be traced to the demand for too much liberty rather than too little. In their account, the need to choose, which follows from liberty, is an unnecessary source of destructive tension. These theories are not necessarily persuasive, but until we can be confident that they are wrong, we cannot assume that psychology demonstrates the opposite, however appealing that might be on political grounds.

MPP2-553 FREEDOM OF CHOICE ISN'T INTRINSICALLY VALUABLE

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.209

Saying that freedom of choice is intrinsically valuable suggests that the more we exercise our capacity for choice the more free we are, and hence the more valuable our lives are. But that is false, and indeed perverse. It quickly leads to the existentialist view that we should wake up each morning and decide anew what sort of person we should be. This is perverse because a valuable life is a life filled with commitments and relationships. These give our lives depth and character. And what makes them commitments is precisely that they are not the sort of thing that we question every day. We do not suppose that someone who makes twenty marriage choices in any way leading a more valuable life than someone who has no reason to question her original choice. A life with more marital choices is not even *ceteris paribus* better than a life with fewer such choices.

MPP2-554 FREEDOM IS A MEANS NOT AN END

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.210
 Firstly, as Taylor notes, telling people to act freely does not tell them what particular actions are worth doing. But even if it provided determinate guidance, it still presents a false view of our motivations. If I am writing a book, for example, my motivation is not to be free, but to say something that is worth saying. Indeed, if I did not really want to say anything, except in so far as it is a way of being free, then my writing would not be fulfilling. What and how I write would become the result of arbitrary and ultimately unsatisfying choices. If writing is to be intrinsically valuable, I have to care about what I am saying, I have to believe that writing is worth doing for its own sake. If we are to understand the value people see in their projects, we have to look to the ends which are internal to them. I do not pursue my writing for the sake of my freedom. On the contrary, I pursue my writing for its own sake, because there are things which are worth saying. Freedom is valuable because it allows me to say them.

MPP2-555 RIGHTS APPEALS HAVE BECOME AN EMPTY GESTURE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.5
 When asked whether certain things are 'a privilege that a person should have to earn, or a right to which he is entitled as a citizen,' most Americans (81 percent) considered health care a right (versus 16 percent who said it was a privilege.) Two thirds (66 percent) considered adequate housing a right (as opposed to 31 percent who called it a privilege). Indeed, why not? Until one asks, as there are no free lunches, who will pay for unlimited health care and adequate housing for all? The champions of rights are often quite mum on this question, which if left unanswered makes the claim for a right of a rather empty gesture.

MPP2-556 ADDING NEW RIGHTS CAUSES DEVALUATION OF OLD ONES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.5
 We should, for a transition period of, say, the next decade, put a tight lid on the manufacturing of new rights. The incessant issuance of new rights, like the wholesale printing of currency, causes a massive inflation of rights that devalues their moral claims.

MPP2-557 LIMITS ON NEW RIGHTS ARE NEEDED TO PREVENT RIGHTS BACKLASH

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.6
 We need to remind one another that each newly mined right generates a claim on someone. In effect, new rights often arouse or play upon feelings of guilt in others. There is a limited amount of guilt, however, that one can lay upon other people before they balk. Unless we want to generate a universal backlash against rights, we need to curb rights inflation and protect the currency of rights from being further devalued.

MPP2-558 LIMITING NEW RIGHTS CAN RESTORE THE MORAL SUBSTANCE OF OLD ONES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.6
 Once, rights were very solemn moral/legal claims, ensconced in the Constitution and treated with much reverence. We all lose if the publicity department of every special interest can claim that someone's rights are violated every time they don't get all they want. Suspending for a while the minting of new rights, unless there are unusually compelling reasons to proceed, will serve to restore the special moral standing and suasion of rights.

MPP2-559 IF HUMANS ARE INNATELY SOCIAL, RIGHTS CAN'T BE PRIMARY

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.49
 If we cannot ascribe natural rights without affirming the worth of certain human capacities, and if this affirmation has other normative consequences (i.e., that we should foster and nurture these capacities in ourselves and others), then any proof that these capacities can only develop in society or in a society of a certain kind is a proof that we ought to belong to or sustain society or this kind of society. But then, provided a social (i.e. an anti-atomist) thesis of the right kind can be true, an assertion of the primacy of rights is impossible; for to assert the rights in question is to affirm the capacities, and granted the social thesis is true concerning these capacities, this commits us to an obligation to belong. This will be as fundamental as the assertion of rights, because it will be inseparable from it. So that it would be incoherent to try to assert the rights, while denying the obligation or giving it the status of optional extra which we may or may not contract; this assertion is what the primacy doctrine makes.

MPP2-560 IF RIGHTS ARE GOOD-THEY SHOULDN'T BE PUSHED TO SOCIAL DESTRUCTION

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.50

In whatever way the conflict might arise it poses a moral dilemma for us. It may be that we have already been formed in this culture and that the demise of this mode of society will not deprive us of this capacity. But in asserting our rights to the point of destroying the society, we should be depriving all those who follow after us of the exercise of the same capacity. To believe that there is a right to independent moral convictions must be to believe that the exercise of the relevant capacity is a human good. But then it can't be right, if no over-riding considerations intervene, to act so as to make this good less available to others, even though in so doing I could not be said to be depriving them of their rights.

MPP2-561 A THEORY OF HUMAN NATURE UNDERLIES THEORIES OF RIGHTS

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.45

Beings with these capacities command our respect, because these capacities are of special significance for us; they have a special moral status. And from this we can see why the schedule of rights is what it is; life, of course, is protected, because these beings are life-forms, and so are integrity of limb and freedom protected from molestation for the same reason. But the schedule also includes protection for those activities which realize the specifically human capacities; and hence we have a right to our own convictions, the practice of our religion, and so on. In other words, our conception of the specifically human is not at all irrelevant to our ascription of rights to people. On the contrary, there would be something incoherent and incomprehensible in a position which claimed to ascribe rights to men but which disclaimed any conviction about the special moral status of any human capacities whatever and which denied that they had any value or worth.

MPP2-562 LIBERAL INDIVIDUALISM ULTIMATELY DISEMPOWERS THE SELF

Michael J. Sandel, Professor of Government-Harvard University, LIBERALISM AND THE LIMITS OF JUSTICE, 1982, p.94-5

As bearers of rights, where rights are trumps, we think of ourselves as freely choosing, individual selves, unbound by obligation antecedent to rights, or to the agreements we make. And yet, as citizens of the procedural republic that secures these rights, we find ourselves implicated willy-nilly in a formidable array of dependencies and expectations we did not choose and increasingly reject. In our public life, we are more entangled, but less attached, than ever before. It is as though the unencumbered self presupposed by the liberal ethic had begun to come true--less liberated than disempowered, entangled in a network of obligations and involvements unassociated with any act of will, and yet unmediated by those common identifications or expansive self-definitions that would make them tolerable. As the scale of social and political organization has become more comprehensive, the terms of our collective identity have become more fragmented, and the forms of political life have outrun the common purpose needed to sustain them.

MPP2-563 EMERSONIAN INDIVIDUALISM IS IMPOSSIBLE

Robert Nisbet, Columbia Sociologist, PREJUDICES, 1982, p.187

The Emersonian, all-American individualism of the nineteenth century was destined from the beginning to fall as a creed. In violation of the wisdom of the ages, indeed of simple common sense, it regarded the individual from the 'I am myself alone' perspective, thus overlooking the nurturing social contexts in which alone individuality can develop. From Emerson's self-reliant individual needing nothing but his own inner resources to the desocialized, hedonistic, narcissistic free spirit of the late twentieth century is really not a long journey.

MPP2-564 THE PURPOSE OF THE CIVIC REPUBLIC IS NOT JUST TO PROTECT RIGHTS

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.143

For instance, modern Western societies are all citizen republics, or strive to be. Their conception of the good is partly shaped by the tradition of civic humanism. The citizen republic is to be valued not just as a guarantee of general utility, or as a bulwark of rights. It may even endanger these in certain circumstances. We value it also because we generally hold that the form of life in which men govern themselves, and decide their own fate through common deliberation, is higher than one in which they live as subjects or even an enlightened despotism.

MPP2-565 THROUGH POLITICAL ACTION, WE CAN KNOW A GREATER COMMON GOOD

Michael J. Sandel, Professor of Government-Harvard University, *LIBERALISM AND THE LIMITS OF JUSTICE*, 1982, p.183

Liberalism teaches respect for the distance of self and ends, and when this distance is lost, we are submerged in a circumstance that ceases to be ours. But by seeking to secure this distance too completely, liberalism undermines its own insight. By putting the self beyond the reach of politics, it makes human agency an article of faith rather than an object of continuing attention and concern, a premise of politics rather than its precarious achievement. This misses the pathos of politics and also its most inspiring possibilities. It overlooks the danger that when politics goes badly not only disappointments but also dislocations are likely to result. And it forgets the possibility that when politics goes well, we can know a good in common that we cannot know alone.

MPP2-566 INDIVIDUALS HAVE DUTY TO BELONG BECAUSE FREEDOM PRODUCT OF SOCIETY

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.57

I am arguing that the free individual of the West is only what he is by virtue of the whole society and civilization which brought him to be and which nourishes him; that our families can only form us up to this capacity and these aspirations because they are set in this civilization; and that a family alone outside of this context--the real old patriarchal family--was a quite different animal which never tended to develop this horizons. And I want to claim finally that all this creates a significant obligation to belong for whoever would affirm the value of this freedom; this includes all those who want to assert rights either to this freedom or for its sake.

MPP2-567 INDIVIDUALISM PROMOTES STATISM

Robert Nisbet, Columbia Sociologist, *PREJUDICES*, 1982, p.187

It is often said that individualism has declined in America during the twentieth century. It has not. If anything it is more luxuriant variegated and insistent than ever before in American history. Non-conformity, a near synonym for individualism, is found widely today in literature, the arts, indeed in the whole of culture, and perhaps most spectacularly in the behavior of people with respect to the old traditions of family, neighborhood, church, and their intrinsic authorities. But all the while this individualism has been advancing, so has the power of the political state over human lives. Political collectivism could scarcely exist were it not for the erosion of the social authorities and the consequent release of masses of individuals.

MPP2-568 EXTREME INDIVIDUALISM LEADS TO COLLECTIVISM

Robert Nisbet, Columbia Sociologist, *PREJUDICES*, 1982, p.186-7

Americans can accept French teaching on still another dimension of individualism, its natural affinity with centralized political power. until recently, freedom from power was yet another virtue that Americans insisted upon ascribing to the national creed of individualism. But this simply will not work. If there is a single root meaning of the word individualism, it lies in the notion of the discrete being, of I-am-myself-alone-free-of-all -bonds. The ideal type is inevitably a whole nation of largely unconnected, 'free' individuals. But this is the best recipe for Leviathan. The genius of the French perspective on individualism is its awareness of the complementary, the reciprocal relation between individualism and collectivism.

MPP2-569 COMMUNITARY STANDARDS ARE THE ALTERNATIVE TO STATISM

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.36

It is unrealistic to rely on individuals' inner voices and to expect that people will invariably do what is right completely on their own. Such a radical individualistic view disregards our social moorings and the important role that communities play in sustaining moral commitments. Those who oppose statism must recognize that communities require some ways of making their needs felt. They should welcome the gentle, informal, and--in contemporary America-- generally tolerant voices of the community, especially given that the alternative is typically state coercion or social and moral anarchy.

MPP2-570 STRENGTHENED COMMUNITY MINIMIZES THE ROLE OF THE STATE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.44

The best way to minimize the role of the state, especially its policing role, is to enhance the community and its moral voice. If most of us, most of the time, observed the speed limits, especially near schools and where children play, there would be much less need for police. If we basically paid our share of the taxes due, there would be less need for IRS agents and auditors. If divorced fathers paid agreed-upon amounts of child support, there would be no need for the state to go after them. There are always some who violate what is right, and hence the state is unlikely to wither away, at least until very far-reaching and fundamental changes occur in human nature. However, such limited use of the state, for a handful of miscreants, is not the issue. What we must try to avoid is relying on the state to maintain social order, which can be achieved more humanely and at less cost by the voluntary observance of those values we all hold dear, such as driving without endangering others and paying our share of the communities' burdens. In short, the more people generally agree with one another about what is to be done and encourage one another to live up to these agreements, the smaller the role that coercive authority will play and the more civil the community.

MPP2-571 VALUES OF THE OVERALL COMMUNITY PROTECT MINORITIES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.52

We should also note that minority and individual rights within a given community are protected by the values of the society at large. Thus some communities may wish to prohibit selling houses to members of minorities; others bash lesbians and gay men; and so on. However, society wide values come into play to alert the communities' members that their inclinations violate fundamental values we share as a community of communities, as a society. And if moral suasion does not suffice, legal procedures are available to challenge local policies that violate overarching values to which the whole society is committed. For instance, as recently as the late 1980s a federal court forced the city of Yonkers, New York, to end its patterns of housing segregation, which were favored by the Yonkers City Council and, most likely, by most of the city's residents.

MPP2-572 THE FIRST AMENDMENT PROPERLY PROTECTS MINORITIES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.50

Actually, American society has both constitutional and moral safeguards against majoritarianism that Communitarians very much respect. These safeguards basically work by differentiation, by defining some areas in which the majority has not and ought not to have a say and those in which it does and should. We are not simply a nose-count majoritarian democracy, but a constitutional one. That is, some choice, defined by the constituencies, are out of realm for the majority. Clearest among these is the Bill of Rights, which singles out matters that are exempt from majority rule or consensus building. It does not matter if most, some, or none of us agrees with you, you have a basic right to state what you please. Similarly the majority may not deny an opposition group the right to vote; even Communists were not banned even in the days when they were most hated and feared. We are all entitled to a trial by jury of our peers, whether we are members of the majority or the minority. And that is the way it ought to be.

MPP2-573 COMMUNITY CONSENSUS SUPPORTS FREE EXPRESSION

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.52

Many Americans consider such artwork abhorrent. But the moral support for free speech prevailed, and the freedom to display these pictures was sustained largely through community voices and not legal steps. Christina Orr-Cahall, the director of the Corcoran Gallery of Art in Washington DC, had to resign after a month-long debate that ensued after she canceled the Corcoran's exhibit of the Mapplethorpe photographs. The director of the Contemporary Arts Center in Cincinnati and the museum itself were acquitted by a jury on charges of pandering to obscenity by displaying the Mapplethorpe show. In short, community consensus need not conflict, indeed may underwrite, protection from the majority when and where it is called for.

MPP2-574 COMMUNITY CONSENSUS OPPOSES SPEECH CODES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.195-6

Although these regulations of speech have generated a great deal of attention, one should not overlook the fact that most universities have not embraced them. The overwhelming majority of students, faculty and citizens, whatever their race or gender, on campus and off, are opposed to these limitations on free speech, according to most public opinion polls. A 1986 poll of Colorado residents shows that 62 percent disagreed with the statement 'it should be against the law for anyone to make public speeches in favor of racism.' (Thirty percent agreed.) A 1989 poll of Alabamians shows that a full 87.5 percent agreed with the statement, 'Even those with unpopular views should have the freedom to publicly express their political feelings.' (Only 8.7 percent disagreed.)

MPP2-575 SPEECH LIMITS CREATE A SLIPPERY SLOPE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.195

Displaying the wrong kind of magazine, offering a well-meaning compliment, or even excessive staring can get you into trouble on some campuses. At SUNY-Binghamton a student was charged with lewd and indecent behavior for putting PENTHOUSE centerfolds on the door of his dormitory room. He was convicted by a student panel, although the school administration later dropped the charges. The school newspaper reported another incident of alleged harassment: someone in the Economics Department commented about a colleague: 'She's so smart and pretty too.' At the University of Toronto, Professor Richard Hummel was convicted in 1989 of 'prolonged and intense staring' at a university pool. A columnist for MACLEAN'S magazine, Barbara Amiel, suggested that the conviction reflected, 'the utter debasement of the genuinely serious nature of sexual harassment.' If there ever was a slippery slope....

MPP2-576 CREATING EXCEPTIONS TO THE FIRST AMENDMENT FAILS

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.196

The difficulty in 'notching' the First Amendment is illustrated in the details of the famous 1942 cases, the only instance in which the Supreme Court let stand a conviction on the basis that a person had uttered prohibited 'fighting' words. What are the intolerable words that Mr. Chaplinsky spoke? He called organized religion 'a racket.' Few would consider this epithet particularly offensive these days. Even fewer would disagree that it communicates a political idea, rather than being merely offensive. Protecting the expression of such ideas however unpopular, is at the core of the freedom of speech under the First Amendment.

MPP2-577 NO CLEAR DEFINITION OF RACIST SYMBOLS

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.197

When St. Paul, Minnesota, tried to ban cross burnings, the constitutionality of the ban was argued before the Supreme Court. Justice Antonin Scalia wondered why the community would ban some racist symbols and not others that some groups might find at least as offensive. He did not have to look far for an example. The ordinance's 'definition [of anger, alarm, or resentment] is broad enough to include a Washington Redskins T-Shirt since 'Redskins' is considered a racial epithet by many Native Americans,' pointed out a USA TODAY editorial. And the ST. PAUL PIONEER PRESS wondered: 'What if the same ordinance were sued to prosecute a rabbi whose Star of David angered Arabs who saw it as a Zionist symbol...or an abortion foe whose picture of an aborted fetus alarmed abortion rights advocates?'

MPP2-578 FREE EXPRESSION MUST BE ALMOST ABSOLUTE TO AVOID MCCARTHYISM

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.199

In some rather limited areas taboos on certain speech seem to have taken hold. according to specialists in these matters. For instance. you cannot make a defamatory speech that is internationally malicious. And we all accept that one cannot shout 'Fire' in a crowded theater when there is none, because it directly endangers the lives of innocent people who favor a free society must put up here with a very broad, sweeping right -- a nearly absolute one. By and large we dare not restrict speech, lest we open the doors to the censors and the Joe McCarthys.

MPP2-579 SPEECH CODES ARE INEFFECTIVE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.200

Communitarians like me hold that legal restrictions on free speech are not only very difficult to delineate, but are ineffectual to boot. At best they may curb public expressions of racial, ethnic. and gender hatred, but they do not get at the root causes. The LOS ANGELES TIMES editorialized: 'Speech codes don't attack the racism and other attitudinal baggage that students bring with them to college. Codes suppress the words without exploring and combating the lazy and irrational thinking that spawns prejudice based on ethnicity, religion or sex.' The ACLU's president. Nadine Strosen, similarly argues that speech codes 'are doing nothing to stop racism and bigotry. For university administrators, they are a cheap solution to a complex problem.'

MPP2-580 PEER PRESSURE IS THE BEST WAY TO COMBAT RACISM

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.202

If a drunken white man shouts racist expletives on Brown University's campus, charging him with a legal offense or arresting him is not the response of choice; a long line of peers who tell him how despicable they find his utterances is probably a more effective and surely a more legitimate community response. Heed the words of Judge Learned Hand, 'I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes, believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court, can save it.'

MPP2-581 INFORMAL PRESSURES BEST PROTECTS MINORITIES

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.202

We should inform people who spout prejudice and spread hate that we consider them to be bigoted, uncivilized boors, people whose company we shun. 'Sure,' we may tell them, 'you have a right to say most anything you want, but using this right in certain ways is not morally appropriate or socially acceptable.' If enough of us make it clear, they are likely to put their First Amendment rights to better use than insulting others. At least the victims of slurs will know that the community does not share the hate and prejudice expressed by some and that the community is offended by them.

MPP2-582 THE SEARCH FOR ALL INCLUSIVE COMMUNITY IS SELF-DEFEATING

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.860

For if, as I have suggested, efforts to achieve all-inclusive political community in our era may run an unacceptable risk of denigrating into totalitarianism, then the best course of action may be to lower our sights. To modify the French aphorism; the best may be the enemy of the tolerable. If the effort to achieve all-inclusive political community threatens to create a monster which will devour or maim the various communities we now enjoy, the friends of community should reject the project of achieving that which would- in principle--be the best for man, at least at this time.

MPP2-583 COMMUNITY IS INCOMPATIBLE WITH THE MODERN NATION STATE

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.431

It is no accident that Walzer's examples are often drawn from premodern, small, and close-knit subcultures; only such groups can possibly provide the level of agreement necessary to arrive at a consensual scheme of distribution. Community is a key value for Walzer because of what must take place within its boundaries. Like MacIntyre (although more implicitly), he seems to recognize that the modern nation-state is too complex and heterogeneous to accomplish the tasks he defines as primary. But although both MacIntyre and Walzer recognize this problem of modern complexity and size, neither one of them allows it a leading place in his analysis; neither do they allow it to alter their strong avowal of communitarian values.

MPP2-584 THE LESSON OF AMERICAN HISTORY IS THAT COMMUNITY CAN'T BE SUSTAINED

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.439

Yet the implementation of the constitutional system represents a sharp dividing line in American political thought, and the true lesson of the American Constitution is that community could not be sustained. In a very real sense, the movement to revoke the Articles of Confederation and replace them with the Constitution became inevitable only when the Federalists realized that 'community' and the politics it fostered were no longer possible on a national scale; the split between Federalists and Anti-Federalists was (whatever else it was) a split between those who wished to design institutions to fill the void left by the death of community and those who still believed community to be a viable means of political organization.

MPP2-585 THE FEDERAL CONSTITUTION EMERGED BECAUSE OF THE LACK OF A COMMUNITY

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.439-40

Thus, the Federalists had no choice but to control the effects, rather than the causes, of factions, and it was to achieve this purpose that the Constitution was written. It was the absence of community that made complex constitutional mechanisms necessary; the relation between the people and their representatives had to be more indirect, 'since experience in America had demonstrated that no republic could be made small enough to contain a homogenous interest that the people could express through the voice of the majority.' America was not homogenous; Americans could not be sufficiently molded by religion and moral education; America was no community but a collection of small communities, each pursuing its own interest. Based upon these premises, the Federalists designed a system that would thwart any direct relation between factions and government.

MPP2-586 COMMUNITY IS EVEN LESS POSSIBLE NOW THAN IN 1789

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.440

But the Anti-Federalists lost their ideological battle; America became a large republic in which 'community' could not flourish on a national scale, where the best that could be achieved was to insulate the national government from the stresses of politics so that wise men would be allowed to seek the national interest. America as we know it began with the death of community. All of those factors that led the Federalists to conclude that it could not be brought back to life--size, complexity, heterogeneity--have only intensified over the course of two centuries, making its rebirth even less likely now as then. Like the values enshrined in the classical polls the communitarian strain in American thought, always somewhat faint, is an anachronism.

MPP2-587 GEOGRAPHIC MORBIDITY UNDERMINES COMMUNITY

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.11

Americans apparently change their residence more often than any people in history, at least since the barbarian migrations, excluding only nomadic tribes and families caught up in civil or foreign wars. Moving people and their possessions from one city or town to another is a major industry in the United States, even though many people manage to move themselves. In another sense, of course, we are all self-moved, not refugees but voluntary migrants. The sense of place must be greatly weakened by this extensive geographic mobility, although I find it hard to say whether it is superseded by mere insensitivity or by a new sense of many places. Either way, communitarian feeling seems likely to decline in importance. Communities are more than just locations, but they are most often successful when they are permanently located.

MPP2-588 SOCIAL MOBILITY UNDERMINES COMMUNITY

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.11-12

This article will not address the arguments about how best to describe social standing or how to measure changes, whether by income, education, class, membership, or rank in the status hierarchy. It is enough to say that fewer Americans stand exactly where their parents stood or do what they did in any society for which we have comparable knowledge. Americans may inherit many things from their parents but the extent to which they make a different life, if only by making a different living, means that the inheritance of community, that is, the passing on of beliefs and customary ways, is uncertain at best. Whether or not children are thereby robbed of narrative capacity, they seem likely to tell different stories than their parents told.

MPP2-589 LONGING FOR COMMUNITY IS A ROMANTIC CHIMERA

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.424

In this light, examining community from the perspective of American constitutional theory is a highly instructive. In fact, such a perspective yields a stark conclusion: that the longing for community is a chimera--romantic, naive, and, in the end, illiberal and dangerous. Many recent discussions of community have been overly abstract, if not theoretically unsound, for they have misunderstood or ignored both the conditions under which a community can flourish and the methods by which a community must be fostered, as well as the costs or dangers of such conditions or methods.

MPP2-590 COMMUNITY IS AN ANACHRONISM

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.424

In a very real sense, both Stoic and later versions of natural law, as well as the universal Christian Church--not to speak of American federalism or continental theories of the rights of man--are responses to this need for a theory of defining membership after the Greek ideal of the citizen-participant is no longer a practical alternative. Yet to read the theories under consideration here, with their longing for the values that only a small community can provide, one would think that the polis could be recaptured merely by an act of intellectual daring. To enshrine community is to enshrine an anachronism: The polis can, perhaps, serve as a metaphor for the modern polity; it cannot serve as its model.

MPP2-591 COMMUNITARIAN VALUES WERE ONLY APPROPRIATE FOR SMALL CITY STATES

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.434

This silence on the issue of size is striking, for one of the most conspicuous aspects of the place of community within the Western tradition is precisely that it often appears as a value of critical importance in the context of a small city-state--in the ancients, principally, and also in Rousseau. It is because the theories of the ancients were so tied to the conditions of a tiny political unit that the collapse of the Greek states and the advent of the Roman Empire created a profound crisis--perhaps the most profound intellectual crisis--in the history of political thought.

MPP2-592 STRONG COMMUNITY WON'T SOLVE OUR MAJOR PROBLEMS

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.426

Thus, the theoretical stakes are high if, as I will try to show, strong community and liberal constitutionalism are fundamentally incompatible. I will argue here that they are, that strong community can only be fostered through illiberal means. I will also argue that, even if such sentiment could be fostered, 'community' would do little to answer many of the most pressing questions of the day. The cry for community is, to be sure, heart-felt; the language is often elegant and the sentiments noble. In the end, however, it is a cry for a medicine that cannot cure the pain, and that can produce a disastrous pathology of its own.

MPP2-593 COMMUNITY WON'T SOLVE FUNDAMENTAL PROBLEMS OF MARGINALIZED GROUPS

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.424

If the theorists wishing to enhance community were to examine the current agenda in American constitutional law, they would see that many of this society's hardest questions take the form of constitutional arguments by groups of marginal persons (the disabled aliens, and homosexuals, for example) who seek for their members some legal right. The issues raised by such groups cannot be resolved by invoking community sentiment, for these groups challenge too deeply the liberal understanding of membership. It is precisely because these groups are demanding more than the community or the polity wishes to grant them that these controversies exist in the first place. Thus any 'renewal' or strengthening of community sentiment will accomplish nothing for these groups; for them, the existence of community is part of the problem, not part of the solution. The questions posed by today's constitutional agenda do not require the strengthening of the community's abstract values or fraternal ties; rather, the questions posed by today's constitutional agenda are messy and particular questions concerning who 'belongs'--who is a full member of society--in the first place.

MPP2-594 COERCED CONFORMITY IS SELF-DEFEATING
 Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.204
 Praying to God may be a valuable activity, but I have to believe that it is a worthwhile thing to do--that it has some worthwhile point. We can coerce someone into going to church and making the right physical movements, but we will not make her life better that way. It will not work, even if the coerced person is mistaken in her belief that praying to God is a waste of time, because a valuable life has to be led from the inside. A perfectionist policy that violates this endorsement constraint, by trying to bypass or override people's beliefs about values, is self-defeating. It may succeed in getting people to pursue valuable activities, but it does so under conditions in which the activities cease to have value for the individuals involved. If I do not see the point of an activity, then I will gain nothing from it. Hence paternalism creates the very sort of pointless activity that it was designed to prevent.

MPP2-595 A GOOD LIFE MUST BE LED FROM THE INSIDE
 Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.204
 So we have two preconditions for the fulfillment of our essential interest in leading a life that is good. One is that we lead our life from the inside, in accordance with our beliefs about what gives value to life; the other is that we be free to question those beliefs to examine them in the light of whatever information, examples, and arguments our culture can provide. People must therefore have the resources and liberties needed to lead their lives in accordance with their beliefs about value, without being penalized for unorthodox religious or sexual practices, etc. Hence the traditional liberal concern for civil and personal liberties.

MPP2-596 INDIVIDUAL RIGHTS LIMIT PATERNALISM
 Allen Buchanan, University of Arizona philosopher, *ETHICS*, July 1989, p.863
 A fourth related point is that individual rights are inherently anti-paternalistic in a way that group rights are not. With a group right, some one person or subset of the group has the ultimate say as to whether to exercise the right. In contrast, an individual right-holder can decide whether or not to exercise his right. Even if others decide on the basis of a sincere commitment to doing what is best for the individual subgroup, it is still they, not he, who are in control.

MPP2-597 HISTORICALLY, CIVIC REPUBLICANISM WAS RACIST AND SEXIST
 Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.318-9
 What exactly does Sandel mean to imply by the sort of civic republicanism 'implicit within our tradition'? Surely not the mainstream of our tradition that excluded women and minorities, and repressed most significant deviations from white, Protestant mortality in the name of common good. We have little reason to doubt that a liberal politics of rights is morally better than that kind of republicanism.

MPP2-598 LIBERAL RIGHTS ARE THE ONLY BARRIER TO WITCH HUNTS
 Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.319
 But if Sandel is arguing that when members of a society have settled roots and established traditions, they will tolerate the speech, religion, sexual and associational preferences of minorities, then history simply does not support his optimism. A great deal of intolerance has come from societies of selves so 'confidently situated' that they were sure repression would serve a higher cause. The common good of the Puritans of seventeenth-century Salem commanded them to hunt witches; the common good of the Moral Majority of the twentieth century commands them not to tolerate homosexuals. The enforcement of liberal rights, not the absence of settled community, stands between the Moral Majority and the contemporary equivalent of witch hunting.

MPP2-599 STRONG COMMUNITIES WOULD EXCLUDE MINORITIES
 H.N. Hirsch, University of California-San Diego, Political Scientist, *POLITICAL THEORY*, August 1986, p.437
 But social discrimination and the resulting social class structure are not the only way in which the community can effectively exclude those whom it wishes to exclude; such exclusion can be accomplished through the political process itself. Walzer's principles, he says, require majoritarian democracy, and the simple logic of political democracy would require that a bare numerical majority of citizens consider each other enough 'alike' to form a stable political coalition of some sort. Thus, the members of the political majority will probably form a true community, at least for political purposes. But does the logic of political democracy require anything more than this? Is there any set of empirical conditions or moral principles that requires the members of a dominant and stable majority coalition to treat the losers as true members of this political community? In fact, there are no such empirical conditions; on the contrary, the logic of stable majorities may well be continuing exclusion of minorities.

MPP2-600 COMMUNITARIANS IGNORE THE HISTORIC SUBORDINATION OF MINORITIES

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.228-9

Communitarians like to say that political theory should pay more attention to the history of each culture. But it is remarkable how rarely communitarians themselves undertake such an examination of our culture. They wish to use the ends and practices of our cultural tradition as the basis for a politics of the common good, but they do not mention that these practices were defined by a small segment of the population. If we look at the history of our society, surely liberal neutrality has the great advantage of its potential inclusiveness, its denial that subordinated groups must fit into the way of life that has been defined by the dominant groups. Communitarians simply ignore this danger and the history which makes it so difficult to avoid.

MPP2-601 APPARENTLY COHESIVE HISTORIC COMMUNITIES REPPRESSED THEIR MINORITIES

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.225-6

Why is a shared way of life required to sustain legitimacy? Taylor does not give any clear-cut explanation of the need for a specifically communitarian politics. But one answer that is implicit in communitarian writings lies in a romanticized view of earlier societies in which legitimacy was based on the effective pursuit of shared ends. Communitarians imply that we could recover the sense of allegiance that was present in earlier days if we accepted a politics of the common good, and encouraged everyone to participate freely in it. Common examples of such earlier societies are the republican democracies of Ancient Greece, or eighteenth-century New England town governances. But these historical examples ignore an important fact. Early New England town governments may have had a great deal of legitimacy amongst their members in virtue of the effective pursuit of their shared ends. But that is at least partly because women, atheists, Indians, and the propertyless were all excluded from membership. Had they been allowed membership, they would not have been impressed by the pursuit of what was often a racist and sexist 'common good'. The way in which legitimacy was ensured amongst all members was to exclude some from membership.

MPP2-602 EXCLUSION OF MINORITIES IS INHERENT IN COMMUNITARIANISM

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.226-7

Sandel and Taylor say that there are shared ends that can serve as the basis for a politics of the common good which will be legitimate for all groups in society. But they give no example of such ends--and surely part of the reason is that there are none. They say that these shared ends are to be found in our historical practices, but they do not mention that those practices were defined by a small section of society--propertyed white men--to serve the interests of propertyed white men. These practices are gender-coded, race-coded, and class-coded, even when women, blacks, and workers are legally allowed to participate in them. Attempts to promote these kinds of ends reduce legitimacy, and further exclude marginalized groups. Indeed, just such a loss of legitimacy seems to be occurring amongst many elements of American society--blacks, gays, single mothers, non-Christians--as the right wing tries to implement its agenda based on the Christian, patriarchal family. Many communitarians undoubtedly dislike the Moral Majority's view of the common good, but the problem of the exclusion of historically marginalized groups is endemic to the communitarian project. As Hirsch notes, 'any renewal' or strengthening of community sentiment will accomplish nothing for these groups.' On the contrary, our historical sentiments, and traditions are 'part of the problem, not part of the solution.'

MPP2-603 ENFORCING COMMUNITY ENTAILS RACISM AND GENOCIDE

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.435

Of the two sets of conditions that can create and maintain a community--homogeneity and moral education--homogeneity is the most foreign, and the most dangerous, to a complex society. For only a modern society that ruthlessly engages in the practice of exclusion can be homogeneous. Exclusion can come in many forms: It can be literal or conceptual--self-selected or imposed, formal-legal or functional. And it can produce the most vivid and morally abhorrent politics imaginable: Racism can be a form of conceptual exclusion and genocide a form of literal exclusion.

MPP2-604 COMMUNITY PROMOTES RACIST AND NATIONALIST IRRATIONALISM

H.N. Hirsch, University of California-San Diego, Political Scientist, *POLITICAL THEORY*, August 1986, p.438

Exclusion in its various forms, is the greatest danger of community, but it is not the only one. Irrationalism is also a threat, for its members of a community must cohere around something—including some set of beliefs—and a common hatred or fear of the outsider or the enemy is just as likely as anything else to lie at the core of a community's ideology. Indeed, some hatred of racial, religious, or national groups can go far toward creating some semblance of community on a national scale, as the politics of the twentieth century amply demonstrates. It is tempting to speculate that such hatred is a far better impetus to community than more benign beliefs or emotions. What better way to create a community (a cynic might say) than to wage a holy war?

MPP2-605 COMMUNITY REQUIRES THE GHETTOIZING OF 'NON-MEMBERS'

H.N. Hirsch, University of California-San Diego, Political Scientist, *POLITICAL THEORY*, August 1986, p.435

But exclusion need not be so dramatic. Religious or racial ghettos (whether imposed by the majority of chosen 'freely' by members of the group) are perhaps the most visible form of exclusion. Walzer (who provides the most detailed account of membership and citizenship of the works under discussion here) tells us that a community must distribute membership before it distributes anything else—it must 'constitute' itself. But political history teaches us nothing if not that the avoidance of others—of strangers—is not always a pleasant experience for those who are excluded; they may be branded as heretics, or as genetically inferior, or as nonhuman barbarians, or as any of the countless other categories have been invented for the 'nonmembers' of a community.

MPP2-606 COMMUNITARIANISM WOULD ENTRENCH SEXISM

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.309

The political implications of the new communitarian criticisms are correspondingly more conservative. Whereas the good society of the old critics was one of collective property ownership and equal political power, the good society of the new critics is one of settled traditions and established identities. For many of the old critics, the role of women within the family was symptomatic of their social and economic oppression; for Sandel, the family serves as a model of community and evidence of a good greater than justice.

MPP2-607 COMMUNITY STANDARDS REPRESS WOMEN

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.228

Likewise, in the case of pornography, Sandel is not affirming the importance of giving women the ability to reject the male view of sexuality, and to define their own sexuality. On the contrary, he is saying that pornography can be regulated whenever one male-defined view of sexuality (the pornographers') conflicts with another male-defined view of sexuality (the 'way of life' of the community.) And nothing guarantees that the men who are offended by pornography will not have a different but equally oppressive view of female sexuality (e.g. the fundamentalist view that women's sexuality must be kept strictly repressed). However the community decides, women, like all marginalized groups, will have to adjust their aims to be so inoffensive to a way of life that they had little or no role in defining. This is no way to develop feelings of legitimacy amongst members of marginalized groups.

MPP2-608 COMMUNITY STANDARDS RISK THE CONTINUED MARGINALIZATION OF WOMEN

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.226

Communitarians often write as if the historical exclusion of certain groups from various social practices was just arbitrary, so that we can now include them and proceed forward. But the exclusion of women for example, was not arbitrary. It was done for a reason—namely, that the ends being pursued were sexist, defined by men to serve their interests. Demanding that women accept an identity that men have defined for them is not a promising way to increase their sense of allegiance. We cannot avoid this problem by saying with Sandel that women's identities are constituted by existing roles, which in many ways operate to deny their separate identity. That was also true in eighteenth century New England, but legitimacy there was preserved by excluding women from membership. We must find some other way of securing legitimacy, one that does not continue to define excluded groups in terms of an identity that others created for them.

MPP2-609 COMMUNITARIANISM WOULD ALLOW REPRESSION OF GAYS

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.227-8

The problem with Sandel's view can be seen by considering the regulation of homosexuality. Homosexuality is 'offensive to the way of life' of many Americans. Indeed, measured by any plausible standard, more people are offended by homosexuality than pornography. Would Sandel therefore allow local communities to criminalize homosexual relations, or the public affirmation of homosexuality? If not, what distinguishes it from pornography? For liberals, the difference is that homosexuality does not harm others, and the fact that others are offended by it has no moral weight. The majority in a local (or national) community does not have the right to enforce its external preferences concerning the practices of those people who are outside the mainstream way of life. But this is precisely what Sandel cannot say. On his argument, members of marginalized groups must adjust their personalities and practices so as to be inoffensive to the dominant values of the community. Nothing in Sandel's argument gives members of marginalized groups the power to reject the identity that others have historically defined for them.

MPP2-610 COMMUNITARIANISM OVEREMPHASIZES THE ROLE OF THE STATE

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.222-3

Despite centuries of liberal insistence on the importance of the distinction between state and society, communitarians still seem to assume that whatever is properly social must become the province of the political. They have not confronted the liberal worry that the all-embracing authority and coercive means which characterize the state make it a particularly inappropriate forum for the sort of genuinely shared deliberation and commitment that they desire.

MPP2-611 COMMUNITY DOESN'T REQUIRE A CENTRALIZED STATE

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.859

For clearly one can achieve the good of political community in communities other than the all-inclusive political community. And here we have located one of the weakest links in one important strand of communitarian thinking--the unwarranted slide from the value of community to the value of community at the highest or most inclusive form of political organization.

MPP2-612 COMMUNITARIAN EMPHASIS ON POLITICAL PARTICIPATION LACKS SUPPORT

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.859

The boldness of the third claim can hardly be exaggerated. Given the apparent diversity of the conditions of human flourishing, the pronouncement that the best life for all (or even most) humans requires participation in the most inclusive form of political organization is sheer dogmatism in the absence of a well-defended, highly particularistic, and absolutist theory of objective good. It would be a mistake, of course, to argue that the liberal political thesis (or its best justification) is superior by virtue of being value-neutral or based on skepticism--neither of which it need be. Even if the value assumptions needed to support the liberal political thesis are more robust than has sometimes been thought, they are downright spare when compared to those of any version of communitarianism that includes the third thesis about community.

MPP2-613 COMMUNITY WOULD INDOCTRINATE AND DESTROY THE FIRST AMENDMENT

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.438

Community brings other dangers as well: Just as homogeneity is required to create a community, thereby raising the problems of social stratification and exclusion, a system of moral education will be required to maintain and strengthen the community over time, thus raising the specter of indoctrination and the compromise of autonomy. In classical thought, politics require paideia--the moral and cultural education of members of a community. Yet how is such education to take place if citizens enjoy complete autonomy in matters of belief? And without such education, how is a strong community to survive? It thus may be impossible to reconcile community with the First Amendment, a fact seemingly lost on the defenders of community.

MPP2-614 COMMUNITY COULD ONLY EMERGE BY FORCED HOMOGENEITY

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.434-5

Moreover, a community cannot be willed into existence; it must be created. And the creation of a community requires implementing sets of conditions that carry implications that are unattractive in the extreme; in their failure even to mention such conditions or the consequences the five scholars under consideration here are all equally at fault. For only individuals who share something can become, or remain, a true community, and whether that 'something' is defined as a set of values, or an ideology, or a social position, either it must already exist--and thus the population in question must be, in some very basic way, homogeneous--or it must be created and maintained through a system of moral education. But both homogeneity and moral education can be politically dangerous in several ways: by encouraging the exclusion of outsiders; by encouraging indoctrination or irrationalism; by compromising privacy and autonomy.

MPP2-615 GROUP RIGHTS PRODUCE ABUSIVE HIERARCHY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.863

Third, to the extent that the exercise of a group right entails a political structure within the group (leaders of representatives, or other official bodies), group rights encourage hierarchy and create the possibility of opposition between the interests of those who control the exercise of the right and the interests of other members of the group. Thus, those who control the exercise of the right may find it in their interest not to exercise the right in ways that would be beneficial to some or all other members of the group. Moreover, those who control the group's rights may use this special power for ends quite unrelated to the considerations that make the rights valuable. Individual rights, in contrast, do not require this sort of hierarchy and do not encourage the abuses that it can bring.

MPP2-616 THE INCLUSIVE COMMUNITY DESTROYS AUTONOMY

Walter Kaufmann, Princeton philosopher, WITHOUT GUILT AND JUSTICE, 1973, p.171

Finally, the sweeping, indiscriminate attack on alienation is a corollary of a dream of community. In this community there is to be no alienation, nor any room for "the stranger in your midst." Even the kibbutzim in Israel—one of the noblest social experiments of our century—have a strong xenophobic streak. The pressures toward conformity are overwhelming: those who do not fully belong are generally made to feel that fact deeply and painfully; and for a creative artist, life in a kibbutz is apt to prove impossible. The major countries that proclaim Marx as their prophet openly spurn nonconformity and have no room for autonomous individuals. It would be illicit to saddle Marx with Stalin's terror, but the kind of community that seeks to eliminate alienation is incompatible with autonomy.

MPP2-617 REJECTING LIBERAL STATE VIOLATES STANDARDS OF POLITICAL COMMUNITY

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.16

What kind of a social union is it that includes without incorporating a great and discordant variety of social unions? Obviously, it is a liberal state and social union; any other kind is too dangerous for communities and individuals alike. It would be an odd enterprise to argue in the name of communitarianism for an alternative state, for that would be to argue against our own political traditions to repudiate whatever community we already have.

MPP2-618 WE NEED NOT TAKE COMMUNAL VALUES AS GIVEN

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.211

The question then is not whether we must take something as given in making judgements about the value of our activity. Rather, the question is whether an individual can question and possibly replace what is in 'the given', or whether the given has to be set for us by the community's values. Taylor fails to show that we must take communal values as given, that it is empty to say that such communal values should be subject to individual evaluation and possible rejection.

MPP2-619 EXTREME COMMUNITARIANISM UNDERMINES AUTHENTIC COMMITMENT

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.871

The next stage of my argument turns the tables on the radical communitarian, arguing that her view fails to give commitment its due. Commitment—so far as we rightly cherish it and assess social orders according to their capacity to promote its flourishing—must be distinguished from blind obsession, wholly nonrational attachment, or instinctual bonding of the sort found in lower species. But if this is so, then it may prove difficult if not impossible to find a secure and commodious place for commitment in the communitarian's picture of the self and its relation to others. For MacIntyre, Taylor, and Sandel repeatedly emphasize that our most important attachments are neither chosen nor severable at will (and then they proceed to berate liberalism for presenting a picture of the self that denies this). In so doing, these contemporary communitarians, like Hegel before them, run the risk of obliterating autonomy entirely and of dissolving the self into a concatenation of unreflective roles imposed by one's social position. When the communitarian picture of the self is combined with the abandonment of the individual rights framework, the danger becomes acute.

MPP2-620 COMMUNITY ISN'T GOOD IN ITSELF--ITS CONTENT IS WHAT MATTERS

Robert Nisbet, Columbia Sociologist, *PREJUDICES*, 1982, p.54
 Because state power has enfeebled, even killed community in the historic sense of the word, there is no place for those seeking community to go but to the Woodstocks, or to the often bizarre communes, or to the numberless cults in American life. The spread of movements like the Unification Church and the Hare Krishna may be expected to continue, and it is a delusion to think that many of the young people belonging to these required brainwashing. These groups demand complete surrender of individual freedom of thought, but after all, Rousseau declared the perfect community to be one in which the condition of membership is the total surrender by the individual of all his rights. This is the terrible power of community in modern times and a full illustration of the fact that community is not a sufficient end in itself. What is a community of is what matters. The Manson family was a community possessed of all the authority and more that used to inhere in local communities and neighborhoods. It was a perversion of community, to be sure, but community all the same.

MPP2-621 PORNOGRAPHY ENFORCES COMMUNITY STANDARDS -- THAT'S THE PROBLEM

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.227
 Consider one of the few concrete examples of communitarian politics that Sandel offers--the regulation of pornography. Sandel argues that such regulation by a local community is permissible 'on the grounds that pornography offends its way of life'. To consider how exclusionary this argument can be, contrast it with recent feminist discussions of pornography. Many women's groups have demanded the regulation of pornography on the grounds that women have been excluded from the process of defining traditional views of sexuality. Pornography, some feminists argue, plays a critical role in promoting violence against women, and in perpetuating the subordination of women to male-defined ideas of sexuality and gender roles. This argument is controversial, but if pornography does in fact play this role in the subordination of women, because it conforms to our cultural stereotypes about sexuality and the role of women. In fact, as MacKinnon notes, from a feminist point of view the problem with pornography is not that it violates community standards but that it enforces them.

MPP2-622 NOT ALL COMMUNITY STANDARDS ARE DEFENSIBLE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.255
 Communitarians do not exalt the group as such, nor do they hold that any set of group values is ipso facto good merely because such values originate in a community. Indeed, some communities (say, Neo-Nazis) may foster reprehensible values. Moreover, communities that glorify their own members by vilifying those who do not belong are at best imperfect. Communitarians recognize--indeed, insist--that communal values must be judged by external and overriding criteria, based on shared human experience.

MPP2-623 PURE MAJORITARIANISM SHOULD BE REJECTED

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.50
 Actually, American society has both constitutional and moral safeguards against majoritarianism that Communitarians very much respect. These safeguards basically work by differentiation, by defining some areas in which the majority has not and ought not to have a say and those in which it does and should. We are not simply a nose-count majoritarian democracy, but a constitutional one. That is, some choice, defined by the constituencies, are out of realm for the majority. Clearest among these is the Bill of Rights, which singles out matters that are exempt from majority rule and from typical democratic rule making and in which minority and individual rights take precedence. The First Amendment, which protects the right of individuals to speak freely whether or not the majority approves of what they have to say, is a prime example of an area explicitly exempt from majority rule or consensus building. It does not matter if most, some, or none of us agrees with you; you have a basic right to state what you please. Similarly, the majority may not deny any opposition group the right to vote; even Communists were not banned even in the days when they were most hated and feared. We are all entitled to a trial by jury of our peers, whether we are members of the majority or the minority. And that is the way it ought to be.

MPP2-624 THERE ARE UNIVERSAL NORMS NO COMMUNITY SHOULD VIOLATE

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.36-7

True, there have been occasions in the past when community voices were stridently raised to justify concern. More than forty years ago, for example, America experienced the nightmare of McCarthyism. Likewise the memory of the real Ku Klux Klan (today's Klansmen are largely a deranged and pathetic bunch) serves to warn us against the excesses of community. A colleague asks: 'What if the community demands that children with AIDS not to be allowed to attend public schools, or that a family of color not be allowed to buy a home in a neighborhood?' (One might add, what if the community decided to burn books?) In response I suggest that no community has a right to violate higher-order values, values that we all should share as a society, or even humanity, values that prescribe rules of behavior such as 'Do unto others only as you wish others would do unto you.'

MPP2-625 COMMUNITY DOESN'T REQUIRE CURTAILMENT OF RIGHTS

Amitai Etzioni, George Washington University Government Professor, *THE SPIRIT OF COMMUNITY*, 1993, p.1

We hold that our call for increased social responsibilities, a main tenet of this book, is not a call for curbing rights. On the contrary, strong rights presume strong responsibilities.

MPP2-626 RIGHTS AND RULE OF LAW ARE KEY VALUES OF OUR COMMUNITY

Charles Taylor, McGill University Philosopher, *POWERS, POSSESSIONS AND FREEDOM*, Ed. Alkis Kontos, 1979, p.113-4

One common purpose that remains strongly shared, even as the others atrophy, is that society is organized in the defence of rights. The rule of law and the upholding of rights are seen as very much the 'American way,' that is, as the objects of a strong common allegiance. The extraordinary reaction to the Watergate scandals, which ended up unseating a president, are a testimony to this.

MPP2-627 FREEDOM BEST PROMOTES THE PURSUIT OF A GOOD LIFE

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.205

For Rawls, on the other hand, our essential interests are harmed by attempts to enforce a particular view of the good life on people. He favors the distribution of primary goods, based on a 'thin theory of the good' which can be used to advance many different ways of life. If we only have access to resources that are beliefs about value, should we come to believe that one preferred conception of the life is misguided. (Or, at any rate, we will be unable to do so without suffering some penalty in social benefits.) Since lives have to be led from the inside, someone's essential interest in leading a life that is good is not advanced when society penalizes, or discriminates against, the projects that she, on reflection, feels are most valuable for her. Distributing resources according to a 'thin theory of the good', or what Dworkin calls 'resources in the widest sense', best enables people to act on and examine their beliefs about value, and that is the most appropriate way to promote people's essential interest in leading a good life.

MPP2-628 INDIVIDUAL FREEDOM IS NEEDED FOR PUBLIC LEGITIMACY

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.229

Whether liberal politics would in fact sustain a sense of public legitimacy is difficult to determine, since liberal principles remain to be properly implemented. But I believe that liberal neutrality is the most likely principle to secure public assent in societies like ours, which are diverse and historically exclusionary. Inviting people to participate in politics on any other understanding is not likely to be successful. As Mill said, a feeling of commitment to a common public philosophy is a precondition of a free culture, and 'the only shape in which the feeling is likely to exist hereafter' is an attachment to 'the principles of individual freedom and political and social equality, as realized in institutions which as yet exist nowhere, or exist only in a rudimentary state'. Those principles remain largely unrealized in practice, but they are, more than ever, the only viable basis for public legitimacy.

MPP2-629 LIBERTY ALLOWS THE EVOLUTION OF BETTER WAYS OF LIFE

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.219
 A communitarian state might hope to improve the quality of people's options, by encouraging the replacement of less valuable aspects of the community's ways of life by more valuable ones. But liberal neutrality also hopes to improve the range of people's options. Freedom of speech and association allows each group to pursue and advertise its way of life, and those ways of life that are unworthy will have difficulty attracting adherents. Since individuals are free to choose between competing visions of the good life, liberal neutrality creates a marketplace of ideas, as it were, and how well a way of life does in this market depends on the goods it can offer to prospective adherents. Hence, under conditions of freedom, satisfying and valuable ways of life will tend to drive out those which are unsatisfying. Liberals endorse civil liberties in part precisely because they make it possible 'that the worth of different modes of life should be proved practically.'

MPP2-630 LIBERALISM BEST--LETS INDIVIDUALS SELECT NEW, SELF DEFINING GOALS

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.214
 For so long as Sandel admits that the person can re-examine her ends- even the ends constitutive of her 'self--then he has failed to justify communitarian politics. He has failed to show why individuals should not be given the conditions appropriate to that re-examining, as an indispensable part of leading the best possible life. And amongst these conditions should be the liberal guarantees of personal independence necessary to make the judgement freely. Sandel trades on an ambiguity in the view of the person that he uses in defending communitarian politics. The strong claim (that self- discovery replaces judgement) is implausible, and the weak claim (which allows that a self constituted by its ends can none the less be reconstituted), while attractive, fails to distinguish him from the liberal view.

MPP2-631 OUR MAJOR SOCIAL PRACTICES RELY ON A THEORY OF RIGHTS

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.315
 But on a contextualist view, it is reasonable for us to believe in human rights: many of the most widely accepted practices of our society--equality of educational opportunity, careers open to talent, punishment conditional on intent--treat people as relatively autonomous moral agents. Insofar as we are committed to maintaining these practices, we are also committed to defending human rights.

MPP2-632 REJECTING INDIVIDUAL RIGHTS UNDERMINES MORAL AGENCY

Allen Buchanan, University of Arizona philosopher, *ETHICS*, July 1989, p.871-2
 Without the protection for autonomy and independence guaranteed by liberal rights, the individual, absorbed in community, unable to reflect critically upon her role, her obligations, and the character of her community as a whole, may become an unwitting accomplice in an immoral way of life. Indeed, the individual may vanish. But the danger is even graver; as the ability to choose and revise one's ends diminishes and the critical distance between oneself and possible courses of action shrinks, one's very status as a moral agent becomes precarious. For a moral agent is one whose behavior in some basic sense is her own; and one makes behavior one's own through the exercise of choice, either directly or indirectly.

MPP2-633 EVEN COMMUNITARIANS DON'T ADVOCATE ABOLISHING RIGHTS

Michael Walzer, Institute for Advanced Study, *POLITICAL THEORY*, February 1990, p.21-2
 There is no strong or permanent remedy for communal attenuation short of an antiliberal curtailment of the Four Mobilities and the rights of rupture and divorce on which they rest. Communitarians sometimes dream of such a curtailment, but they rarely advocate it. The only community that most of them actually know, after all, is just this liberal union of unions, always precarious and always at risk. They cannot triumph over this liberalism; they can only, sometimes, reinforce its internal associative capacities. The reinforcement is only temporary, because the capacity for dissociation is also strongly internalized and highly valued. That is why communitarianism criticism is doomed--it probably is not a terrible fate--to eternal recurrence.

MPP2-634 THERE'S NO ALTERNATIVE TO LIBERAL INDIVIDUALISM

Michael Walzer, Institute for Advanced Study, *POLITICAL THEORY*, February 1990, p.15
 Liberalism is a self-subverting doctrine for that reason, it really does require periodic communitarian correction. But it is not particularly helpful form of correction to suggest that liberalism is literally incoherent or that it can be replaced by some preliberal or antiliberal community waiting somehow just beneath the surface or just beyond the horizon. Nothing is waiting; American communitarians have to recognize that there is no out there but separated, rights- bearing, voluntarily associating, freely speaking, liberal selves.

MPP2-635 THE CIVIL RIGHTS MOVEMENT CAPITALIZED ON OUR POLITICAL LANGUAGE

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.14

Even political conflict in liberal societies rarely takes forms so extreme as to set its protagonists beyond negotiation and compromise, procedural justice, and the very possibility of speech. The American civil rights struggle is a nice example of a conflict for which our moral/political language was and is entirely adequate. The fact that the struggle has had only partial success does not reflect linguistic inadequacy but rather political failures and defeats.

MPP2-636 MARTIN LUTHER KING CAPITALIZED ON THE LIBERAL TRADITION

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.14

Martin Luther King's speeches evoked a palpable tradition, a set of common values such that public disagreement could focus only on how (or how quickly) they might best be realized. But this is not, so to speak, a traditionalist tradition, a Gemeinschaft tradition, a survival of the preliberal past. It is a liberal tradition modified, no doubt, by survivals of different sorts.

MPP2-637 THE LANGUAGE OF RIGHTS IS INESCAPABLE

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.14

The language of individual rights--voluntary association, pluralism, toleration, separation, privacy, free speech, the career open to talents, and so on--is simply inescapable. Who among us seriously attempts to escape? If we really are situated selves, as the second communitarian critique holds, then our situation is largely captured by that vocabulary.

MPP2-638 FREEDOM AND COMMUNITY ARE COMPATIBLE WITH LIBERAL SOCIETY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.867

The communitarian argument just sketched assumes that being an autonomous chooser of ends and making and sustaining commitments are incompatible. But they are not, at least in liberal society. In fact, I wish to suggest that liberal society offers the best feasible framework for rendering autonomy and commitment compatible. The compatibility is achieved, of course, through compromise. It is only in the Platonic heaven or Marx's equally utopian fantasy of communist society that all good things, each in its fullest measure, obligingly harmonize together.

MPP2-639 COMMUNITARIAN VALUES ARE COMPATIBLE WITH LIBERALISM

Amy Gutman, Princeton University- Professor of Politics, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1985, p.320

The critics's failure to undermine liberalism suggests not that there are no communitarian values but that they are properly viewed as supplementing rather than supplanting basic liberal values. We can see the extent to which our moral vision already relies on communitarian values by imagining a society in which no one does more or less than respect everyone else's liberal rights. People do not ties of love and friendship (or they do so only insofar as necessary to developing the kind of character that respects liberal rights). They do not join neighborhood associations, political parties, trade unions, civic groups, synagogues, or churches. This might be a perfectly liberal, arguably even a just society, but it is certainly not the best society to which we can aspire. The potential of communitarianism lies, I think, in indicating the ways in which we can strive to realize not only justice but community through the many social unions of which the liberal state is the super social union.

MPP2-640 COMMUNITY CAN BE FREELY CHOSEN

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.867-8

The antiliberal communitarian assumes that being an autonomous chooser of ends and being capable of deep and meaningful commitments are incompatible because she fails to appreciate the resources available for binding oneself to and with others in liberal society. The source of this failure may be quite simple. Antiliberal communitarians seem to forge the following chain of inferences. Community requires commitment, but commitment is not an attachment one can simply freely choose to sever. Any attachment that one freely chooses, one can freely choose to sever. For liberal man all attachments are freely chosen. Therefore, liberal man is inescapable of commitment and, being incapable of commitment, is barred from community. The penultimate link in the chain, however, is invalid because one can freely choose an attachment and yet not be free to sever it, if one binds oneself appropriately. Even if there is a sense in which community cannot be freely chosen (at least not directly freely chosen) individuals nevertheless can and do freely choose to bind themselves to courses of action which they expect to create conditions under which community will emerge. In that sense community can be freely chosen, though chosen indirectly.

MPP2-641 COMMUNITY IS COMPATIBLE WITH THE MAJOR LIBERAL THEORIES

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.878

Three of the most influential and systematic contemporary liberal theorists--Ronald Dworkin, Joel Feinberg, and John Rawls--can all be interpreted as justifying the liberal political thesis ultimately upon the basis of a normative perspective that includes not only the value of individual autonomy but also that of individual well-being. Moreover, the notion of well-being these theoretical structures incorporate is broad enough to accommodate the thesis that an important, perhaps even the most important, ingredient in well-being is participation in community and the successful pursuit of shared ends.

MPP2-642 A SOUND COMMUNITARIANISM WOULD INCLUDE INDIVIDUAL RIGHTS

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.882

A political philosophy that successfully assimilates the best communitarian thinking will almost certainly contain a more subtle and qualified conception of individual rights than is often associated with liberalism, but it is safe to say, I believe, that it will still include a firm commitment to the idea of individual rights. The development of such a theory would represent a fruitful convergence of what is best in liberalism and communitarianism, not a victory of the one over the other.

MPP2-643 COMMUNITARIAN CRITICISMS OF LIBERALISM ARE TOO ABSOLUTIST

Amy Gutman, Princeton University- Professor of Politics, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1985, p.316-7

The critics' interpretative method is also mistaken. It invites us to see the moral universe in dualistic terms: either our identities are independent of our ends, leaving us totally free to choose our life plans, or they are constituted by community, leaving us totally encumbered by socially given ends; either justice takes absolute priority over the good or the good takes the place of justice; either justice must be independent of all historical and social particularities or virtue must depend completely on the particular social practices of each society; and so on. The critics thereby do a disservice to not only liberal but communitarian values, since the same method that reduces liberalism to an extreme metaphysical vision also renders communitarian theories unacceptable.

MPP2-644 NOT ALL NATURAL RIGHTS THEORIES UNDERMINE COMMUNITY

Charles Taylor, McGill University Philosopher, POWERS, POSSESSIONS AND FREEDOM, Ed. Alkis Kontos, 1979, p.40

This may not be true of all doctrines which found a political theory on an affirmation of natural right--a point which is particularly relevant in the context of this collection. For the new doctrine of human rights which Professor MacPherson envisages in, for example, DEMOCRATIC THEORY: ESSAYS IN RETRIEVAL, and which would free itself of 'the postulate of the inherent and permanent contentiousness of men' would seem to involve an affirmation of individual rights which presuppose society, rather than merely setting the boundary conditions of its possible legitimacy.

MPP2-645 INDIVIDUAL RIGHTS HISTORICALLY PROTECT COMMUNITY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.858

Consider the rights to freedom of association, expression and religion which the liberal champions. Historically these rights have provided a strong bulwark against attempts to destroy or dominate various communities within nation-states. They allow individuals to partake of the alleged essential human good of community by protecting existing communities from interference from without and by giving individuals the freedom to unite with like-minded others to create new communities.

MPP2-646 INDIVIDUAL RIGHTS FACILITATE NEW AND BETTER FORMS OF COMMUNITY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.862

If one believe, as John Stuart Mill did, that the best forms of human life, including the most fulfilling forms of community, may differ for different sets of individuals and that there may still be progress to be made in developing new and better forms of community, then the fact that the liberal individual rights facilitate peaceful change is clearly a strong point in their favor.

MPP2-647 INDIVIDUAL RIGHTS TRIGGER THE PROTECTION OF COMMUNITY INTERESTS

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.863

Second, the state's recognition of individual rights to freedom of religion, thought, expression, and association allows prompt appeals for the protection of a community's interests. For if these rights are ascribed to individuals, then all that is needed to trigger official protective action is a violation of the rights of one member of that community. In contrast, a group right, a right ascribed to the community rather than to individuals, would have to be invoked through an official process involving a collective decision procedure of some kind. The costs of exercising a group right might therefore be considerably higher and the process of doing so more ponderous.

MPP2-648 INDIVIDUAL RIGHTS CAN HELP TO PRESERVE COMMUNITY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.877

As I have urged elsewhere, individual rights can play a valuable role even in societies in which there is unanimous agreement as to what the common good is and a universal commitment to pursuing it. For even in such a society there could be serious, indeed violent, disagreements either about how the common good is to be specified concretely and in detail or about the proper means of strategies for achieving it. Individual rights, especially rights of political participation, freedom of expression, and association can serve to contain and channel such disagreements and to preserve community in spite of their presence.

MPP2-649 LIBERTY PROTECTS THE FORMATION OF COMMUNITY

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.443-4

Moreover, the liberty that protects the political process itself--rights of association, speech, and privacy--also protect the process by which individuals form subcommunities--and the freedom to choose one's affiliations--must be respected and nurtured above all. Such freedom and diversity can only be threatened when community is sought as part of a national agenda.

MPP2-650 INDIVIDUAL RIGHTS DON'T THREATEN COMMUNITY

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.862-3

Mill also thought--quite correctly, I believe--that the recognition of these individual rights did not threaten limitless change and uncontrolled fragmentation of communities. For one thing, he was quite aware of the tight grip that tradition has on most people. For another, to form a new community an individual must attract a sufficient number of others to her banner and sustain their allegiance if she is to succeed. If the human need for community is as strong as communitarians believe, then one would expect that, in general, new forms of community will emerge and thrive only if they serve those needs, and participants in failed alternatives will seek to reattach to their previous communities. Hence, Mill may be right in concluding that the flexibility for peaceful change provided by liberal individual rights outweighs the risks of excessive fragmentation and instability.

MPP2-651 RIGHTS FACILITATE PEACEFUL CHANGE AND FORMATION OF NEW COMMUNITIES

Allen Buchanan, University of Arizona philosopher, ETHICS, Jul 1989, p.862

First, individual rights to freedom of religion, thought, expression, and association facilitate rational, nonviolent change in existing communities as well as the rational, nonviolent formation of new communities. Individual rights do this by allowing individuals who are dissatisfied with current forms of community to advocate and to try to develop alternatives even when the majority of their fellow members (or the official leaders of the community) do not share their views. If rights to freedom of expression, association, thought, and religion accrued to communities not to individuals, then they would protect existing communities from intrusions by other communities or state agencies. But they would not provide protection for the formation of new communities or for modifications of existing communities, so far as either of these two types of changes originate in the beliefs and actions of an individual or a minority.

MPP2-652 THE CLOSEST WE CAN COME TO COMMUNITY IS THROUGH RESPECT FOR PROCEDURE

H.N. Hirsch, University of California-San Diego, Political Scientist, POLITICAL THEORY, August 1986, p.443

But before the partisans of community criticize such limited and 'formal' inclusion--before they condemn the 'procedural republic'-- we should pause and consider just what it is we lose if we jettison such limited and procedural or legal goals and replace them with a stronger national community. Quite apart from the tangible benefits to individuals that procedural justice provides, participation by antagonistic groups in a political and legal system that all regard as fair can bring mutual respect; such mutual respect can be the first step toward mutual recognition, understanding, and empathy. This is no small benefit; indeed, the mutual respect brought about by common participation in the political process may be as close as we can come to the fraternal ties sought by the communitarians. And it may be as close as we should want to come in a liberal, tolerant regime, one respectful of the rights of minorities.

MPP2-653 TOTALITARIANISM DOESN'T APPEAR IN LIBERAL SOCIETIES

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.861

In what might be read as an attempt to rebut the cautious (or anti-totalitarian) argument for the liberal political thesis, Michael Sandel suggests that the source of totalitarianism is the destruction of traditional communities and the resultant anomie that liberalism promotes. (Sandel provides no empirical data to support this hypothesis and may in fact be confusing it with the somewhat more plausible claim that unrestrained capitalism breaks down important traditional forms of community.) Yet the historical record contrary to Sandel's hypothesis, shows that totalitarian regimes have not appeared in liberal societies such as Britain, the United States, and the Scandinavian countries, but rather in nations such as Germany Japan, Russia and Italy in which a liberal political culture did not exist at all or was only briefly, incompletely, and precariously realized. This simple fact suggests that either the implementation of the liberal political thesis does not break down important traditional communities or produce widespread anomie, or that the breakdown of traditional communities and anomie do not produce totalitarianism. Consequently, Sandel's speculation does little if anything to weaken the cautious communitarian argument for the liberal political thesis.

MPP2-654 LIBERAL RIGHTS PROTECT COMMUNITY FROM TOTALITARIANISM

Allen Buchanan, University of Arizona philosopher, ETHICS, July 1989, p.858

This 'communitarian' argument for the liberal political thesis can in fact be strengthened. At least in our century, the greatest single threat to communities probably has been totalitarianism. As the name implies, the totalitarian state recognizes no limits on its authority seeking to control very aspect of its citizens' lives. It cannot tolerate genuine communities within its boundaries because they would limit the individual's dependence upon and allegiance to the state. And it is a matter of historical record that totalitarian regimes have employed the most ruthless measures to undermine traditional communities--the family and the church in particular--in the name of achieving an all-inclusive political community. The liberal political thesis, in contrast, is a direct and explicit rejection of the totalitarian state. So to the extent that the totalitarian state is a threat to communities, we should regard the priority on individual civil and political rights usually associated with liberalism as the protector of community, even if the liberal political thesis is itself silent as to the importance of community in the good life.

MPP2-655 LIBERAL TREATMENT OF DISENFRANCHISED BETTER THAN COMMUNITARIANISM'S

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.229 Sandel concludes his book by saying that when politics goes well 'we can know a good in common that we cannot know alone'. But given the diversity of modern societies, we should say instead that politics goes well precisely when it does not adopt an ideology of the 'common good' that can only serve to exclude many groups. Increasing the level of state legitimacy may well require greater civic participation by all groups in society, but, as Dworkin notes, it only makes sense to invite people to participate in politics (or for people to accept that invitation) if they will be treated as equals. And that is shape or endorse. If legitimacy is to be earned, it will not be by strengthening communal practices that have been defined by and for others. It will require empowering the oppressed to define their own aims. Liberalism may not do enough in this regard, but as Herzog puts it, if liberalism is the problem, how could communitarianism be the solution?

MPP2-656 LIBERALS DON'T DENY THE IMPORTANCE OF SOCIAL TIES

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.216 If this really were the debate, then we would have to agree with the communitarians, for the 'social thesis' is clearly true. The view that we might exercise the capacity for self-determination outside of society is absurd. But liberals like Rawls and Dworkin do not deny the social thesis. They recognize that individual autonomy cannot exist outside a social environment that provides meaningful choices and that supports the development of the capacity to choose amongst them.

MPP2-657 LIBERALISM SUPPORTS SOCIAL COOP-JUST NOT THROUGH STATE COERCION

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.221
 Unfortunately, communitarians rarely distinguish between collective activities and political activities. It is of course true that participation in shared linguistic and cultural practices is what enables individuals to make intelligent decisions about the good life. But why should such participation be organized through the state, rather than through the free association of individuals? It is true that we would create opportunities for men to give voice to what they have discovered about themselves and the world and to persuade others of its worth'. But a liberal society does create opportunities for people to express these social aspects of individual deliberation. After all, freedom of assembly, speech, and association are fundamental liberal rights. The opportunities for collective enquiry simply occur within and between groups and associations below the level of the state--friends and family, in the first instance, but also churches, cultural associations, professional groups and trade unions, universities, and the mass media. Liberals do not deny that 'the public display of character and judgement and the exchange of experience and insight' are needed to make intelligent judgements about the good, or to show others that I 'hold [my] notion of the good responsibly'. Indeed, these claims fit comfortably in many liberal discussions of the value of free speech and association.

MPP2-658 LIBERALS HAVE MORE FAITH IN OUR SOCIAL NATURE THAN COMMUNITARIANS

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.223-4

According to communitarians, liberals fail to recognize that people are naturally social beings. Liberals supposedly think that society rests on an artificial social contract, and that state power is needed to keep naturally asocial people together in society. But there is a sense in which the opposite is true--liberals believe that people naturally form and join social relations and forums in which they come to understand and pursue the good. The state is not needed to provide that communal context, and is likely to distort the normal processes of collective deliberations and cultural development. It is communitarians who seem to think that individuals will drift into anomic isolation without the state actively bringing them together to evaluate and pursue the good.

MPP2-659 LIBERALISM ALSO PROMOTES THE COMMON GOOD

Will Kymlicka, University of Toronto philosopher, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.206
 Communitarians object to the neutral state. They believe it should be abandoned for a 'politics of the common good'. This contrast between the 'politics of neutrality' and communitarianism's 'politics of the common good' present in liberal politics as well, since the policies of a liberal state aim at promoting the interests of the members of the community. The political and economic processes by which individual preferences are combined into a social choice function are liberal modes of determining the common good. To affirm state neutrality, therefore, is not to reject the idea of a common good, but rather to provide an interpretation of it.

MPP2-660 LIBERAL SOCIETY HASN'T DESTROYED SOCIAL ATTACHMENTS

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.18

Still, communal feelings and belief seem considerably more stable than we once thought they would be, and the proliferation of secondary associations in liberal society is remarkable--even if many of them have short lives and transient memberships. One has a sense of people working together and trying to cope, and not, as the first communitarian critique suggests, just getting by on their own, by themselves, one by one.

MPP2-661 BREAKDOWN OF COMMUNITY HASN'T PRODUCED SOCIAL INCOHERENCE

Michael Walzer, Institute for Advanced Study, POLITICAL THEORY, February 1990, p.13-4

But there is another approach to the truth of the second critical argument. Whatever the extent of the Four Mobilities, they do not seem to move us so far apart that we can no longer talk with another. We often disagree of course, but we disagree in mutually comprehensible ways. I should think it fairly obvious that the philosophical controversies that MacIntyre laments are not in fact a mark of social incoherence. Where there are philosophers there will be controversies, just as where there are knights, there will be tournaments. But these are highly ritualized activities, which bear witness to the connection, not the disconnection, of their protagonists.

MPP2-662 PLURALISM AND COMPROMISE CAN STABILIZE SOCIETY WITHOUT ULTIMATE VALUES

Charles Frankel, Columbia philosopher, *THE CASE FOR MODERN MAN*, 1956, p.83

Social integration in a liberal society does not come from integrating ultimate values. It comes from organizing secular institutions in such a way that men's "ultimate" values- their consciences, their sense of the meaning of life, their personal dignity-do not become elements of public conflict. More positively, it depends on the ability of a society to organize itself pluralistically, with a number of vital centers of power within it which are accessible to the individual. For when power is so organized, and all of men's interests do not pile up around a single issue, conflicts of interest can be localized, and ultimate and unresolvable disagreements avoided. A society in which compromise is a regular and standard pattern for attaining co-operation and consent does not just happen. It has to be planned for, and deliberately constructed and maintained. The language of "ultimates" does not help in this process.

MPP2-663 LIBERAL RELATIVISM DOESN'T UNDERMINE SOCIAL MORALITY

Charles Frankel, Columbia philosopher, *THE CASE FOR MODERN MAN*, 1956, p.69

I think it is plain that if we are plagued by doubts and uncertainties, they are not the logical consequences of liberal philosophy. Our trouble is not the denial of absolutes; our cure is not a return to the eternal verities. A view of human history which makes man the carrier and ultimate standard of whatever values are found in history neither poisons the springs of the moral life nor undermines the foundations of social authority.

MPP2-664 SOCIETY DOESN'T NEED A COMMON GOOD TO FUNCTION

Charles Frankel, Columbia philosopher, *THE CASE FOR MODERN MAN*, 1956, p.81

Where are two fundamental errors in the idea that every society must have an orthodox creed, that joint social activities cannot be maintained on a voluntary basis unless there is some agreement on the ultimate ends of life. The first is the error of overintellectualizing human behavior. Men do not simply seek definite goals, arranged in neat, hierarchical order, ending with "ultimate ends." They are creatures of habit and routine, they are moved by traditions, they respond to their friends and neighbors; they may even have moral principles, which they simply observe because they are uncomfortable when they don't. Men do not have to love the same ultimate good to live at peace with one another; good manners will do the job perfectly well.

MPP2-665 LIBERALS NEED NOT BELIEVE IN A PRE-SOCIAL SELF

Michael Walzer, Institute for Advanced Study, *POLITICAL THEORY*, February 1990, p.21

Nor does liberal or communitarian theory require views of this sort. Contemporary liberals are not committed to a presocial self, but only to a self capable of reflecting critically on the values that have governed its socialization; and communitarian critics, who are doing exactly that, can hardly go on to claim that socialization is everything.

MPP2-666 LIBERALS & COMMUNITARIANS DIFFER OVER ROLE OF STATE

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.230
Liberals and communitarians disagree, not over the social thesis, but over the proper role of the state. Is the role of the state to protect 'the free internal life of the various communities of interests in which persons and groups seek to achieve...the ends and excellences to which they are drawn, or should it also partly pre-empt that social life, by enforcing a public ranking of the ends and excellences to which they should be drawn? To (over)simplify, liberals and communitarians disagree, not over the individual's dependence on society, but over society's dependence on the state. This is an important debate, but it is not a debate between those who do and those who do not accept the social thesis.

MPP2-667 RAWLSIAN LIBERALISM DOESN'T REST ON COMPREHENSIVE MORALITY OF SELF

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.313

What metaphysics must Rawlsian liberalism then embrace? Several commentators, along with Rawls himself, have argued that liberalism does not presuppose metaphysics. The major aim of liberal justice is to find principles appropriate for a society in which people disagree fundamentally over many questions, including such metaphysical questions as the nature of personal identity. Liberal justice therefore does not provide us with a comprehensive morality; it regulates our social institutions, not our entire lives. It makes claims on us 'not because it expresses our deepest self- understandings,' but because it represents the fairest possible modus vivendi for a pluralistic society.

MPP2-668 SANDEL'S DEFENSE OF COMMUNITY IS OVERLY VAGUE

H.N. Hirsch, University of California-San Diego, Political Scientist, *POLITICAL THEORY*, August 1986, p.429

Thus, Sandel presents a highly sophisticated philosophical critique of Rawls which has, as its base, a romantic yearning for community--for its ability to grip us, engage us, transform us. But this yearning is highly abstract and nonspecific: How, precisely, should a community be essential to our identities? Is not personal identification with the political community sometimes irrational and dangerous? Although he concludes by telling us that 'when politics goes well, we can know a good in common that we cannot know alone,' Sandel never says what that 'good' might consist of, or how such sentiments might be inculcated. And he never considers that the 'good' we may know in common may, in fact, be evil.

MPP2-669 SANDEL IGNORES THE NEED TO BALANCE INDIVIDUALISM AND COMMUNITY

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.319

Sandel may be correct in claiming that more intolerance has come--in the form of fascism--from societies of 'atomized, isolated, frustrated selves.' But the truth of this claim does not establish the case for communitarian over liberal politics unless our only choice is to support a society of totally 'atomized' or one of totally 'settled' selves. This dualistic interpretation of our alternatives seems to lead Sandel to overlook the moral value of establishing some balance between individualism and community, and to underestimate the theoretical difficulty of determining where the proper balance lies.

MPP2-670 SANDEL'S VIEW OF THE SELF IS FLAWED

Will Kymlicka, University of Toronto philosopher, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.213

But surely it is Sandel here who is violating our deepest self-understandings. For we do not think that this self-discovery replaces or forecloses judgements about how to lead our life. We do not consider ourselves trapped by our present attachments, incapable of judging the worth of goals we inherited or ourselves chose earlier. We do indeed find ourselves in various relationships, but we do not always like what we find. No matter how deeply implicated we find ourselves in a social practice, we feel capable of questioning whether the practice is a valuable one--a questioning which is not meaningful on Sandel's account.

MPP2-671 SANDEL FAILS TO UNDERMINE RAWL'S ASSUMPTIONS

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.314

If this, rather than Kantian dualism, is the metaphysics that liberal justice must admit, Sandel's critique collapses. Rawls need not (and he does not) claim that 'justice is the first virtue of social institutions' in all societies to show that the priority of justice obtains absolutely in those societies in which people disagree about the good life and consider their freedom to choose a good life an important good. Nor need Rawls assume that human identity is ever totally independent of ends and relations to others to conclude that justice must always command our moral allegiance unless love and benevolence make it unnecessary. Deontological justice thus can recognize the conditional priority of justice without embracing 'deontological metaethics' or collapsing into teleology. Sandel has failed therefore to show that the foundations of rights are mistaken.

MPP2-672 MACINTYRE'S CRITIQUE OF RIGHTS FAILS

Amy Gutman, Princeton University- Professor of Politics, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1985, p.314-5

MacIntyre argues that the foundations are missing: 'The best reason for asserting so bluntly that there are no such rights is indeed of precisely the same type as the best reason which we possess for asserting that there are no witches...every attempt to give good reasons for believing there are such rights has failed.' The analogy properly drawn, does not support MacIntyre's position. The best reason that people can give for believing in witches is that the existence of witches explain (supposedly) observed physical phenomena. Belief in witches therefore directly competes with belief in physics, and loses out in the competition. The best reason for taking rights seriously is of a different order: believing in rights is one way of regulating and constraining our behavior toward one another in a desirable manner. This reason does not compete with physics; it does not require us to believe that rights 'exist' in any sense that is incompatible with the 'laws of nature' as established by modern science.

MPP2-673 MARXIST SOCIOLOGY EXPLAINS WHY MORALS ARE SIMPLY SUBJECTIVE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.229

Marxist Sociology of morals and Mackian-Westermarckean moral antirealism seem at least to fit like hand and glove, mutually supporting and explaining each other. No one who has a firm sense - a sense we get from Marx and the Marxist tradition - of how susceptible to ideology we are in such domains should have such confidence in our capacities to capture intuition and moral reflection what is right and morally required of us. Marxist immoralism jettisons too much, but natural rights Marxist moralism is far too rationalistically confident about our unschooled moral capacities.

MPP2-674 MORAL PERSPECTIVES ARE JUST IDEOLOGIES TO PROTECT THE STATUS QUO

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.214
 Taking it that he has made the Marxological point elsewhere, Wood sets out to show that this sort of Marxist moralism rests on a mistake. To take Marx seriously, to accept some reasonable reading of the core canonical claims of Marx's social theory, he argues, would lead one to reject the moral point of view as irretrievably ideological, and with that, of course, to reject justice as a critical category for assessing institutions and to dismiss talk of justice, and talk of morality generally, as ideological instruments with a predominantly conservative social function. Moral norms are not good vehicles for "revolutionary demands and aspirations"; they are rather "expressions of a given social order, and specifically . . . expressive of the demands that order makes on individuals in order to insure its survival and smooth functioning" (JCI, p.10).

MPP2-675 RIGHTS CAN NEVER PRODUCE TRUE EQUALITY

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.162
 But Marx's argument here does not reject the view that the community should treat its members as equals. What he denies is that the community should do so through implementing a theory of juridical equality. In this passage, Marx endorses a principle of equal regard, but denies that any 'equal right' ever captures it because rights work by defining one limited viewpoint from which individuals are to be regarded equally. For example, the contribution principle views people as workers only, but ignores the fact that different workers vary both in their talents and in their needs- for example, 'one worker is married, another not; one has more children than another, and so on.

MPP2-676 APPEALS TO NATURAL RIGHTS ARE IRRESOLVABLE

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.228
 As far as I can see, however, all the old problems about natural rights as well as all the old problems with what Rawls calls 'rational intuitionism' remain-problems that seem at least to apply to Cohen and Nozick alike with equal force. For instance, how are we to determine with any objectivity what is and what is not a natural right? We know historically and sociologically that very different and not infrequently incompatible things have been claimed as human rights or natural rights. Some claimants, such as H.L.A. Hart at one time, have been very strict about what, if anything, could count as a natural right, while others have been very latitudinarian in talking of welfare rights as natural rights, and there have been all sorts of positions in between. As Miller has argued, we seem to have too many rights, many of which conflict, with no apparent way of making a further appeal to natural rights to tell us which rights override when they conflict.

MPP2-677 RIGHTS TALK IS SIMPLY THE EXPRESSION OF IDEOLOGY

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.228
 Such scruples about a rights-based ethics are reinforced by reflecting on Marx's assertions that rights claims are ideological and that what is standardly taken to be a right, either juridically or morally, in a given society during a given epoch, will be determined or strongly conditioned by the mode of production at the time and that our very understanding of ourselves, including our moral self-understanding, is deeply conditioned by the dominant ideology of our time. That sort of awareness inclines us to be very wary indeed of talk about what in our heart of hearts we recognize to be a natural right or even what we recognize to be fair or unfair.

MPP2-678 THE EVILS OF CAPITALISM NEED NOT BE REDUCED TO RIGHTS

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.231
 I am far more confident that capitalism at least in its present forms gives rise to unnecessary suffering, a needless denial of opportunities, alienated labor, the degradation of people, an undermining of human autonomy, and an unfair division of benefits, burdens, and life chances, and that these are evils, than I am confident of the belief that we have a natural right to productive property which is to be held in common rather than owned privately, as in a capitalist society. It could be a good thing that we hold such property in common but it still might not be something to which we have a natural right. And even if we think we just might have such a right, we are, or at least should be, much more confident that it is good that we hold such property in common.

MPP2-679 NEEDS ARE MORE IMPORTANT THAN RIGHTS

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.233-4

Such an approach fits better with the naturalism of Marxism than any appeal to natural rights. There is indeed in our society a motley of goods and rather divergent conceptions of what is fair and what is not (something that Marxist antimoralists have rightly stressed, as did Marx himself). Nevertheless, the goods tie in more straightforwardly with naturalistic notions of needs and wants than do rights.

MPP2-680 JUSTICE TALK BLINDS US TO SOCIAL REALITY

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.214-5

Such a view of the essentially conservative social function of morality is not, Wood argues, rooted in any eccentric possibly philosophically naive metaethical or normative ethical conceptions that Marx may have had. It is rather rooted in canonical elements of his thought: his historical materialism, his conception of ideology, and his conception of class, class interests, and class conflict. It is not that Marx or Marxists following Marx here, are committed to a kind of irrationalism or conceptual relativism. Marx, and Engels as well, were plainly children of the Enlightenment, and most Marxists have followed them here. Marx and Engels believed, as Wood puts it, that "rational deliberation about social institutions would be an important part of any free or truly human society" (JCI, p.II). They would agree with John Rawls that this is one of our highest-order interests. But Marx and Engels were also concerned to expose-and here they are not typical Enlightenment figures-what they took to be the pervasive self-deception of most moral and political philosophers in their believing that what is most essential in "deliberating about how best to set up social arrangements" is to develop and utilize principles of justice to "distribute the burdens and benefits of social life" (JCI, p.II). Wood wants to show that what seems to most philosophers and political theorists an almost self-evidently natural and reasonable way to proceed is, from the point of view of a consistently worked out Marxist social theory, a retrograde step embracing an unfortunate utopianism which blinds itself, and would if accepted blind us, to the nature of social reality.

MPP2-681 JUSTICE REQUIRES IMPARTIALITY OF PERSPECTIVE

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.215-6

Wood argues that this initial plausibility evaporates, however, when we carefully reflect on three elements, two specifically Marxist-namely Marx's historical materialism and his conception of revolutionary practice based on it-and the third a conceptual point about what justice is. Any principle of justice, egalitarian or inegalitarian, must be a principle which is disinterested or impartial as regards the interests of those to whom the principle is supposed to apply. Any differential treatment of those to whom it is supposed to apply "must be justified on the basis of some impartial standard, such as the special desert of individuals or the greatest common good of all concerned" (JCI, p.14). If such differential treatment is not in some way so justified, we do not have a principle of justice. Any principle of justice, even the most elitist or aristocratic, must "be justified on the basis of disinterested or impartial considerations" (JCI, p.15).

MPP2-682 IMPARTIALITY OF PERSPECTIVE UNDERMINES MARXISM

Kai Nelson, Professor of Philosophy, University of Calgary, PHILOSOPHY AND PUBLIC AFFAIRS, Summer 1988, p.216

Next-bringing in the two Marxist elements-Wood adverts to the fact, also stressed by Miller, that "Marx refused to evaluate social institutions from an impartial or disinterested standpoint, and regarded the whole enterprise of doing so as ensnared in ideological illusions" (JCI, p.15) Wood next seeks to establish that this is not just an eccentricity of Marx's but is integral to central elements in his theory. If one is serious about defending socialist revolution and socialism generally, one must appeal, not disinterestedly to the interests of everyone alike, but to the class interests of the proletariat and their allies. Since on Marx's reckoning the proletariat is the vast majority, we are appealing to what is in fact the interests of the vast majority, but, Wood claims, Marx "never confuses this with the common interest of all society" (JCI, p.16). Indeed, Wood argues, Marx regards any conception of the common good or of universal interests in class societies as an ideological myth. There are, Marx unblinkingly recognized, large groups of people (the bourgeoisie and the landed aristocracy "whose interests are going to be simply ignored or sacrificed by the revolution" (JCI, p.16). Marx is perfectly explicit and straightforward about this. This attitude, Wood argues, is what is required if we are to make a consistent application of Marx's account of historical materialism and his theory of classes.

MPP2-683 NO COMMON GOOD EXISTS TO BE THE BASIS OF JUSTICE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.217
 On Marx's conception, there is no reality, except in the mystifying lens of ideology, to the contention that there are society-wide interests which constitute a common good which might, in good Durkheimian fashion, bind a class society together. What we actually have instead are the conflicting class interests of the various antagonistic and contending classes, based on the common situation of the members of each class. This situation may be called their distinctive class situation.

MPP2-684 THE REALITY OF CLASS CONFLICT RENDERS JUSTICE MEANINGLESS

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.218
 This account of historical materialism and revolutionary class struggle enables us to understand and appreciate the force of what Wood calls the class interests thesis. It in turn is an essential premise for what he calls the class interests argument. That argument is designed to show that Marxists can neither have an account of justice in which justice is a critically normative concept nor coherently maintain that, in some transhistorical, critical sense not relative to modes of production, capitalism is unjust and socialism just. (The latter conclusion is surely a consequence of the former.) The class interests thesis, a vital element in this claim, is stated by Wood as follows: To understand ourselves as historical agents is to understand these interests [class interests] and the bearing of our actions on them. Whatever the aims or conscious intentions of our actions may be, Marx believes that our actions are historically effective only insofar as they involve the pursuit of class interests, and that the historical meaning of our actions consists in their functional role in the struggle between such interests. (JCI, p.19)

MPP2-685 CONSIDERATIONS OF JUSTICE DON'T FURTHER THE PROCESS OF HISTORICAL CHANGE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.218-9

Wood's key point is that when we think through carefully and nonevasively the implications of the class interests thesis, we will come to see that we cannot be historically effective by moralizing. We cannot in any fundamental way change the world by making a case for the injustice of capitalism. But, given our conception of the unity of theory and practice, historical effectiveness is one of our deepest interests. This means that in thinking about what is to be done we should not have much interest in considerations of justice and injustice. Our "accomplishments as historical agents are basically going to consist in the way we further the interests of certain classes" (JCI, p.19). In struggling to be historically effective, we should look at the existing historical movements and, particularly if we are in the anomalous class position of most intellectuals, side and identify (albeit critically) with a movement, choosing and seeking to realize its goals as our goals. If we wish to be historically effective, we will not go about "setting our goals according to abstract values or standards and then trying to find some means for achieving them."

MPP2-686 CLASS INTERESTS OVERRIDE JUSTICE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.219
 The class interests argument concludes that having justice as a practical goal and accepting the class interests thesis are incompatible. There are, Wood believes, not infrequent circumstances where we cannot both serve justice and act in accordance with our class interests or the interests of the class with which we have identified. But to be effective agents we must act in accordance with our class interests no matter what our moral convictions may be. In Wood's view, on a consistent Marxist account there are in class societies no transhistorical principles of justice, which transcend class and modes of production. But even if there were, Marxists should ignore them and attend to proletarian class interests. They should (to put it somewhat paradoxically) be Marxist immoralists.

MPP2-687 JUSTICE FOCUSES TOO MUCH ON DISTRIBUTION, NOT ENOUGH ON PRODUCTION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.163
A second objection is that theories of 'just distribution' concentrate too much on distribution, rather than on the more fundamental questions of production (Young 1981; Wood 1972: 268; Buchanan 1982: 56-7, 122-6; Wolff 1977: 199-208; Holmstrom 1977: 361; cf. Marx and Engels 1968: 321). If all we do is redistribute income from those who own productive assets to those who do not, then we will still have classes, exploitation, and hence the kind of contradictory interests that make justice necessary in the first place. We should instead be concerned with transferring ownership of the means of production themselves. When this is accomplished, questions of fair distribution become obsolete.

MPP2-688 MARXIST AMORALISM DOESN'T LEGITIMATE BLOODBATHS

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.213-4

I think Wood and Richard Miller (whose conception is broadly similar) are right in arguing that what Wood calls Marxist immoralism ('amoralism' would have been a better word) does not entail, justify, or excuse a bloodthirsty realpolitik, the lack of common human decency, or the sorts of excesses that have sometimes been committed in the name of socialism. Such nihilistic consequences do not follow from Marxist immoralism's rejection of justice or, more generally, of the moral point of view in the assessing of institutions or in deciding, politically and socially speaking, what is to be done.

MPP2-689 THE CLASS INTEREST THESIS DOESN'T REQUIRE REJECTING THE MORAL POINT OF VIEW

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.223
In practical political action, by placing proletarian interests first, we probably achieve a treatment of interests that can be impartially defended from the vantage point of what is disinterestedly good both at the point of choice--where hard choices must sometimes be made and the lesser evil chosen--and in the future. There is no well-grounded reason for claiming that someone who accepts the class interests thesis must reject the moral point of view or the possibility of assessing capitalism and socialism in terms of justice.

MPP2-690 MORAL EQUALITY IS A BASIC MARXIST PRINCIPLE

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.163
Marx rejected the idea of equal rights, not because he was not a friend to the idea of treating people as equals, but precisely because he thought rights failed to live up to that ideal. In fact, the idea of moral equality is basic to Marx's thought.

MPP2-691 CAPITALISM ENTRENCHES THE OPPRESSION OF WOMEN

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.5
Marxist and socialist feminists, however, believe that the construction of gender is not the primary issue. They think that equality for women is not possible in a class based society established on the basic principles of private property and exploitation of the powerless. According to the Marxists, the oppression of women originated, or at least solidified, when the introduction of capitalism and private property sharply divided the world into private and public spheres of life, relegated women to the noneconomic private sphere, and devalued that sphere, that is, made it worthless in market terms. To relieve the oppression of women, the capitalist system must be replaced with a socialist system in which no class will be economically dependent or exploited by any other. The solution to the oppression of women is to change the economic system so that women will not be economically dependent, marginal, and exploited.

MPP2-692 THE WELFARE OF THE WORKING CLASS IS THE HIGHEST MORAL INTEREST

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.223
It is important to reemphasize at this juncture that I agree with Wood that it is vital for a moral agent to attend to the historical effects of actions. I would further contend that if the Marxist picture of the world is approximately correct, what this requires in our historical situation is a proletarian class affiliation for someone who has a good grasp of the facts, is clearheaded, and is impartially caring. It requires, that is, siding with the working class, taking the standpoint of labor. I also agree with Wood that for such a person - indeed for any consistent Marxist - it would, as things stand, be irrational, and, I would add, immoral, to place any interests above proletarian class interests.

MPP2-693 SOCIALISM IS THE MOST RELIABLE MEANS TO EQUALITY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.170
For Engels, the need to socialize ownership is not based on any distinctive theory of justice, but simply on an inability to conceive of any other device for equalizing resources in a modern industrial economy. Some Marxists also object on empirical grounds to Rawls's assumption that the inequalities arising from market transactions in a well-ordered society would tend to benefit the less well off. If they would not (and Rawls gives no evidence that they would), and if redistributive mechanisms are inherently vulnerable to political pressure, then we might adopt socialism on the basis of a 'greater-likelihood principle.'

MPP2-694 PROMOTING WORKING CLASS INTERESTS FURTHERS JUSTICE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.223
 I have argued that Marx believes rightly that what furthers the cause of the proletariat also in fact furthers the cause of justice. It could be responded that it is not so obvious that the two could not conflict in real situations. If, for example, Stalin was generally correct in identifying proletarian interests and acted effectively in those interests, it would seem that morality and proletarianism have conflicted over and over again in history. But although it is a conceptual possibility that the starving of the Ukrainian kulaks was in the long-term interests of the proletariat, it is thoroughly evident that nothing like this is remotely plausible. It is political fiction. What is needed to undermine my claim is a plausible case where long-term proletarian interests conflict with the good of humankind. If I am mistaken about that empirical issue, then things are more difficult than I have supposed.

MPP2-695 PRIVATE OWNERSHIP VIOLATES JUSTICE

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.227
 The revolutionary socialist (the Marxist), in contrast to the social democrat, has a principled reply, but it requires an appeal to justice and natural rights. Instead of bemoaning the unfortunate effects on human well-being of the absence of transfer payments by the welfare state, the Marxist, according to Cohen, should reply "that the socializing state is not violating rights, or even overriding them in the interest of something more important, but righting wrong: it is rectifying violations of rights, violations inherent in the structure of private property" (FJC, p.13). The very existence of the institution of private productive property, he should argue, is unjust. As Cohen puts it, "the socialist objection of justice to the market economy is that it allows private ownership of the means of existence which no one has the right to own privately, and therefore rests upon an unjust foundation" (FJC, p. 13). Marxists should set aside their traditional aversion to moral talk and argue on a natural rights basis here.

MPP2-696 WE HAVE A NATURAL RIGHT TO COMMON OWNERSHIP

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.227-8

Marx was not scathingly contemptuous of talk of natural rights and natural justice for nothing. Robert Nozick tells us that we have a natural right to private property, including private productive property, and that no one can override that right without violating our rights. Cohen, by contrast, tells us that we have no such natural right and that instead private ownership of productive property is theft, and morally speaking the right to productive property belongs to all of us in common. He believes, that is, that we have a moral right to hold such property in common. He believes that this obtains whatever the law of a given society may say, and that as a moral right it is our natural right.

MPP2-697 THE DESIRE TO ATTACK NEEDLESS SUFFERING IS THE MORAL BASIS

Kai Nelson, Professor of Philosophy, University of Calgary, *PHILOSOPHY AND PUBLIC AFFAIRS*, Summer 1988, p.232
 In seeking to make a moral critique of capitalism and a defense of socialism, Marxists as well as others would do well to focus on the harm capitalism does to people, the misery it creates and sustains, the way it dehumanizes labor, undermines autonomy, and militates against a world where people could at least be moral equals. Such a view does not suffer from the criticisms I made of natural rights accounts. For these harms and the inequalities capitalism sustains are comparatively easy to ascertain, and it is easier to establish that they are unnecessary than it is to establish what we do or do not have natural rights to. Even considerations of justice, linked with conceptions of fairness rather than considerations about the violations of natural rights, may well be more amenable to rational assessment than claims about natural rights. Marxists should focus their attention on considerations about needless suffering, inequality, the denial of autonomy, and the like rather than on the comparatively problematic conception of natural rights.

MPP2-698 EQUALITY ISN'T AN END IN ITSELF

Thomas Nagel, Professor of Philosophy, New York University, *READING NOZICK*, Jeffrey Paul, ed., 1981, p.203

Unless there is independent justification for equality, an equal distribution is just as arbitrary from a moral point of view as any other. To defend equality as a good in itself, one would have to argue that improvements in the lot of people lower on the scale of well-being took priority over greater improvements to those higher on the scale, even if the latter improvements also affected more people. While I am sympathetic to such a view, I do not believe it has ever been successfully defended.

MPP2-699 EQUALITY CAN'T PRODUCE SELF-ESTEEM
Peter Singer, Professor of Philosophy, Monash University,
READING NOZICK, Jeffrey Paul, ed., 1981, p.44

Nozick also challenges the view that greater equality will produce an equality of self-esteem and the elimination of envy. Self-esteem, he claims, is based on criteria that differentiate; if these criteria are equalized it will need to be based on something else. Trotsky's vision of a communist society in which the ordinary man is able to fulfill his potential to such an extent that he becomes an Aristotle, a Goethe, or a Marx does not mean that the ordinary man will have greater self-esteem. New peaks will rise beyond the heights of Aristotle-Goethe-Marx, the ordinary man will think of himself as just another Aristotle-like commoner, and envy the new super-Aristotles.

MPP2-700 EGALITARIANISM INCREASES SCARCITY WHICH HURTS EVERYONE

Thomas M. Garrett et al., University of Scranton, HEALTH CARE ETHICS: PRINCIPALS AND PROBLEMS, 1993, p.86. These egalitarian theories also disregard the fact of human selfishness. Some people will be motivated to produce a surplus only if they are given a greater share of the goods of society. If egalitarianism destroys the reward system, which recognizes selfishness as a strong factor in human life, it can create a society in which the scarcity of resources actually increases. This leads to not just an economic problem, but also a political one, as the failure of society to provide for its members becomes clear.

MPP2-701 MARXISM DOESN'T ADEQUATELY EXPLAIN THE DOMINATION OF WOMEN

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.5
Many modern socialist feminists have nonetheless become dissatisfied with the traditional Marxist approach, as it fails to account adequately for the oppression of women as women rather than as workers, fails to explain the domination of women in the private as well as the public sphere, and fails to provide an analysis of gender and patriarchy.

MPP2-702 WORKERS COULD FORM SOCIALIZED FIRMS BUT HAVEN'T CHOSEN TO

Peter Singer, Professor of Philosophy, Monash University, READING NOZICK, Jeffrey Paul, ed., 1981, p.44
For instance Nozick is able to show that if workers' control of factories is desirable, it will be possible to establish it within the framework of his theory, by voluntary action. Indeed, he points out, the larger trade unions already have sufficient financial reserves to set up worker-controlled enterprises; and even smaller groups, or a single wealthy radical, could do the same, especially since consumers who favor worker-controlled enterprises could band together and buy only from these companies. Why, Nozick asks pointedly, has this not happened?

MPP2-703 COMMUNAL PROPERTY UNDERMINES JUSTICE

THE AMERICAN ENTERPRISE, Nov/Dec 1991, p.24.
The lazy can live off the industrious. This situation creates the problem of the freerider who benefits unfairly from the labor of others. This is an intractable problem of communes and many Third World countries. Communal property will always be accompanied by a pervasive injustice. If justice is to exist in a communal setting, it will depend on the presence of a wise lawgiver whom all respect and obey.

MPP2-705 PRIVATE PROPERTY INSTITUTIONALIZES JUSTICE

THE AMERICAN ENTERPRISE, November/December 1991, p.24.
Private property can be thought of as a set of invisible mirrors that surround individuals and reflect back upon them the consequences of their acts. The industrious will reap the benefits of their industry, the frugal the consequences of their frugality; the improvident and the profligate will also experience the consequences of their habits. Private property makes it much harder for people to export these consequences whether harmful or helpful to others. As so, with private property, people receive their due, experiencing justice as a matter of daily routine. Private property institutionalizes justice. This is its great virtue perhaps dwarfing all others. Within a system of private property and freedom of contract (which enables people to exchange property voluntarily), justice is routinized. When property rights are enforced and exchangeable justice is to a considerable degree put on automatic pilot.

MPP2-706 LIBERAL JUSTICE ISN'T NECESSARILY EXPLOITATIVE

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.171-2
The paradigm of injustice for Marxists is exploitation, and, in our society, the exploitation of the worker by the capitalist. The fundamental flaw of liberal justice, Marxists claim, is that it licenses the continuation of this exploitation, since it licenses the buying and selling of labour. Does liberal justice allow some to exploit others? It depends, of course, on how we define exploitation. In its everyday usage, exploitation (when applied to persons rather than natural resources) means 'taking unfair advantage of someone'. Every theory of justice, therefore, has its own theory of exploitation, since every theory has an account of the ways it is permissible and impermissible to benefit from others. On Rawls's theory, for example, a talented person takes unfair advantage of the untalented if he uses their weak bargaining position to command an unequal share of resources not justified by the difference principle. It is not exploitative, however, for someone to benefit from employing others if this works to the maximal benefit of the least well off. If we are convinced of the fairness of Rawls's theory, then we will deny that it licenses exploitation, since part of what is involved in accepting a theory of justice is accepting its standard for judging when others are unfairly taken advantage of.

MPP2-707 JUSTICE IS CONSISTENT WITH LOVE AND AFFECTION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.167
 Rawls's claim about the priority of justice is not a claim 'about whether a person will, or should, push to the limit their rightful claims to various advantages' (Baker 1985: 918). While the priority of justice ensures that individuals are able to claim certain advantages, it equally ensures that they are able to share these advantages with those they love. Generous and loving people will be generous and loving with their just entitlements - far from inhibiting this, the priority of justice makes it possible. What justice excludes is not love or affection, but injustice - the subordination of some people's good to others', through the denial of their just entitlements (Baker 1985: 920). And this, of course, is the opposite of genuine love and affection.

MPP2-708 EQUALITY CAN'T BE ACHIEVED BY ABANDONING JUSTICE

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.169
 Justice is more than a remedial virtue. Justice does remedy defects in social co-ordination, and these defects are ineradicable, but it also expresses the respect individuals are owed as ends in themselves, not as means to someone's good, or even to the common good. Justice recognizes the equal standing of the members of the community, through an account of the rights and entitlements we can justly claim. But it does not force people to exercise these entitlements at the expense of the people or projects they care about. Justice constitutes a form of concern that we should have for the members of our community, and enables us to pursue all the other forms of love and affection which are consistent with that underlying moral equality. The view that we could create a community of equals by abandoning these notions of fairness, rights, and duties is untenable.

MPP2-709 JUSTICE CAN DEAL WITH DISTRIBUTION OF PRODUCTIVE RESOURCES TOO

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.163-4
 A scheme of redistributive taxation may leave a capitalist and a worker with equal incomes, but it would still leave the capitalist with the power to decide how the worker spends much of her time, a power that the worker lacks in relation to the capitalist. As an objection to the idea of justice, however, this complaint fails. Nothing in the idea of justice limits it to questions of income. On the contrary, as we have seen, both Rawls and Dworkin include productive assets as one of society's resources to be distributed in accordance with a theory of justice. Indeed, Rawls argues that a more egalitarian pattern of property-ownership is required for his ideal of a 'property-owning democracy'. And if Dworkin tends, when discussing the practical implementation of his theory, to look at schemes of income redistribution, rather than a fundamental redistribution of wealth, that is incompatible with his theory of justice (ch. 3, s. 5 above). The Marxist objection to the class structure of capitalist relations of production is, above all, a distributive objection, and so fits comfortably within the normal scope of theories of justice.

MPP2-710 RIGHTS NEED NOT CREATE CONFLICTS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.167
 The Marxist assumption seems to be that if we give people rights they will automatically claim them, regardless of the effects on others, including the ones they love. For example, Buchanan says that justice involves 'casting the parties to conflict in the narrow and unyielding roles of rights-bearers' (Buchanan 1982: 178; cf. Sandel 1982: 30-3). But why can I not choose to waive my rights whenever their exercise would harm the people I love? Consider the family. Does the fact that women in France now have the right to move to another town and work there without their spouse's permission mean that they will exercise that right rather than keep their families together? (Similarly, have men, who have always had that right, never foregone a career move for the sake of their families?)

MPP2-711 RIGHTS ARE STILL BETTER THAN NOTHING

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.163
 Marxists have a number of objections to the idea of juridical equality. The first one, we have seen, is that equal rights have unequal effects, since they only specify a limited number of the morally relevant standpoints. But that argument is weak, for even if it is true that we cannot define in advance all the relevant standpoints, it does not follow that the best way of treating people with equal regard is by not specifying any viewpoints at all. Even if a schedule of rights cannot fully model equal regard, it may do so better than any other alternative. In fact, what else can we do except try to specify the standpoints we think morally relevant?

MPP2-712 MARXISTS FETISHIZE LABOR

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.194
Marxists pride themselves on their unity of theory and practice. But their theory betrays their practice. Faced with the choice between self-ownership and distributive equality, Marxists have, in practice, embraced equality, and have done so in a much more committed way than liberals have. But at the level of theory, Marxists remain committed to a fetishism of labour that is in some ways less radical, and less attractive, than liberal egalitarian theories of justice, and this has hampered the quest for an effective radical movement. A genuine unity of theory and practice may require a greater unity of Marxism and liberal equality.

MPP2-713 WORKERS AREN'T CENTRAL TO PROGRESSIVE POLITICS

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.193
It is increasingly difficult to accept this traditional Marxist view about the centrality of labour to progressive politics. Many of the most important contemporary struggles for justice involve groups which are not, or not only, oppressed by the wage-relationship- e.g. racial groups, single mothers, immigrants, gays and lesbians, the disabled, the elderly. As we have seen, support for these groups may in fact conflict with the labour-emphasizing arguments for socialism.

MPP2-714 SURPLUS LABOR ISN'T NECESSARILY EXPLOITATIVE

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.174
Redefining exploitation as forced transfer of surplus labour is also too strong, for there are many legitimate instances of forced transfer of surplus value. What if workers are like apprentices who must work for others for a period of five years, but then are able to become capitalists themselves (or masters)? According to Jeffrey Reiman, this is exploitative: 'We care about workers being forced to sell their labor power, because we understand this as forcing them to work without pay. And we care about how long workers are forced to work without pay, because of how we feel about people being forced to work without pay for any period of time' (Reiman 1987: 36). But this is implausible. If all workers can become capitalists, and if all capitalists begin as workers, then there is no inequality over the course of people's lifetimes. Like apprentices, there is simply a period where workers have to pay their dues (Cohen 1988: 261 n. 9). To insist that it is exploitative to transfer surplus value forcibly, regardless of how this fits into a larger pattern of distributive justice, guts the charge of exploitation of all its moral force.

MPP2-715 MARXIST "EXPLOITATION" ISN'T NECESSARILY UNJUST

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.173
This modified version of the Marxist argument yields the conclusion that wage-relationships are inherently exploitative. But it is not clear that the exploitation involved here is an injustice. In the first place, there is nothing unjust about volunteering to contribute one's labour to others.

MPP2-716 NOT ALL EXTRACTION OF SURPLUS VALUE IS EXPLOITATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.176
There is another problem with the exploitation argument. What about those who are forced not to sell their labour? Married women have been legally precluded from taking wage employment in many countries. Hence they are not exploited. On the contrary, they are being protected from exploitation, which is indeed how many people defend sexual discrimination. But if married women in these countries are given a small income from government taxes, then they become exploiters, on the Marxian exploitation argument, since part of each worker's income is forcibly taken away and put at their disposal. But it would be perverse to view women under these circumstances as beneficiaries of exploitation. They suffer from an injustice worse than exploitation by capitalists, and one of the first tasks of feminist movements has been to gain equal access for women to wage-labour markets. Or consider the unemployed, who are legally able to accept wage employment, but can find none. They too are not exploited, under the Marxist definition, since they do not produce any surplus value for the capitalist to appropriate. And if the government taxes workers to pay them a benefit, then they too become exploiters. Yet they are worse off than those who are able to find a wage relationship.

MPP2-717 EXPLOITATION OF WORKERS IS A RELATIVELY MINOR INJUSTICE TODAY

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.176-7

These examples show that there is a deeper injustice underlying exploitation—namely, unequal access to the means of production. Disenfranchised women, the unemployed, and wage-workers all suffer from this injustice, while capitalists benefit from it. The exploitation of workers by capitalists is just one form this distributive inequality can take. The subordinate positions of women and the unemployed are other forms, and judging by people's struggles to gain wage employment, these may be more damaging forms. For those who lack access to property, being forced to sell one's labour may be better than being forced not to (women), or being unable to (unemployed), or eking out a marginal existence from crime, begging, or living off whatever land remains common property (Marx's 'lumpenproletariat').

MPP2-718 EXPLOITATION THEORY ACTUALLY UNDERMINES REFORM

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.177
 Something has gone wrong here. Exploitation theory was supposed to provide a radical critique of capitalism. Yet, in its standard form, it neglects many of those who are worst off under capitalism, and actually precludes the action needed to help them (e.g. welfare support for children, the unemployed, and the infirm). If exploitation theory is to take due account of these groups, it must abandon the narrow focus on surplus transfer, and instead examine the broader pattern of distribution in which these transfers occur.

MPP2-719 PROHIBITING WAGE LABOR IS UNJUST

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.181
 Different choices about leisure and risk can lead, in a legitimate and envy-free way, to unequal ownership of productive assets. Where people's preferences do not differ in these ways, or where any such differences are less important to people than a shared desire to have a democratic say in one's workplace, then we are likely to maintain a system of equal ownership of productive assets. But to enforce a blanket prohibition on wage-labour would be an arbitrary violation of the ambition-sensitivity requirement of a just distribution.

MPP2-720 MARXISM MAY NOT ALLEVIATE EXPLOITATION

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.182
 So private property need not be exploitative. Conversely, socialization of the means of production may be exploitative. Marxists are fond of saying that exploitation is impossible within socialism, since producers control their product (e.g. Holmstrom 1977: 353). But on the new approach to exploitation, it is not enough that people have equal access to social resources, in the form of a vote in a democratically run, worker-owned firm. It all depends on what people democratically decide to do with their resources. Consider a firm that is permanently divided into two groups—a majority which, like the gardener, prefers income to leisure, and a minority which, like the tennis-player, prefers leisure to income. If the majority wins all the decisions, and if the minority are not allowed to convert their socialist right of equal access to social resources into a liberal entitlement of equal individual resources (e.g. by selling their share of the firm), they will be unfairly taken advantage of. They will be exploited, on the Roemer-Arneson approach, since they would be better off by withdrawing with their per capita share of resources.

MPP2-721 MANY GOODS COMPETE WITH UNALIENATED LABOR

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.190
 There are many values that may compete with unalienated production, such as 'bodily and mental health, the development of cognitive facilities, of certain character traits and emotional responses, play, sex, friendship, love, art, religion' (Brown 1986: 126; cf. Cohen 1988: 137-46). Some people will view productive labour as 'life's prime want', but others will not. A prohibition on alienated labour, therefore, would unfairly privilege some people over others.

MPP2-722 UNALIENATED LABOR IS NOT AN OVERARCHING GOOD

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.190
 The issue is not whether unalienated labour is a good, but whether it is an overriding good, a good which is necessary to any decent life, and which outweighs in value all competing goods. There is no reason whatsoever to think unalienated labour is such a good.

MPP2-723 ELIMINATING ALIENATION MAY UNDERMINE PEOPLE'S PREFERENCES

Will Kymlicka, Professor of Philosophy, University of Toronto, *CONTEMPORARY POLITICAL PHILOSOPHY*, 1990, p.188-9

Consumption is another good that may conflict with nonalienated production. Some people enjoy consuming a wide variety of goods and services, from food to opera to computers. Agreeing to perform alienated labour in return for higher wages may enable them to expand their range of desired consumption. If we prohibit alienated labour, we eliminate their alienation, but we also make it more difficult for them to pursue forms of consumption they truly value.

MPP2-724 MARX'S PREDICTIONS HAVE NO HISTORICAL CONFORMATION

Leszek Kolakowski, Oxford, *MAIN CURRENTS OF MARXISM*, 1978, v1, p.374

We have no empirical confirmation of Marx's predictions, as there has never been a proletarian revolution of the kind described, brought about by the conditions his theory required - 'contradiction' between productive forces and the relations of production, inability of capitalism to develop technology, etc.

MPP2-725 MARX'S PREDICTIONS HAVEN'T BEEN REALIZED

Robert Heilbroner, economist, *MARXISM: FOR AND AGAINST*, 1980, p.127

One must begin with the clear recognition that the crowning event in the great drama of Marx's thought has not been realized. Not a single proletarian revolution has occurred in any industrialized capitalist nation. Moreover, there is no clear evidence that the system as a whole is now approaching a final "breakdown."

MPP2-726 MARXISM FAILS AS A PREDICTIVE MODEL
Robert Heilbroner, economist, MARXISM: FOR AND AGAINST, 1980, p.128

Thus, as a large-scale "predictive" model, Marx's scenario must be declared a failure. Moreover, Marxist economics since Marx has also failed in correctly predicting the main trajectory of the system, and has mainly been concerned with explaining events after they have occurred.

MPP2-727 MARX'S THEORY OF HISTORY IS TRIVIAL OR UNTRUE

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.369

Considered as a theory explaining all historical change by technical progress and all civilization by the class struggle, Marxism is unsustainable. As a theory of the interdependence of technology, property relationships, and civilization, it is trivial.

MPP2-728 VARYING EVOLUTION OF SOCIETIES DISPROVES HISTORICAL MATERIALISM

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.366

For Asiatic or Amerindian societies before the European invasions did not in fact evolve in the same manner as our own, and it would be a gratuitous fancy to assert that they would have done so if they had been left alone for long enough.

MPP2-729 MARX'S END OF HISTORY IS WISHFUL THINKING

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, 1978, v1, p.376

The idea that half a million years of man's life on earth and five thousand years of written history will suddenly culminate in a 'happy ending' is an expression of hope. Those who cherish this hope are not in a better intellectual position than others Marx's faith in the 'end of prehistory' is not a scientist's theory, but the exhortation of a prophet.

MPP2-730 IDEAS LEAD TO TECHNICAL PROGRESS, NOT VICE VERSA

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.368

Both Marxists and their critics have often pointed out that the concept of technical progress as the 'source' of changes in the relations of production is doubtful and misleading. The steam-engine was not created by the stagecoach but by the intellectual labour of its inventors. The improvement of productive forces is obviously the result of mental labour, and to ascribe to it the primacy over the relations of production and, through them, over mental labour is consequently absurd if the words are taken literally.

MPP2-731 THE CONCEPT OF THE ECONOMIC BASE AS PROVIDING LIMITS IS A TRUISM

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.366

Marxists have often asserted that, according to the doctrine, relations of production do not bring about the superstructure but 'define' it in the negative sense of limiting the options at society's disposal, without prejudicing its choice between them. If Marx and Engels meant no more than this, the doctrine is again in danger of becoming a truism.

MPP2-732 HISTORICAL MATERIALISM IS WORTHLESSLY IMPRECISE

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.367

Every Marxist, of course, admits that tradition possesses autonomous force of its own, and there are plenty of passages in Marx to confirm this. But if the objection can be brushed aside in this manner, it merely shows that the doctrine is so imprecise that no historical investigation, and no imaginable facts can refute it.

MPP2-733 HISTORICAL MATERIALISM IS EITHER ABSURD OR A TRUISM

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.364

What exactly is historical materialism? If it means that every detail of the superstructure can be explained as in some way dictated by the demands of the 'base', it is an absurdity with nothing to recommend it to credence; while if, as Engels's remarks suggest, it does not involve absolute determinism in this sense, it is no more than a fact of common knowledge. If interpreted rigidly, it conflicts with the elementary demands of rationality; if loosely, it is a mere truism.

MPP2-734 THE LABOR THEORY OF VALUE IS FALSE

Will Kymlicka, Professor of Philosophy, University of Toronto, CONTEMPORARY POLITICAL PHILOSOPHY, 1990, p.172-3

There are a number of gaps in this argument. Premiss (1) is controversial, to say the least. Many Marxists have tried to defend it by appeal to 'the labour theory of value', according to which the value of a produced object is determined by the amount of labour required to produce it. But as Cohen points out, the labour theory of value actually contradicts (1), for the labour theory says that the value of an object is determined by the amount of labour currently required to produce it, not how much labour was actually involved in producing it. If technology changes in such a way that an object can now be produced with half the labour previously required, the labour theory of value says that the value of the object is cut in half, even though the amount of labour embodied in the already produced object is unaffected. The actual labour expended by the worker is irrelevant, if the labour theory of value is true.

MPP2-735 THE MARXIST THEORY OF VALUE IS NON-SCIENTIFIC

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.329

As an interpretation of economic phenomena Marx's theory of value does not meet the normal requirements of a scientific hypothesis, especially that of falsifiability.

MPP2-736 THE REVOLUTION SHIFTS SURPLUS VALUE TO SOCIETY, IT DOESN'T ABOLISH IT

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.333

The abolition of exploitation meant, in his view, not that workers should receive the equivalent of what they produced, but that the surplus value they do not receive in wages should accrue to society in the form of fresh investments, emergency reserves, payment for necessary 'unproductive' services, administration, etc, plus provisions for those unable to work.

MPP2-737 SOCIALISM INCREASES EXPLOITATION

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.334

Exploitation, in short depends on whether there is or is not effective machinery to enable the workers to share in decisions concerning the product of their labour, and hence it is a question of political freedom and representative institutions. From this point of view socialist communities at the present day are examples not of the abolition of exploitation but of exploitation in an extreme degree, since by cancelling the legal right of ownership they have destroyed the machinery which gave society control over the product of its own labour.

MPP2-738 SOCIALISM INCREASES EXPLOITATION

Leszek Kolakowski, Oxford, MAIN CURRENTS OF MARXISM, v1, 1978, p.334

If, instead of private ownership, the power to control the means of production and distribution is confined to a small ruling group uncontrolled by any measure of representative democracy, there will be not less exploitation but a great deal more.

MPP2-739 SOCIALISM UNDERMINES FREEDOM AND DEMOCRACY

Milton Friedman, Nobel Laureate in Economics, CAPITALISM AND FREEDOM, 1962, p.7-8

It is widely believed that politics and economics are separate and largely unconnected; that individual freedom is a political problem and material welfare an economic problem; and that any kind of political arrangement can be combined with any kind of economic arrangements. The chief contemporary manifestation of this idea is advocacy of "democratic socialism" by many who condemn out of hand the restrictions on individual freedom imposed by "totalitarian socialism" in Russia, and who are persuaded that it is possible for a country to adopt the essential features of Russian economic arrangements and yet to ensure individual freedom through political arrangements. The thesis of this chapter is that such a view is a delusion, that there is an intimate connection between economics and politics, that only certain combinations of political and economic arrangements are possible, and that in particular, a society which is socialist cannot also be democratic, in the sense of guaranteeing individual freedom.

MPP2-740 CENTRAL ECONOMIC PLANNING DESTROYS FREEDOM

Milton Friedman, Nobel Laureate in Economics, FREE TO CHOOSE, 1980, p.46

Wherever the state undertakes to control in detail the economic activities of its citizens, wherever, that is, detailed central economic planning reigns, there ordinary citizens are in political fetters, have a low standard of living, and have little power to control their own destiny.

MPP2-741 MARXISM DENIES INDIVIDUALISM AND DIVERSITY

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.79
Contemporary Marxism, following Marx's own lead, is also emphatic about denying a significant place to individuality and diversity to human social life. Marxists lament that the capitalist free market system rests on the ideal of "capitalist acts between consenting adults," as Robert Nozick put it. Such stress on an allegedly shallow and powerless type of "free" consent, just as the stress on privacy, ignores the supposed merits of the uniformity of members of society and acknowledges instead-if only implicitly-that diversity is morally acceptable. Even the more accidental individual differences (looks, talents, conditions, prospects, luck) are not objectionable public policy. With such self-developed traits as the virtues, individuality and the resulting qualitative differentiation among persons are deemed to be indispensable and politically meritorious.

MPP2-742 SOCIALISM AND DEMOCRACY ARE INCOMPATIBLE

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.25

Nobody saw more clearly than De Tocqueville that democracy as an essentially individualist institution stood in an irreconcilable conflict with socialism: "Democracy extends the sphere of individual freedom," he said in 1848; "socialism restricts it. Democracy attaches all possible value to each man; socialism makes each man a mere agent, a mere number. Democracy and socialism have nothing in common but one word: equality. But notice the difference: while democracy seeks equality in liberty, socialism seeks equality in restraint and servitude."

MPP2-743 DEMOCRACY IS ONLY POSSIBLE UNDER CAPITALISM

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.69-70

If "capitalism" means here a competitive system based on free disposal over private property, it is far more important to realize that only within this system is democracy possible. When it becomes dominated by a collectivist creed, democracy will inevitably destroy itself.

MPP2-744 PLANNING PROGRESSIVELY ERODES DEMOCRACY

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.67

Yet agreement that planning is necessary, together with the inability of democratic assemblies to produce a plan, will evoke stronger and stronger demands that the government or some single individual should be given powers to act on their own responsibility. The belief is becoming more and more widespread that, if things are to get done, the responsible authorities must be freed from the fetters of democratic procedure.

MPP2-745 SOCIALISM LEADS TO DICTATORSHIP

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.28

W.H. Chamberlin, who in twelve years in Russia as an American correspondent had seen all his ideals shattered, summed up the conclusions of his studies there and in Germany and Italy in the statement that "socialism is certain to prove, in the beginning at least, the road NOT to freedom, but to dictatorship and counter-dictatorships, to civil war of the fiercest kind. Socialism achieved and maintained by democratic means seems definitely to belong to the world of utopias."

MPP2-746 SOCIALISM IS SUPER-FASCIST

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.27

Even communists must have been somewhat shaken by such testimonies as that of Max Eastman, Lenin's old friend, who found himself compelled to admit that "instead of being better, Stalinism is worse than fascism, more ruthless, barbarous, unjust, immoral, anti-democratic, unredeemed by any hope or scruple," and that it is "better described as superfascist"; and when we find the same author recognizing that "Stalinism is socialism, in the sense of being an inevitable although unforeseen political accompaniment of the nationalization and collectivization which he had relied upon as part of his plan for erecting a classless society," his conclusion clearly achieves wider significance.

MPP2-747 FASCISM IS MERELY MIDDLE CLASS SOCIALISM

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.116

There is a great deal of truth in the often heard statement that fascism and National Socialism are a sort of middle-class socialism--only that in Italy and Germany the supporters of these new movements were economically hardly a middle class any longer. It was to a large extent a revolt of a new underprivileged class against the labor aristocracy which the industrial labor movement had created.

MPP2-748 ALL FORMS OF COLLECTIVISM ARE NECESSARILY TOTALITARIAN

Friedrich Hayek, economist, *THE ROAD TO SERFDOM*, 1944, p.56-7

The various kinds of collectivism, communism, fascism, etc., differ among themselves in the nature of the goal toward which they want to direct the efforts of society. But they all differ from liberalism and individualism in wanting to organize the whole of society and all its resources for this unitary end and in refusing to recognize autonomous spheres in which the ends of the individuals are supreme. In short, they are totalitarian in the true sense of this new word which we have adopted to describe the unexpected but nevertheless inseparable manifestations of what in theory we call collectivism.

MPP2-749 COMMUNISM IS INHERENTLY NATIONALISTIC

Peter Zwick, Professor of Political Science - LSU, *NATIONAL COMMUNISM*, 1983, p.221

Communism is and always has been national communism. Every International communist organization from the Communist League to Comecon has been characterized by national differences. Every communist party has formulated policies and practices in conformity with national conditions.

MPP2-750 COMMUNISM WILL ALWAYS REMAIN NATIONALISTIC

Peter Zwick, Professor of Political Science - LSU, NATIONAL COMMUNISM, 1983, p.230

The myth of monolithic communism has been perpetrated by Marxists who have tried to use communist ideology as a means to extend their own nations' power, as well as by anticommunists who have tried to use the threat of communism to enhance the power of their nations. That myth will become increasingly less tenable with the growing realization that communism has been, is, and always will be national communism.

MPP2-751 MARXISM HAS NO UNIQUE INSIGHT INTO WORLD THREATENING PROBLEMS

Robert Heilbroner, economist, MARXISM: FOR AND AGAINST, 1980, p.137

It is a sobering counterpoint to those who would like to find a guide to the future in Marx's laws of motion, that the three most likely causes for seismic disturbance in the next century--population pressure, nuclear armaments, and the threats of environmental disaster--were wholly unforeseen by Marx or his followers, as well as by conventional social observers; and that Marxists are as unable as anyone else to explain or project the forces of nationalism that will have to cope with these seismic disturbances.

MPP2-752 INDUSTRIALISM, NOT CAPITALISM, IS THE SOURCE OF MOST PROBLEMS

Robert Heilbroner, economist, BUSINESS CIVILIZATION IN DECLINE, 1976, p.58

This last consideration brings us to the final--and I think firmest--generalization that can be risked with respect to problems of the middle future. It is that its problems are at least as much rooted in the nature of industrial society as they are rooted in capitalism proper.

MPP2-753 SOCIALISM DOESN'T SOLVE ECOLOGICAL PROBLEMS

Arthur Schlesinger, historian, THE PERSONAL EXPERIENCE OF TIME, 1977, p.285

The crises we are living through are the crises of modernity. Every nation, as it begins to reach a comparable stage of technical development, will undergo comparable crises--whatever their system of ideology or ownership. If anyone supposes that communism, for example, will solve the ecological crisis, let him swim in the waters of Lake Baikal.

MPP2-754 CAPITALISM CONSISTENT WITH LIMITS TO GROWTH

Emile Benoit, Columbia economist, PROGRESS AND SURVIVAL, 1980, p.111

While capitalists (and others) might prefer a continuance of unrestricted growth, once it is determined that this would be incompatible with the interests (indeed the survival) of the society in the long run, capitalism could function quite well under a set of guidelines intended to promote dynamic equilibrium. Capitalism functioned quite successfully in wartime when there was little growth in the private sector and the product mix was subject to rapid change.

MPP2-755 SOCIALISM DOESN'T IMPROVE WORKING CONDITIONS

Robert Heilbroner, economist, MARXISM: FOR AND AGAINST, 1980, p.155

The monotonous, often dangerous and dirty, high-speed processes of mining, manufacture, and transportation--not to mention the tedium of administration--differ little from capitalist to socialist nations, allowance being made for the level of general development from which each nation begins.

MPP2-756 SOCIALISM'S ABILITY TO OVERCOME ALIENATION REMAINS UNPROVEN

Robert Heilbroner, economist, MARXISM: FOR AND AGAINST, 1980, p.156

The continuing hope of socialism rests with Marx's conviction that mankind's inescapable labor can become the means of its self-expression, not of its self-imprisonment. Whether or not history will justify this central faith of Marxism is a matter that we will not know for a long time.

MPP2-757 SOCIALISM WORSENS RACIAL AND RELIGIOUS PREJUDICE

Friedrich Hayek, economist, THE ROAD TO SERFDOM, 1944, p.104

Who can seriously doubt that a member of a small racial or religious minority will be freer with no property so long as fellow-members of his community have property and are therefore able to employ him, than he would be if private property were abolished and he became owner of a nominal share in the communal property.

MPP2-758 SOVIET COMMUNISM SUPPRESSES MINORITIES

Sen Proxmire, CR, Oct 10, 1984, p.S13979

The Soviet regime has engaged in cultural annihilation as well as physical elimination in its efforts to suppress national or religious or ethnic identifications.

MPP2-759 SOVIET COMMUNISM HAS MURDERED MILLIONS

Sen Proxmire, CR, Oct 10, 1984, p.S13979

From the beginning of the Communist revolution through the Stalin purges and the Gulag of today, the Soviet regime has murdered millions of its own citizens--some, because they were political dissidents, others, because of their ethnic, religious, or racial background; and countless innocents, for no apparent reason.

MPP2-760 THIRTY MILLION DIED IN CHINA'S "GREAT LEAP FORWARD"

Sen Goldwater, CR, Oct 9, 1984, pS13956

What about the enormous loss of life suffered in mainland China during the so-called "Great Leap Forward" from 1958 through 1961. Thirty million Chinese people died and 37 million births were prevented because of the widespread starvation and malnutrition of the entire population resulting from official policies of the Communist regime.

MPP2-761 SOCIALISM HASN'T DECREASED INEQUALITY

Friedrich Hayek, economist, THE ROAD TO SERFDOM, 1944, p.103

It is probable that we habitually overestimate the extent to which inequality of incomes is mainly caused by income derived from property, and therefore the extent to which the major inequalities would be abolished by abolishing income from property. What little information we have about the distribution of incomes in Soviet Russia does not suggest that the inequalities are substantially smaller there than in a capitalist society.

MPP2-762 SOCIALISM PERPETUATES INEQUALITY

Friedrich Hayek, economist, THE ROAD TO SERFDOM, 1944, p.154

Even the striving for equality by means of a directed economy can result only in an officially enforced inequality—an authoritarian determination of the status of each individual in the new hierarchical order.

MPP2-763 HISTORY CONFIRMS THE REPEATED FAILURES OF SOCIALISM

Robert Heilbroner, Professor of Economics, New School for Social Research NY, MARXISM: FOR AND AGAINST, 1980, p.142

Beyond the Soviet Union is the disappointment of Cuba, or Yugoslavia, both repressive and authoritarian, if relatively benign, dictatorships by the admission of their own leaders. Beyond Cuba lies China, under Mao Zedong one of the most extraordinary examples of personal theocracy and mass "thought control" in history. And on the fringe lie the atrocities and mockeries of "socialism"—all invoking the name of Marx—that we find in Albania, Cambodia, local African movements, and among terrorist groups.

MPP2-764 FEMINIST JURISPRUDENCE IS THE ANALYSIS OF LAW AS A PATRIARCHAL

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.3

The rejection of patriarchy is the one point on which all feminists agree. It is also apparently a distinguishing feature of feminism as a school of thought, as no other school of thought focuses on the critique of institutions and attitudes as patriarchal. Only feminism analyzes the patriarchal origin, nature, and effects of human attitudes, concepts, relations, and institutions and criticizes them on that ground. So we might take as a reasonable working definition that feminist jurisprudence is the analysis and critique of law as a patriarchal institution.

MPP2-765 FEMINIST ANALYSIS IS RELEVANT TO ALL AREAS OF LAW

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.4

But feminist analysis is appropriate to any area, concepts, relations, and institutions of law, and many legal theorists offer feminist critiques of standard legal categories such as contracts, property, and tort law. Clearly, the issues covered by feminist jurisprudence are as wide ranging as the areas covered by law.

MPP2-766 FEMINISM PROVIDES A DISTINCTIVE PERSPECTIVE

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.8-9

The acceptance of diversity within feminism has led some critics (and even some feminists) to contend that there is therefore no common feminist perspective. There is no point of view of all women. Feminism can be reduced to those theories that inform its many facets. Liberal feminism is reducible to liberalism; postmodern feminism is reducible to postmodernism; and so on. Thus, it is claimed, feminism provides no new idea, no new theory. It is simply the application of old theories to the particular problem of women's oppression. This objection is mistaken, however, for several reasons. First even if it were true of some views (such as liberal feminism or Marxist feminism), it cannot be true of radical feminism, because the centerpiece of radical feminism is the structure of gender or sexual identity itself. Radical feminism starts with the idea of sexism as gender, the idea that gender is socially constructed within a hierarchy that embodies male domination and female subordination. Everything else flows from that. One may agree or disagree with this idea, but it cannot be reduced to another theory.

MPP2-767 FEMINIST JURISPRUDENCE OFFERS THE BASIS FOR AN INTELLECTUALLY STIMULATING CRITIQUE OF LAW

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.10

Because of this, feminist jurisprudence has the potential to offer some of the most intellectually stimulating critiques of legal structures today, and this would be much more readily recognized if it were not so politically and socially frightening. That is the problem with revolutionary critique: It is revolutionary. This means, first, that it is hard to understand or else to take seriously. Revolutionary external critique may sound strange, heretical, irrational, or silly because it starts from a different set of basic assumptions. The most difficult thing in the world for two people (let alone a group of people) to discuss reasonably are differing basic assumptions. They need some common ground to begin the discussion. So the first problem is just to understand the critique or to be able to take it seriously. The elimination of patriarchy would constitute a cultural revolution at least as profound as the Copernican revolution, the Protestant revolution, or the Industrial Revolution. Could anyone living before these revolutions imagine what life or human thought would be like after them? The first response to early feminism was ridicule. People could not imagine the status or role of women being different from what it always had been.

MPP2-768 CHANGE REQUIRES AND CAN SUCCEED WITH A NEW JURISPRUDENCE

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.249

Equality will require change, not reflection - a new jurisprudence, a new relation between life and law. Law that does not dominate life is as difficult to envision as a society in which men do not dominate women, and for the same reasons. To the extent feminist law embodies women's point of view, it will be said that its law is not neutral. But existing law is not neutral. It will be said that it undermines the legitimacy of the legal system. But the legitimacy of existing law is based on force at women's expense. Women have never consented to its rule - suggesting that the system's legitimacy needs repair that women are in a position to provide. It will be said that feminist law is special pleading for a particular group and one cannot start that or where will it end. But existing law is already special pleading for a particular group, where it has ended. The question is not where it will stop, but whether it will start for any group but the dominant one. It will be said that feminist law cannot win and will not work. But this is premature. Its possibilities cannot be assessed in the abstract but must engage the world. A feminist theory of the state has barely been imagined; systematically, it has never been tried.

MPP2-769 SEEING GENDER AS DOMINANCE DISCREDITS THE PATRIARCHY

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.243

If the shift in perspective from gender as difference to gender as dominance is followed, gender changes from a distinction that is ontological and presumptively valid to a detriment that is epistemological and presumptively suspect. The given becomes the contingent.

MPP2-770 ONLY FEMINIST JURISPRUDENCE PROPERLY RECOGNIZES MALE POWER

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.249

Only feminist jurisprudence sees that male power does exist and sex equality does not, because only feminism grasps the extent to which antifeminism is misogyny and both are as normative as they are empirical. Masculinity then appears as a specific position, not just the way things are, its judgments and partialities revealed in process and procedure, adjudication and legislation.

MPP2-771 INEQUALITY IS A MATTER OF POWER

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.242

Inequality is a matter not of sameness and difference, but of dominance and subordination. Inequality is about power, its definition, and its maldistribution. Inequality at root is grasped as a question of hierarchy, which - as power succeeds in constructing social perception and social reality - derivatively becomes categorical distinctions, differences. Where mainstream equality law is abstract, this approach is concrete; where mainstream equality law is falsely universal, this approach remains specific. The goal is not to make legal categories that trace and trap the status quo, but to confront by law the inequalities in women's condition in order to change them.

MPP2-772 RECOGNIZING THE POWER BASIS OF SEXUAL INEQUALITY EXPOSES THE UNDERLYING CAUSES OF OPPRESSION

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.242-3

This alternate approach centers on the most sex-differential abuses of women as a gender, abuses that sex equality law in its sameness/ difference obsession cannot confront. It is based on the reality that feminism, beginning with consciousness raising, has most distinctively uncovered, a reality about which little systematic was known before 1970: the reality of sexual abuse. It combines women's sex based destitution and enforced dependency and permanent relegation to disrespected and starvation-level work-the lived meaning of class for women--with the massive amount of sexual abuse of girls apparently endemic to the patriarchal family, the pervasive rape and attempted rape about which nothing is done, the systematic battery of women in homes, and prostitution - the fundamental condition of women of which the pornography industry is an arm. Keeping the reality of gender in view makes it impossible to see gender as a difference, unless this subordinated condition of women is that difference. This reality has called for a new conception of the problem of sex inequality, hence a new legal conception of it, both doctrinally and jurisprudentially.

MPP2-773 CONSENSUS ACCEPTS THE EXISTENCE OF PATRIARCHY

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.3

Virtually everyone agrees that the world is, in fact, patriarchal; that is, human societies have always been organized in a hierarchical structure that subordinates women to men. This is simply the observation of a social fact. Until recently it was virtually impossible to imagine the world any other way, and even now a great many men and women think that patriarchy is good, natural, or inevitable. Feminists think that patriarchy (the subjugation of women) is not good, not ordained by nature, and not inevitable.

MPP2-774 OBJECTIVE LAW REINFORCES MALE DOMINATION

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.239

So long as power enforced by law reflects and corresponds-in form and in substance to power enforced by men over women in society, law is objective, appears principled, becomes just the way things are. So long as men dominate women effectively enough in society without the support of positive law, nothing constitutional can be done about it.

MPP2-775 LAW FAILS TO PROTECT THE INTERESTS OF WOMEN

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.239

Structurally, only when the state has acted can constitutional equality guarantees be invoked. But no law gives men the right to rape women. This has not been necessary, since no rape law has ever seriously undermined the terms of men's entitlement to sexual access to women. No government is, yet, in the pornography business. This has not been necessary, since no man who wants pornography encounters serious trouble getting it, regardless of obscenity laws. No law gives fathers the right to abuse their daughters sexually. This has not been necessary, since no state has ever systematically intervened in their social possession of and access to them. No law gives husbands the right to batter their wives. This has not been necessary, since there is nothing to stop them.

MPP2-776 JUDICIAL RESTRAINT, PRECEDENT, AND SEPARATION OF POWERS ALL REINFORCE HIERARCHY

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.238

From a feminist perspective, male supremacist jurisprudence erects qualities valued from the male point of view as standards for the proper and actual relation between life and law. Examples include standards for scope of judicial review, norms of judicial restraint, reliance on precedent, separation of powers, and the division between public and private law. Substantive doctrines like standing, justifiability, and state action adopt the same stance. Those with power in civil society, not women, design its norms and institutions, which become the status quo. Those with power, not usually women, write constitutions, which become law's highest standards.

MPP2-777 RULE OF LAW INSTITUTIONALIZES MALE POWER

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.238

Discrimination in society becomes nondiscrimination in law. Law is a real moment in the social construction of these mirror-imaged inversions as truth. Law, in societies ruled and penetrated by the liberal form, turns angle of vision and construct of social meaning into dominant institution. In the liberal state, the rule of law-neutral, abstract, elevated, pervasive--- both institutionalizes the power of men over women and institutionalizes power in its male form.

MPP2-778 GENDER IS A SOCIAL CONSTRUCT REINFORCED BY LAW

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.237

In life, "woman" and "man" are widely experienced as features of being, not constructs of perception, cultural interventions, or forced identities. Gender, in other words, is lived as ontology, not as epistemology. Law actively participates in this transformation of perspective into being. In liberal regimes, law is a particularly potent source and badge of legitimacy, and site and cloak of force. The force underpins the legitimacy as the legitimacy conceals the force. When life becomes law in such a system, the transformation is both formal and substantive. It reenters life marked by power.

MPP2-779 RECOGNIZING LAW AS PATRIARCHAL IS A FUNDAMENTAL INSIGHT

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.9

Nonetheless, one can argue that if the entire project of feminist jurisprudence is to show that law is patriarchal, it is not intellectually very interesting. How can an entire jurisprudence be supported by the single ground of rejecting patriarchy? But this is a political position, one may contend, not a philosophical one. The problem with this objection is that it assumes that the recognition and rejection of patriarchy is a small point, when in fact it is a revolutionary one. Likewise, noting that the world is not flat but round is a small point in the sense that it can be stated in a brief and simple sentence, and it is not philosophical in the sense that it is the observation of an empirical fact. But in another sense, it changes everything. Its implications are profound, and exploring some of those implications is of great philosophical interest, and so it is with the rejection of patriarchy.

MPP2-780 LAW IS DESIGNED TO REINFORCE PATRIARCHY

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.13

Although the law presumes itself to be neutral, feminists argue that the law is not neutral. On the contrary, it is patriarchal, as it embodies the worldview of patriarchy that systematically subordinates women. It uncritically assumes a traditional male standard of what is normal. This is the problem illustrated in workplace norms that ignore the needs of families, or in attitudes toward rape and sexual harassment that define the offense from the perspective of the perpetrator rather than the victim and then try the victim rather than the accused. Many other examples could be given. Law is built on a worldview that presupposes patriarchy as normal, which means that law-the entire legal system-is based on the presumption that men and women are not equal and that women are subordinate to men. And this means that law is not neutral, that it supports a particular, traditional way of life that is now being called into question and that feminists claim is unjust.

MPP2-781 LAW ISN'T NEUTRAL, SO "IMPARTIAL" PROCEDURES ARE BIASED

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.13-4

The impartial application of biased procedures to all cases, however, is a questionable practice. Feminists have made practical suggestions for enhancing the possibility of impartiality on the part of judges, by recognizing the nonneutrality of law and enlisting views that often go unheard. If feminists are right that law is not neutral, then it is not reasonable or just to adhere to old legal methods that limit what counts as a cause of action, what and who can be considered, who can be heard, what can be thought, and what counts as a legal judgment. New methods of legal reasoning must be advanced that can open up the process to provide truly equal access and genuinely equal consideration for all.

MPP2-782 PRECEDENTS WERE FORMED IGNORING WOMEN'S INTERESTS

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.238

Lines of precedent fully developed before women were permitted to vote, continued while women were not allowed to learn to read and write, sustained under a reign of sexual terror and abasement and silence and misrepresentation continuing to the present day are considered valid bases for defeating "unprecedented" interpretations or initiatives from women's point of view.

MPP2-783 PRECEDENTIAL REASONING REINFORCES PATRIARCHY

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.13

This raises the question of what law should do--or what law can do--to address the systemic injustice, the comprehensive bias built into legal, social, and political institutions from the beginning of human association. Obviously, precedent cannot be used to correct it. If patriarchy (or the subordination of women) is now considered unjust (which, of course, many traditionalists would dispute) and the entire legal system is and has always been patriarchal, how can law address this problem? How can law correct its own bias if the bias is systemic? Feminist jurisprudence responds to this question. But it is clear that standard, narrow notions of adjudication cannot deal with systemic injustice because narrow notions of legal reasoning and judicial review preclude the evaluation of the system itself. Judges, it is claimed, are supposed to work within the system, not evaluate it.

MPP2-784 LEGAL OBJECTIVITY IS A MALE PERSPECTIVE

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.248

If objectivity is the epistemological stance of which women's sexual objectification is the social process, its imposition the paradigm of power in the male form, then the state appears most relentless in imposing the male point of view when it comes closest to achieving its highest formal criterion of distanced objectivity. When it is most ruthlessly neutral, it is most male; when it is most sex blind, it is most blind to the sex of the standard being applied. When it most closely conforms to precedent, to "facts," to legislative intent, it most closely enforces socially male norms and most thoroughly precludes questioning their content as having a point of view at all.

MPP2-785 LEGAL LIBERALISM AND THE OBJECTIVE STANDARD REINFORCES HIERARCHY

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.237

In male supremacist societies, the male standpoint dominates civil society in the form of the objective standard-that standpoint which, because it dominates in the world, does not appear to function as a standpoint at all. Under its aegis, men dominate women and children, three-quarters of the world. Family and kinship rules and sexual mores guarantee reproductive ownership and sexual access and control to men as a group. Hierarchies among men are ordered on the basis of race and class, stratifying women as well. The state incorporates these facts of social power in and as law. Two things happen: law becomes legitimate, and social dominance becomes invisible. Liberal legalism is thus a medium for making male dominance both invisible and legitimate by adopting the male point of view in law at the same time as it enforces that view on society.

MPP2-786 REASON AND ABSTRACT THEORY REPRESENT MALE PERSPECTIVES

Patricia Smith, Professor of Philosophy, University of Kentucky, FEMINIST JURISPRUDENCE, 1993, p.6

Furthermore, some feminists deny altogether the usefulness of general theories in their traditional form. This skepticism or denial of the utility of theory, at least "Grand Theory," is commonly associated with a loose collection of views often called postmodern or French feminism. The term French feminism originated from the fact that most of the early contributors were French (e.g., Helene Cixous and Luce Irigaray) and that most follow the work of French thinkers associated with the postmodern movement, such as Jacques Derrida, Jacques Lacan, and Jean-Francois Lyotard. In law and jurisprudence, this approach is associated with a movement called critical legal studies, with which many postmodern feminists are closely associated. Like most postmodern thinkers, these feminists deny that categorical, abstract theories derived through reason and assumptions about the essence of human nature can serve as the foundation of knowledge. They call such ambitious theorizing phallogocentric, meaning that it is centered on an absolute word (logos) that reflects a male perspective (phallus). They claim that it is a male approach to believe that a single answer or a single truth can be found that will organize all issues and lead to a single reformative strategy. Above all, postmodern feminism is critical. Often following Derrida, many postmodern feminists use techniques of deconstruction to expose the internal contradictions of apparently coherent systems of thought. This has been a useful method of debunking patriarchal structures of thought and social organization, including law. Other postmodern feminists, following Lacan, are interested in reinterpreting traditional Freudian psychoanalysis, with all its implications for biological determinism and the subordination of women.

MPP2-787 RIGHTS PROTECT MALE DOMINANCE

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.244-5

The next step is to recognize that male forms of power over women are affirmatively embodied as individual rights in law. When men lose power, they feel they lose rights. Often they are not wrong. Examples include the defense of mistaken belief in consent in the rape law which legally determines whether or not a rape occurred from the rapists' perspective; freedom of speech, which gives pimps rights to torture, exploit, use, and sell women to men through pictures and words, and gives consumers rights to buy them; the law of privacy, which defines the home and sex as presumptively consensual and protects the use of pornography in the home; the law of child custody, which purports gender neutrality while applying a standard of adequacy of parenting based on male-controlled resources and male-defined norms, sometimes taking children away from women but more generally controlling women through the threat and fear of loss of their children. Real sex equality under law would qualify or eliminate these powers of men, hence men's current "rights" to use, access, possess, and traffic women and children.

MPP2-788 THE FIRST AMENDMENT DOESN'T BENEFIT WOMEN

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.239

No law silences women. This has not been necessary, for women are previously silenced in society-by sexual abuse, by not being heard, by not being believed, by poverty, by illiteracy, by a language that provides only unspeakable vocabulary for their most formative traumas, by a publishing industry that virtually guarantees that if they ever find a voice it leaves no trace in the world.

MPP2-789 FIRST AMENDMENT PROTECTION OF PORNOGRAPHY SILENCES WOMEN

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.247

In liberal legalism, pornography is said to be a form of freedom of speech. It seems that women's inequality is something pornographers want to say, and saying it is protected even if it requires doing it. Being the medium for men's speech supersedes any rights women have. Women become men's speech in this system. Women's speech is silenced by pornography and the abuse that is integral to it. From women's point of view, obscenity law's misrepresentation of the problem as moral and ideational is replaced with the understanding that the problem of pornography is political and practical.

MPP2-790 PORNOGRAPHY UNIVERSALIZES THE VIOLATION OF WOMEN

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.246-7

Pornography, the technologically sophisticated traffic in women that expropriates, exploits, uses, and abuses women, also becomes a sex equality issue. The mass production of pornography universalizes the violation of the women in it, spreading it to all women, who are then exploited, used, abused, and reduced as a result of men's consumption of it. In societies pervaded by pornography, all women are defined by it: this is what a woman wants, this is what a woman is. Pornography sets the public standard for the treatment of women in private and the limits of tolerance for what can be permitted in public, such as in rape trials. It sexualizes the definition of male as dominant and female as subordinate. It equates violence against women with sex and provides an experience of that fusion. It engenders rape, sexual abuse of children, battery, forced prostitution, and sexual murder.

MPP2-791 FREE SPEECH VIOLATES FEMINIST INTERESTS

Catharine MacKinnon, Law Professor-University of Michigan, THE FIRST AMENDMENT: A READER, 1992, p.72

What I think is that people who are absolutely interested in the First Amendment should turn their efforts to getting speech for people, like women, who have been denied that speech almost entirely, who have not been able to speak or to get themselves heard. Understanding free speech as an abstract system is a liberal position. Understanding how speech also exists within a substantive system of power relations is a feminist position.

MPP2-792 THE MARKET IS FLAWED BECAUSE ALL LACK EQUAL ACCESS

Catharine MacKinnon, Law Professor-University of Michigan, THE FIRST AMENDMENT: A READER, 1992, p.72

The First Amendment absolutist position is very different from this position. Absolutism supposes that we all have an equal interest in the marketplace of ideas it supposedly guarantees. This is not the case for women. First of all, the marketplace of ideas is literal: those with the most money can buy the most speech, and women are poor. Second, protecting pornographers, as the First Amendment now does, does not promote the freedom of speech of women. It has not done so. Pornography terrorizes women into silence. Pornography is therefore not in the interest of our speech. We do not, as women, have the stake in the existing system we have been said to have.

MPP2-793 FREE SPEECH TERRORIZES WOMEN

Catharine MacKinnon, Law Professor-University of Michigan, THE FIRST AMENDMENT: A READER, 1992, p.73

So while the First Amendment supports pornography, believing that consensus and progress are facilitated by allowing all views, however divergent and unorthodox, it fails to notice that pornography (like the racism, in which I include anti-Semitism, of the Nazis and Klan) is not at all divergent or unorthodox. It is the ruling ideology. Feminism, the dissenting view, is suppressed by pornography. Thus, while defenders of pornography argue that allowing all speech, including pornography, frees the mind to fulfill itself, normalizing the terror that enforces silence from women's point of view.

MPP2-794 THE FIRST AMENDMENT CHILLS WOMEN'S SPEECH

Catharine MacKinnon, Law Professor-University of Michigan, *THE FIRST AMENDMENT: A READER*, 1992, p.73

To liberals, speech must never be sacrificed for other social goals. But liberalism has never understood that the free speech of men silences the free speech of women. It is the same social goal, just other people. That is what a real inequality, real conflict, a real disparity in social power looks like. The law of the First Amendment comprehends that freedom of expression, in the abstract, is a system, but it fails to comprehend that sexism (and racism), in the concrete, are also systems. That pornography chills women's expression is difficult to demonstrate empirically because silence is not eloquent. Yet on no more of the same kind of evidence, the argument that suppressing pornography might chill legitimate speech has supported its protection.

MPP2-795 PRIVACY DOESN'T BENEFIT WOMEN

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.239

No law takes away women's privacy. Most women do not have any to take, and no law gives them what they do not already have. No law guarantees that women will forever remain the social unequals of men. This is not necessary, because the law guaranteeing sex equality requires, in an unequal society, that before one can be equal legally, one must be equal socially.

MPP2-796 LIBERAL FEMINISM FAILS TO FACE THE REALITY OF WOMEN'S CONDITION

Catharine MacKinnon, Professor of Law, University of Michigan, *TOWARD A FEMINIST THEORY OF THE STATE*, 1989, p.241

Inequality on the basis of sex, women share. It is women's collective condition. The first task of a movement for social change is to face one's situation and name it. The failure to face and criticize the reality of women's condition, a failure of idealism and denial, is a failure of feminism in its liberal forms.

MPP2-797 LIBERAL FEMINISM CAN'T SOLVE PATRIARCHY

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.5

Radical feminists believe that neither the classical nor the modern liberal view adequately explains women's oppression or provides effective solutions to it. Changing economic structures, eliminating political and educational barriers, and even socializing children will not abolish the subjugation of women so long as society is organized in a patriarchal system. Patriarchy is so pervasive that it structures our thoughts and attitudes, our assumptions and basic institutions, including the family and church. The only way to change the position of women is to change the way we think about gender itself, to reexamine our assumptions about our nature and relations to others. Although radical feminist views vary widely, most do focus on some aspect of the effect that biology has on women's psychology, their lives and their status, to recognize good effects as valuable and to overcome negative ones.

MPP2-798 EQUALITY REQUIRES THE SOCIAL RECONSTRUCTION OF GENDER

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.5

Overall, in the most general terms, the focus of radical feminism is on the domination of women by men through the social construction of gender within patriarchy. For them the solution to the oppression of women is to reverse the institutional structures of domination and to reconstruct gender, thereby eliminating patriarchy.

MPP2-799 LEGAL EQUALITY ISN'T ENOUGH

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.12

Because formal barriers (at least the most obvious ones) have, for the most part, been removed-women can vote, hold office, attend college, participate in business, own property, execute contracts, and so forth-many people think that legal equality has been achieved. So, discrepancies in accomplishments-the wage gap, for example-must be explained by differences in abilities or by social factors that are beyond the purview of law. But the chapters in this volume show that this view is premature. Law is affected by patriarchy in many subtle ways that have not yet been eradicated by the simple change of some obvious sexist barriers like the prohibition of women from voting or owning property. Patriarchy is an all-encompassing worldview, and as an institution of patriarchy, law reflects that worldview as well.

MPP2-800 GENDER FEMINISM RELIES ON FOUCAULT'S THEORY OF POWER

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.232

Foucault promulgated his doctrine of self-surveillance in the mid-seventies. By the mid-eighties, it had turned up in the books of feminist theorists; by the nineties, it had become thematic in feminist best-sellers. Wolf mentions Foucault in her bibliography. Faludi offers him no acknowledgment, but her characterization of the backlash bespeaks his influence.

MPP2-801 FOUCAULT IS ANTIDEMOCRATIC

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.229

Michel Foucault, a professor of philosophy at the distinguished College de France and an irreverent social thinker who felt deeply alienated from the society in which he lived, introduced his theory of interior disciplines in 1975. His book Discipline and Punish, with its novel explanation of how large groups of people could be controlled without the need of exterior controllers, took intellectual Paris by storm. Foucault had little love for the modern democratic state. Like Marx, he was interested in the forces that keep citizens of democracies law-abiding and obedient.

MPP2-802 FOUCAULT'S THEORY OF POWER CAN NOT DISTINGUISH BETWEEN DEMOCRACY AND TOTALITARIANISM

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.230

How seriously can one take Foucault's theory? Not very, says Princeton political philosopher Michael Walzer, who characterizes Foucault's politics as "infantile leftism." Foucault was aware that he was equating modern democracies with repressively brutal systems like the Soviet prison camps in the Gulag. In a 1977 interview, he showed some concern about how his ideas might be interpreted: "I am indeed worried by a certain use . . . which consists in saying, 'Everyone has their own Gulag, the Gulag is here at our door, in our cities, our hospitals, our prisons, it's here in our heads.'" But, as Walzer points out, so long as Foucault rejected the possibility of individual freedom, which is the moral basis for liberal democracy, it was unclear how he could sustain the distinction between the real Gulag and the one inside the heads of bourgeois citizens.

MPP2-803 PORNOGRAPHY IS JUSTIFIED BY RIGHTS OF MORAL INDEPENDENCE

Jan Narveson, University of Waterloo Philosopher, THE LIBERTARIAN IDEA, 1988, p.290

Far from clearly harming nonconsenting parties on the face of it, as do murder, arson, theft, and so on, the viewing of pornography is engaged in only by consenting parties. That's not the end of it, of course, and we will consider the crucial matter of third party effects further below. Meanwhile, the other question is whether the fact that people consider it immoral is a proper ground of restriction. And that is another matter altogether, here the answer must surely be in the negative, again as far as it goes, for the good and very basic reasons inherent in our viewpoint. These have been well expressed by Ronald Dworkin in his well known essay, 'is There a Right to Pornography?' There he proposes, as the specific right relevant to such matters, the right of moral independence: 'not to suffer disadvantage in the distribution of social goods and opportunities, including disadvantage in the liberties permitted to them by the criminal law, just on the ground that their officials or fellow-citizens think that their opinions about the right way to lead their own lives are ignoble or wrong.'

MPP2-804 SEX IN ART IS PROTECTED BY A FREE SPEECH PRINCIPLE

Frederick Schauer, College of William and Mary Law Professor, FREE SPEECH: A PHILOSOPHICAL ENQUIRY, 1982, p.184
For similar reasons, depicting or describing sex in arts is covered by any Free Speech Principle that includes art, no matter how explicit the sexual depiction might be. If art is covered, then sexual art is covered as much as any other subject of artistic expression. The Free Speech Principle also covers the use of offensive words, even if those words have sexual connotations. The use of such words in political argument is now common, and they are equally prevalent in serious literature. People do not use the word 'Fuck' in order to provide sexual stimulation, and thus the arguments in the previous section of this chapter are wholly inapplicable.

MPP2-805 THE MACKINNON-DWORKIN STANDARD WOULD BAN THE BIBLE

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.342

The story I've just told you was clearly guilty of being pornographic under the Indianapolis ordinance, a civil rights statute aimed at material that cannot be prosecuted under obscenity statutes. Any woman in Indianapolis, if the courts had allowed the law to be enforced, could sue to have the book containing this story removed from the city. She could also ask the court to issue an injunction forbidding the appearance of this material in the city forevermore. And she could sue the publisher, the editor, the writer -- anyone in the chain of production -- for damages if she could prove that they knew this stuff pornographic under the city statute. A plaintiff could have some trouble collecting from the writer because the story is from Chapter 19 of the Book of Judges in the Old Testament.

MPP2-806 THE MACKINNON-DWORKIN STATUTE WOULD SUPPRESS MAJOR LIBRARY WORKS

Nat Hentoff WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.342-3

The scope of the material -- in all forms of expression -- that the MacKinnon-Dworkin guillotine would remove from all eyes was, as Thomas Emerson of Yale Law School put it, 'breathtaking.' During his years at Yale, Emerson became the nation's most lucid and challenging analyst of the First Amendment. In his commentary on the new censorship, Emerson noted that he agreed with MacKinnon that 'pornography plays a major part in establishing and maintaining male supremacy in our society.' But, Emerson asks, is the solution to the harm done by pornography a law so 'newly limitless' in its scope that it 'would outlaw a substantial portion of the world's literature'? Among the works Emerson cites as being tossed into the tumbrels if the courts were to affirm the Indianapolis ordinance were William Faulkner's SANCTUARY and those venerable novels whose court appearances we thought were finally over, Henry Miller's TROPIC OF CANCER and D.H. Lawrence's LADY CHATTERLY'S LOVER.

MPP2-807 MAINSTREAM ARTISTIC EXPRESSION WOULD BE SUPPRESSED BY THE STATUTE

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.343

During the court battle in the US District Court for the Southern District of Indiana, the American Civil Liberties Union and the Indiana ACLU filed a joint amicus brief. It included a very small sampling of what works would be banned under the Indianapolis ordinance. Among them: Nabokov's *LOLITA*, Petronius's *SATYRICON*, Fielding's *TOM JONES*, and Bericault's *A NUDE BEING TORTURED*. The Amicus brief also spoke of film scenes that would be stopped at the borders of any cities adopting this legislation: '...the shower scene in *PSYCHO*, the sexual subordination and debasement in *SEVEN BEAUTIES*, the dramatization of Jack the Ripper in *THE RULING CLASS* and *TIME AFTER TIME*, the rape scenes in *LOOKING FOR GOODBAR*...domestic violation and domination in *THE GODFATHER*...'

MPP2-808 THE MACKINNON-DWORKIN STATUTE LIMITS MEDICAL & SCHOLARLY WORKS

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.343-4

The ACLU court papers went on to point out that 'On its face the ordinance would prohibit much clinical sexual literature, from medical texts and scholarly studies to popularized works of sociology...' Farfetched? Well, said the ACLU, 'Since the key operative term, sexual subordination, is inherently vague...individuals who object imply to the neutral scholarly presentation of such material as inevitably perpetuating a climate of subordination will be empowered to object to such material.' The 'linchpin of the ordinance' as the ACLU describes it, is the term subordination of women. To the writer of a book, the maker of a movie or a piece of sculpture who doesn't want to get banned in MacKinnon-Dworkin model cities, what kind of guideline is that term? What does it mean?

MPP2-809 THE MACKINNON-DWORKIN STATUTE WOULD CHILL SELF-EXPRESSION

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.344

When a statute is made out of fog, it fails to give, as the Supreme Court has said, 'the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.' That's not all idle destructive mischief that can be caused by vagueness in a law. There are no reasonably clear guidelines for the police and judges who have to enforce the law. The result is drumhead justice. Police and judges decide arbitrarily who gets taught a lesson. Moreover, the MacKinnon-Dworkin way of strangling pornography leads to epidemic self-censorship, should their standards ever be adopted. If you're unclear as to what you're forbidden to write or paint or film, you -- in the language of the Supreme Court -- 'steer far wider of the unlawful zone...than if the boundaries of the forbidden areas were clearly marked.'

MPP2-810 THE MACKINNON-DWORKIN ORDINANCE IS THOUGHT CONTROL

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.349-50

In 1985, the Seventh Circuit Court of Appeals also threw out the statute as unconstitutional. Judge Frank Easterbrook, a Reagan appointee, said it was not a very good idea to put 'the government in control...of which thoughts are good for us.' Easterbrook also noted: 'Under the ordinance, graphic sexually explicit speech is pornography or not depending on the perspective the author adopts. Speech that subordinates women and also, for example, presents women as enjoying pain, humiliation or rape, or even simply presents women in positions of servility or submission or display is forbidden, no matter how great the literary or political value of the work taken as a whole. 'Speech that portrays women in positions in equality is lawful, no matter how graphic the sexual content. This is thought control. It establishes an approved view of women, of how they may react to sexual encounters of how the sexes may relate to each other. Those who espouse the approved view may use sexual images; those who do not, may not.'

MPP2-811 PAST CENSORSHIP BLOCKED DISCUSSION OF BIRTH CONTROL & ABORTION

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.344

Keeping the boundaries of the forbidden areas imprecise has long been the delight of censors. Anthony Comstock, for instance, was responsible for the 1873 laws that bore his name and banned from the federal mails all publications of an obscene or otherwise indecent character. What did those terms mean? The Comstock laws did not say. Later amendments made the Comstock laws even vaguer by prohibiting from the mails any lewd and lascivious or filthy stuff anything with an indecent or immoral purpose. 'The definition,' historian William Preston has pointed out, 'was broad enough to exclude discussion of birth control, marriage counseling, and abortion for years.'

MPP2-812 IF WOMEN CAN CENSOR DISCRIMINATORY SPEECH SO CAN OTHER GROUPS

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.345-6

What the smiters of pornography ignore is that this kind of 'civil rights' relief cannot be limited to only one group. If the courts do eventually approve the MacKinnon-Dworkin theory, then many other groups with strong claims of being harmfully discriminated against in books, films, and television will also start using these statutes. They will sue for an injunction to have certain offensive material forever banned from a town or a city. They will bring suit for damages against anyone involved in the making and production of that material. As Cryss Farley, executive director of the Iowa Civil Liberties Union, says--with crunching logic--'Few would argue that sex discrimination, brutality against women, and oppression of women do not exist. Much in our culture also oppresses Indians, Hispanics, Asians, homosexuals, and others. Anti-Semitic literature is unarguably harmful to Jews, as is racist literature to blacks. Are we going to afford racial and ethnic minorities and religious minorities a similar civil right to suppress speech which denigrates these groups?' I know of black educators who would surely go after an injunction to ban HUCKLEBERRY FINN. I can think of some Jews who would finally take care of THE MERCHANT OF VENICE and OLIVER TWIST.

MPP2-813 EDUCATION BEST COUNTERS THE HARMS OF PORNOGRAPHY

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.346

Pally also quotes Drs. Edward Donnerstein, Daniel Linz (University of California), and Steven Penrod (University of Wisconsin) in a 1987 book, THE QUESTION OF PORNOGRAPHY: RESEARCH; FINDINGS, AND POLICY IMPLICATIONS. 'Should harsher penalties be leveled against persons who traffic in pornography, particularly violent pornography? We do not believe so. Rather, it is our opinion that the most prudent course of action would be the development of educational programs that would teach viewers to become more critical consumers of the mass media...The legal [punitive] course of action is more restrictive of personal freedoms than an educational approach...

MPP2-814 RESEARCH DOESN'T CONFIRM THAT PORNOGRAPHY CAUSES VIOLENCE

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME BUT NOT FOR THEE, 1992, p.346-7

In 1990, Donnerstein and Linz added: "Despite the Attorney General's Commission's report [the Meese Commission] that most forms of pornography have a causal relationship to sexually aggressive behavior we find it difficult to understand how this conclusion was reached. Most social scientists who testified before the commission were also cautious...when making statements about causal links between pornography and sexually aggressive behavior. Any reasonable view of the research would not come to the conclusion that...pornography conclusively results in antisocial effects.'

MPP2-815 PERSONAL BACKGROUND, NOT PORNOGRAPHY, IS KEY TO RAPE

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.347

The causes of rape and other violence against women are deeply rooted. Those women who believe that outlawing pornography will lessen violence against women might focus more on the family backgrounds and childhood experiences of violent males. Roland Johnson, a social worker at a Minnesota treatment center for adolescent rapists, pointed out that most of them 'have no exposure, or very little, to pornography.' More than 90 percent, however, were sexually abused as children. 'I don't think pornography has that much influence on those who rape,' Johnson said. 'More important is what's happened to them in the past.'

MPP2-816 EVERYTHING IS CAPABLE OF TRIGGERING SEXUAL VIOLENCE

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.348

In 1966, William O. Douglas, during a concurring opinion in A BOOK: NAMED 'JOHN CLELAND'S MEMOIRS OF A WOMAN OF PLEASURE' V ATTORNEY OF THE COMMONWEALTH OF MASSACHUSETTS, observed in a footnote that 'It would be a futile effort even for a censor to attempt to remove all that might possibly stimulate antisocial conduct.' Everything, and anything said Douglas, is capable of triggering violence, and he quoted from a study on the subject in the WAYNE LAW REVIEW, (1964): 'Heinrich Pommerenke, who was a rapist, abuser and a mass slayer of women in Germany was prompted to his series of ghastly deeds by Cecil B. DeMille's THE TEN COMMANDMENTS. During the scene of the Jewish women dancing about the Golden Calf, all the doubts of his life came clear: Women were the source of the world's trouble and it was his mission to both punish them for this and to execute them. "John George Haigh, the British vampire who sucked his victims' blood through soda straws and dissolved their drained bodies in acid baths, first had his murder inciting dreams and vampire-longings from watching the voluptuous procedure of--an Anglican High Church service.'

MPP2-817 NARROWING THE FIRST AMENDMENT TO PROTECT WOMEN WOULD DESTROY IT

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.349

Judge Barker noted that if free speech can be regulated on the basis of 'protecting women from humiliation and degradation,' other 'legislative bodies, finding support here,' could also act to suppress other degrading material on the ground that it discriminates against particular ethnic or religious groups, or the handicapped. The First Amendment, she pointed at, could hardly survive such mercilessly tenderhearted narrowing of protected speech.

MPP2-818 FEMINISM REQUIRES FREE EXPRESSION

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.352

In the various court battles, the most powerful brief to the Seventh Circuit Court of Appeals--against the MacKinnon position--was by the Feminist Anti-Censorship Task Force. Written by Nan Hunter, now a professor at Brooklyn Law School, it stated: 'The range of feminist imagination and expression in the realm of sexuality has barely begun to find voice. Women need the freedom and the socially recognized space to appropriate for themselves the robustness of what traditionally has been male language. Laws such as the one under challenge here would constrict that freedom...[W]e fear that as more women's writings and art on sexual themes emerge which is unladylike, unfeminine, aggressive, powercharged, pushy, vulgar, urgent, confident and intense, the traditional foes of women attempts to step out of their proper plate will find an effective tool of repression in the Indianapolis ordinance.'

MPP2-819 CENSORSHIP WOULD SNOWBALL TO FEMINIST WRITINGS

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.352

For the feminists, it is a perilous alliance. Harvard law professor Alan Dershowitz, writing about Andrea Dworkin's explicit sexual language in some of her works, tells us being in a debate with 'a fundamentalist minister who has joined forces with feminist censors in their war against pornography.' Dershowitz asked the minister 'whether he would, if he had the power, ban Dworkin's writings. He answered without hesitation: We would most certainly ban such ungodly writings.'

MPP2-820 FREE EXPRESSION HAS BEEN KEY TO THE EMERGENCE OF FEMINISM

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME -- BUT NOT FOR THEE, 1992, p.352-3

During the debate on the MacKinnon-Dworkin ordinance in Minneapolis, June Callwood, a prominent feminist, emphasized: "Mistrust of civil liberties reveals a lack of historical perspective. The freedom enjoyed by today's feminists owes everything to civil liberties groups who fought for the right of marginal organizations and minorities to disagree with the majority...Feminism and civil liberties are inextricable. The goal of both is a society in which individuals are treated justly. Civil libertarians who oppose censorship are fighting on behalf of feminists, not against them.'

MPP2-821 FREE SPEECH IS KEY TO THE FEMINIST MOVEMENT

Nat Hentoff, WASHINGTON POST Columnist, FREE SPEECH FOR ME--BUT NOT FOR THEE, 1992, p.355

In a response, a few years before to Catharine MacKinnon, Nan Hunter and New York University Law professor Sylvia Law said: 'Without free speech we can have no feminist movement. And if the anti-porn censorship is enacted, it is the right-wing packed courts...who will decide what materials are printable in the United States.'

MPP2-822 REPUDIATING RIGHTS IS A LUXURY OF THE PRIVILEGED

Catharine MacKinnon, Professor of Law, University of Michigan, TOWARD A FEMINIST THEORY OF THE STATE, 1989, p.xiii-xiv.

This book is not an idealist argument that law can solve the problems of the world or that if legal arguments are better made, courts will see the error of their ways. It recognizes the power of the state and the consciousness- and legitimacy-conferring power of law as political realities that women ignore at their peril. It recognizes the legal forum as a particularly but not singularly powerful one. It does not advance a critique of "rights" per se but of their form and content as male, hence exclusionary and limited and limiting. It is one thing for upper-class white men to repudiate rights as intrinsically liberal and individualistic and useless and alienating; they have them in fact even as they purport to relinquish them in theory. It is another to reformulate the relation between life and law on the basis of the experience of the subordinated, the disadvantaged, the dispossessed, the silenced-in other words, to create a jurisprudence of change.

MPP2-823 HARMS TO WOMEN ARE MASSIVELY EXAGGERATED

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.12-3

The anorexia "crisis" is only one sample of the kind of provocative but inaccurate information being purveyed by women about "women's issues" these days. On November 4, 1992, Deborah Louis, president of the National Women's Studies Association, sent a message to the Women's Studies Electronic Bulletin Board: "According to [the] last March of Dimes report, domestic violence (vs. pregnant women) is now responsible for more birth defects than all other causes combined. Personally [this] strikes me as the most disgusting piece of data I've seen in a long while." This was, indeed, unsettling news. But it seemed implausible. I asked my neighbor, a pediatric neurologist at Boston's Children's Hospital, about the report. He told me that although severe battery may occasionally cause miscarriage, he had never heard of battery as a significant cause of birth defects. Yet on February 23, 1993, Patricia Ireland, president of the National Organization of women, made a similar claim during a PBS interview with Charlie Rose: "Battery of pregnant women is the number one cause of birth defects in this country." I called the March of Dimes to get a copy of the report. Maureen Corry, director of the March's Education and Health Promotion Program, denied any knowledge of it. "We have never seen this research before," she said.

MPP2-824 DATA FROM WOMEN'S ADVOCACY GROUPS IS UNTRUSTWORTHY

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.15

Unfortunately, the anorexia statistic and the March of Dimes "study" are typical of the quality of information we are getting on many women's issues from feminist researchers, women's advocates, and journalists. More often than no., a closer look at the supporting evidence-the studies and statistics on eating disorders, domestic battery, rape, sexual harassment, bias against girls in school, wage differentials, or the demise of the nuclear family-will raise grave questions about credibility, not to speak of objectivity.

MPP2-825 GENDER FEMINISTS CULTIVATE AN IDENTITY AS VICTIMS

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.42

Susan Faludi, author of Backlash and one of the more popular resisters of our time, reminds us of the feminist truism that feminist anger comes when women construe their individual experiences in a political framework: "When you're not able to see your experience as political, you're not able to be angry about it." Sandra Bartky, who is an expert on something she calls the "phenomenology of feminist consciousness," puts it succinctly: "Feminist consciousness is consciousness of victimization . . . to come to see oneself as a victim" (her emphasis).

MPP2-826 FEMINIST RHETORIC IS INAPPROPRIATE TO THE STATE OF CONTEMPORARY AMERICAN WOMEN

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.24-5

The New Feminists, many of them privileged all of them legally protected and free, are preoccupied with their own sense of hurt and their own feelings of embattlement and "siege." When they speak of their personal plight they use words appropriate to the tragic plight of many American women of a bygone day and of millions of contemporary, truly oppressed women in other countries. But their resentful rhetoric discredits the American women's movement today and seriously distorts its priorities.

MPP2-827 ANOREXIA KILLS 50-100 PER YEAR, NOT 150,000-200,000

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.12

I called the American Anorexia and Bulimia Association and spoke to Dr. Diane Mickley, its president. "We were misquoted," she said. In a 1985 newsletter the association had referred to 150,000 to 200,000 sufferers (not fatalities) of anorexia nervosa. What is the correct morbidity rate? Most experts are reluctant to give exact figures. One clinician told me that of 1,400 patients she had treated in ten years, four had died-all through suicide. The National Center for Health Statistics reported 101 deaths from anorexia nervosa in 1983 and 67 deaths in 1988. Thomas Dunn of the Division of Vital Statistics at the National Center for Health Statistics reports that in 1991 there were 54 deaths from anorexia nervosa and no deaths from bulimia. The deaths of these young women are a tragedy, certainly, but in a country of one hundred million adult females, such numbers are hardly evidence of a "holocaust."

MPP2-828 WIFE BEATING HAS DECREASED SIGNIFICANTLY

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.195

Straus and Gelles have made other discoveries not appreciated by gender feminists. Among them is the finding that because of changing demographics and improved public awareness, there was a significant decrease in wife battery between 1975 and 1985. Moreover, though they once reported that battery increased during pregnancy, they now say they were mistaken: "Data from the 1985 Second National Family Violence Survey indicate that the previously reported association between pregnancy and husband-to-wife violence is spurious, and is an artifact of the effect of another variable, age."

MPP2-829 OBJECTIVE INFORMATION ON SPOUSE ABUSE IS SCARCE

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.203

Because many feminist activists and researchers have so great a Stake in exaggerating the problem and so little compunction in doing so, objective information on battery is very hard to come by. The Super Bowl story was a bald untruth from the start. The "rule of thumb" story is an example of revisionist history that feminists happily fell into believing. It reinforces their perspective on society, and they tell it as a way of winning converts to their angry creed.

MPP2-830 RAPE ISN'T AN EXPRESSION OF PATRIARCHY
Christina Sommers, Professor of Philosophy, Clark University,
WHO STOLE FEMINISM?, 1994, p.233

It might be said that places like Greece, Portugal, and Japan do not keep good records on rape. But the fact is that Greece, Portugal, and Japan are significantly less violent than we are. I have walked through the equivalent of Central Park in Kyoto at night. I felt safe, and I was safe not because Japan is a feminist society (it is the opposite), but because crime is relatively rare. The international studies on violence suggest that patriarchy is not the primary cause of rape but that rape, along with other crimes against the person, is caused by whatever it is that makes our society among the most violent of the so-called advanced nations.

MPP2-831 RAPE IS A CRIME PROBLEM, NOT A GENDER PROBLEM

Christina Sommers, Professor of Philosophy, Clark University,
WHO STOLE FEMINISM?, 1994, p.225-6

Equity feminists find it reasonable to approach the problem of violence against women by addressing the root causes of the general rise in violence and the decline in civility. To view rape as a crime of gender bias (encouraged by a patriarchy that looks with tolerance on the victimization of women) is perversely to miss its true nature. Rape is perpetrated by criminals, which is to say, it is perpetrated by people who are wont to gratify themselves in criminal ways and who care very little about the suffering they inflict on others. That most violence is male isn't news. But very little of it appears to be misogynist. This country has more than its share of violent males; statistically we must expect them to gratify themselves at the expense of people weaker than themselves, male or female; and so they do. Gender feminist ideologues bemuse and alarm the public with inflated statistics. And they have made no case for the claim that violence against women is symptomatic of a deeply misogynist culture.

MPP2-832 VIOLENT SOCIETIES PRODUCE RAPE, NOT PATRIARCHY

Christina Sommers, Professor of Philosophy, Clark University,
WHO STOLE FEMINISM?, 1994, p.222-3

Assume for the sake of argument that Koss and Kilpatrick are right and that the lower numbers of the FBI, the Justice Department, the Harris poll, of Kilpatrick's earlier study, and the many other studies mentioned earlier are wrong. Would it then follow that we are a "patriarchal rape culture"? Not necessarily. American society is exceptionally violent, and the violence is not specifically patriarchal or misogynist. According to International Crime Rates, a report from the United States Department of Justice, "Crimes of violence (homicide, rape, and robbery) are four to nine times more frequent in the United States than they are in Europe. The U.S. crime rate for rape was . . . roughly seven times higher than the average for Europe." The incidence of rape is many times lower in such countries as Greece, Portugal, or Japan-countries far more overtly patriarchal than ours.

MPP2-833 RAPE RATES ARE EXAGGERATED

Christina Sommers, Professor of Philosophy, Clark University,
WHO STOLE FEMINISM?, 1994, p.217-8

There are many researchers who study rape victimization, but their relatively low figures generate no headlines. The reporters from the Blade interviewed several scholars whose findings on rape were not sensational but whose research methods were sound and were not based on controversial definitions. Eugene Kanin, a retired professor of sociology from Purdue University and a pioneer in the field of acquaintance rape, is upset by the intrusion of politics into the field of inquiry: "This is highly convoluted activism rather than social science research." Professor Margaret Gordon of the University of Washington did a study in 1981 that came up with relatively low figures for rape (one in fifty). She tells of the negative reaction to her findings: "There was some pressure - at least I felt pressure - to have rape be as prevalent as possible. . . I'm a pretty strong feminist, but one of the things I was fighting was that the really avid feminists were trying to get me to say that things were worse than they really are."

MPP2-834 YOUNGER WOMEN EARN 80% AS MUCH AS MEN OF THE SAME AGE

Christina Sommers, Professor of Philosophy, Clark University,
WHO STOLE FEMINISM?, 1994, p.239

The New York Times article summarized the research as follows: A fresh body of research-mostly by a new generation of female economists who've mined a mountain of unexplored data-shows compellingly that women were big economic winners in the 1980s expansion and that their gains are likely to keep coming in the 1990s regardless of who is in the White House. . . . Conventional wisdom-enshrined in the best-selling book Backlash: The Undeclared War Against American Women, among other places-has it that women made no progress in the past decade. In fact, women were stuck earning around 60 cents to the men's dollar from 1960 through 1980, but started catching up fast as the economy expanded during the 1980s. The Times reports that the proportion women earn of each dollar of men's wages rose to a record 72 cents by 1990. But the Times points out that even this figure is misleadingly pessimistic, because it includes older women who are only marginally in the work force, such as "the mother who graduated from high school, left the work force at twenty and returned to a minimum wage at a local store." Younger women, says the Times, "now earn 80 cents for every dollar earned by men of the same age, up from 69 cents in 1980."

MPP2-835 THE WAGE GAP DOESN'T JUST EXPRESS DISCRIMINATION

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.240-1

What of the remaining gap between male and female earnings? For the gender feminists, the answer is simple: the wage gap is the result of discrimination against women. But in fact, serious economics scholars who are trained to interpret these data (including many eminent female economists) point out that most of the differences in earnings reject such prosaic matters as shorter work weeks and lesser workplace experience. For example, the average work week for full-time, year-round females is shorter than for males. When economists compare men's and women's hourly earnings instead of their yearly earnings, the wage gap narrows even more.

MPP2-836 WOMEN DID BETTER THAN MEN IN THE 80S
Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.239

It might be supposed that it was not so much that women did well but that men did poorly in the recent recession. However, Baruch College economics professor June O'Neill, director of the Center for Study of Business and Government, showed that even in areas where men did well, women did better: "At the upper end, where men did very well, women went through the roof." According to Francine Blau, a University of Illinois economist cited in the Times story, the eighties were years in which "everything started to come together for women."

MPP2-837 THE WAGE GAP MAINLY EXPRESSES LESS WORKPLACE EXPERIENCE

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.241

Economists differ on exactly how much, if any, of the remaining gap is discrimination. Most economists agree that much of it simply represents the fact that, on average, women have accrued less workplace experience than men of the same age. One recent scholarly estimate shows that as of 1987, females who were currently working full-time and year-round had, on average, one-quarter fewer years of work experience than comparable males. Moreover, a year of average female work experience generally represents fewer hours than a year of average male work experience, because of women's shorter average work week.

MPP2-838 PROMOTION PROBLEMS AREN'T DUE TO JOB DISCRIMINATION

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.241

These data are important in understanding the oft-cited claim of a "glass ceiling" for women. Promotion in high-powered professional jobs often goes to those who have put in long hours in evenings and on weekends. Husbands may be more likely to do so than wives, for a variety of reasons, including unequal division of responsibilities at home, in which case the source of the difficulty is at home not in the marketplace.

MPP2-839 CHILDLESS WOMEN EARN ALMOST AS MUCH AS MEN

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.241

Obviously, the experience gap also rejects the fact that many women choose to move into and out of the work force during childbearing and child-rearing years. This reduces the amount of experience they acquire in the workplace and naturally results in lower earnings, quite apart from any possible discrimination. Some evidence of this is provided by data on childless workers, for whom the experience gap should be much narrower, resulting in a narrower earnings gap. This, in fact, is the case: the female-to-male ratio of hourly earnings for childless white workers aged twenty to forty-four was 86-91 percent, as of 1987.

MPP2-840 DISCRIMINATION PRODUCES LESS THAN A 10% WAGE DISPARITY

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.241

The bottom line is that although economists still differ on how much discrimination remains, virtually all of them would agree that the 59 cent figure is highly misleading. For example, June O'Neill finds that "differences in earnings attributable solely to gender are likely to be much smaller than is commonly believed, probably less than 10 percent." This contrasts rather starkly with the 41 percent figure claimed by Faludi.

MPP2-841 WOMEN HAVE MADE MAJOR PROGRESS TOWARD EQUITY

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.22

The traditional, classically liberal, humanistic feminism that was initiated more than 150 years ago was very different. It had a specific agenda, demanding for women the same rights before the law that men enjoyed. The suffrage had to be won, and the laws regarding property, marriage, divorce, and child custody had to be made equitable. More recently, abortion rights had to be protected. The old mainstream feminism concentrated on legal reforms. In seeking specific and achievable ends, it did not promote a gynocentric stance; self-segregation of women had no part in an agenda that sought equality and equal access for women. Most American women subscribe philosophically to that older "First Wave" kind of feminism whose main goal is equity, especially in politics and education. A First Wave, 'mainstream,' or "equity" feminist wants for women what she wants for everyone: fair treatment, without discrimination. "We ask no better laws than those you have made for yourselves. We need no other protection than that which your present laws secure to you," said Elizabeth Cady Stanton, perhaps the ablest exponent of equity feminism, addressing the New York State Legislature in 1854. The equity agenda may not yet be fully achieved, but by any reasonable measure, equity feminism has turned out to be a great American success story.

MPP2-842 THE EIGHTIES SAW SPECTACULAR GAINS FOR WOMEN

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.238

We have all seen these angry figures. But there is not much truth in them. By most measures, the eighties were a time of rather spectacular gains by American women-in education, in wages, and in such traditionally male professions as business, law, and medicine. The gender feminist will have none of this. According to Susan Faludi, the eighties were the backlash decade, in which men successfully retracted many of the gains wrested from them in preceding decades. This view, inconveniently, does not square with the facts.

MPP2-843 WOMEN HAVE MADE MAJOR STRIDES IN ALL PROFESSIONS

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.238-9

Today more than ever, economic position is a function of education. In 1970, 41 percent of college students were women; in 1979, 50 percent were women; and in 1992, 55 percent were women. In 1970, 5 percent of law degrees were granted to women. In 1989, the figure was 41 percent; by 1991 it was 43 percent, and it has since gone up. In 1970, women earned 8 percent of medical degrees. This rose to 33 percent in 1989; by 1991 it was 36 percent. The giant strides in education are reflected in accelerated progress in the professions and business. Diane Ravitch, a fellow at the Brookings Institution, reports that women have made great advancements toward full equality in every professional field, and "in some, such as pharmacy and veterinary medicine, women have become the majority in what was previously a male-dominated profession."

MPP2-844 WOMEN MADE MAJOR WAGE GAINS IN THE 80S

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.238

Since any criticism of Faludi's claim of a wages backlash is apt to be construed as just more backlashing, one must be grateful to the editors of the New York Times business section for braving the wrath of feminist ideologues by presenting an objective account of the economic picture as it affects women. Surveying several reports by women economists on women's gains in the 1980s, New York Times business writer Sylvia Nasar rejected Faludi's thesis. She pointed to masses of empirical data showing that "Far from losing ground, women gained more in the 1980s than in the entire postwar era before that. And almost as much as between 1890 and 1980.

MPP2-845 WOMEN ARE MOVING INTO MANAGEMENT POSITIONS

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.236

Morgenson also deflated Faludi's claim that in the eighties, "women were pouring into many low-paid female work ghettos." United States Bureau of Labor statistics, she pointed out, show that "the percentage of women executives, administrators, and managers among all managers in the American work force has risen from 32.4 percent in 1983 to 41 percent in 1991." Morgenson judged Faludi's book "a labyrinth of nonsense followed by eighty pages of footnotes."

MPP2-846 WOMEN HAVE MADE MASSIVE GAINS IN HIGHER EDUCATION

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.160

Consider that today 55 percent of college students are female. In 1971, women received 43 percent of the bachelor's degrees, 40 percent of the master's degrees, and 14 percent of the doctorates. By 1989 the figures grew to 52 percent for B.A.'s, 52 percent for M.A.'s, and 36 percent for doctoral degrees. Women are still behind men in earning doctorates, but according to the U.S. Department of Education, the number of doctorates awarded to women has increased by 185 percent since 1971.

MPP2-847 WOMEN'S ACADEMIC PROGRESS IS A MAJOR INDICATOR OF SOCIAL CHANGE

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.160-1

On the purely academic front, progress continues apace. The UCLA Higher Education Research Institute's annual survey of college freshmen shows more women (66 percent) than men (63 percent) planning to pursue advanced degrees. The UCLA data show a tripling in the percentage of women aiming for higher degrees in less than twenty-five years. As the institute's director, Alexander Astin, notes, "To close such a wide gap in the relatively short span of two decades is truly remarkable." David Merkwowitz of the American Council on Education agrees: "If you want a long-term indicator of major social change, this is one."

MPP2-848 LIBERAL FEMINISM HAS BEEN RESPONSIBLE FOR MOST GAINS BY WOMEN

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.4

The earliest explicit feminist writing is associated with the liberal tradition, as exemplified by Mary Wollstonecraft's eighteenth-century book *A Vindication of the Rights of Women*, by John Stuart Mill's nineteenth-century *Subjection of Women*, and by Betty Friedan's twentieth-century *Feminine Mystique*. The general view is that the subordination of women is caused by the legal and social barriers that block or preclude their access to the public sphere of economic and political life. Liberal feminists demand that liberals follow their own principles of universal human rights. If all human beings are moral equals, as liberals have claimed since at least the seventeenth century, then men and women should be treated equally, which means that no one should be excluded from participating in political, educational, or economic life. Because they followed the classical liberal tradition, the early liberal feminists tended to be very individualistic, arguing for equal rights and equal freedom. They felt that the law should be gender blind, that there should be no special restrictions or special assistance on the basis of sex. Most of the gains made for women's equal rights and freedom in the 1960s and 1970s were made using liberal feminist arguments. The solution to the oppression of women, in this view, is to remove all formal barriers to their equal participation in social, political, and economic life, thus providing equal opportunity for all.

MPP2-849 GENDER FEMINISM IS FAILING DUE TO LACK OF CONSTITUENCY, NOT BACKLASH

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.18

In effect, the gender feminists lack a grass roots constituency. They blame a media "backlash" for the defection of the majority of women. But what happened is clear enough: the gender feminists have stolen "feminism" from a mainstream that had never acknowledged their leadership.

MPP2-850 GENDER FEMINISM IS SELF-DEFEATING

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.76-7

The transformationists are out to reconstruct our cultural and scientific heritage. Even if one believes that this badly needs doing (and I, for one, do not), there is little reason to be sanguine that the gender feminists are intellectually equipped to do it. Their belief in the superiority of "women's ways of knowing" fosters a sense of solidarity and cultural community that seems to have allowed them to overlook the fact that their doctrine tends to segregate women in a culture of their own, that it increases social divisiveness along gender lines, and that it may seriously weaken the American academy. Nor does it worry these feminists that their teaching allows insecure men once again to patronize and denigrate women as the naive sex that thinks with its heart, not with its head.

MPP2-851 MOST WOMEN REJECT GENDER FEMINISM WHO STOLE FEMINISM?, 1994, p.261

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.261
But of course it is not only religious women who reject the gender feminist perspective. A clear majority of secular American women enjoy many aspects of "la difference." Many want things that gender feminists are trying to free them from, be it conventional marriages and families, or fashions and makeup that sometimes render them "sex objects." Such feminists are uncomfortably aware that they are not reaching these women; but instead of asking themselves where they may be going wrong, they fall back on the question-begging theory of false consciousness to explain the mass indifference of the women they want to save.

MPP2-852 FEMINISTS DON'T RECOGNIZE THE BURDENS OF BEING MALE

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.80-1

Also, MacKinnon does not do full justice in her analysis to what men face. They suffer certain special burdens too, burdens they cannot place on women. Women will never have to bear the suspicion of being rapists, the stigma of being the coercers in the sexual act (except perhaps vis-a-vis minors), and the imperative to protect their spouses when they are weak and in need of special biologically-induced care. As far as the history of their respective advantages in life is concerned, women have some that men clearly lack, e.g., the emotional freedom to be self-expressive, especially as regards showing feelings of sadness, hurt, distress, and ambivalence. Given that MacKinnon does not acknowledge men's plentiful lack of equality of power or advantage, her advocacy of placing identical burdens on men and women would come to placing numerous unequal limitations on men.

MPP2-853 ALL GROUPS FACE DISTINCTIVE BURDENS

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.82-3

One need not be insensitive to the fact that some things women face are difficult. It is often better to ease their burden than to do nothing about it. Yet, this is nearly always an interchangeable situation and even when it is not, there tend to be benefits associated with such special burdens of one group not enjoyed by the other. If that is intolerable, then life is intolerable the tall will have some special burdens and benefits, as will the short, the beautiful, and the homely. In that respect a kind of uniformitarianism is already prevalent—we all do find that the conditions of our individual lives face us with various challenges, only these are not the same for all of us.

MPP2-854 FEMINISM DOESN'T UPHOLD EQUALITY OF OPPORTUNITY

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.80
 However, even if this is granted, we must immediately take note of two facts: first, for MacKinnon, full, equal opportunity translates into uniformity--since the question must always be asked--opportunity for what? MacKinnon wants the opportunity for women to enjoy and indeed exercise the same powers that men do. What this seems to mean for her is that women ought to be able to say no to the role of motherhood, to pregnancy even when they want a child--and to innumerable other features of their lives that now come with being women. Second, the moment one unleashes the freedom of differential exercise of equal opportunity, the results, as Nozick showed with his famous Wilt Chamberlain examples, will be permanently, socially and economically differentiating.

MPP2-855 FEMINISTS HAVE A TOTALITARIAN DESIRE TO OVERHAUL WOMEN

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.259
 For her authoritarian disdain, de Beauvoir deserves our liberal censure. But the less authoritarian feminists also deserve it. No intelligent and liberal person - no one who has read and appreciated the limpid political prose of George Orwell or who has learned from the savage history of twentieth-century totalitarianism - can accept the idea of a social agenda to "overhaul" the desires of large numbers of people to make them more "authentic."

MPP2-856 RADICAL FEMINISM ATTEMPTS TO MAKE PEOPLE UNIFORM

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.78-9
 The human trait of conscious self-determination can produce major differences between different persons, based in part on accidental facts of nature, individual effort, individual taste, and social circumstances. A person is not the result of some manufacturing process that follows a blue print, with occasional major or minor variations on the design. If that is what a person were, we could make it a matter of public policy to just make all people uniform. MacKinnon's position is not without some prominence. Certain trends in ethics and political philosophy seem clearly to be headed in the direction she advocates in particular, John Rawls' influential denial that one's moral character is one's own achievement. This is a position from which certain versions of political egalitarianism or uniformitarianism may reasonably be said to flow. MacKinnon seems to be taking this trend into the province of law.

MPP2-857 RADICAL FEMINISM UNDERMINES MORAL AGENCY

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.77
 There are two reasons why we should reject MacKinnon's position. First, even if the ideal MacKinnon is aiming for had merit, there is no justification for demanding that it be forcibly imposed upon all of us. Most ideals are moral objectives that we ought to pursue. But "ought" implies "can" and if all ideals are imposed upon us, we cannot make a significant moral choice to pursue them. Our moral agency is undermined by that kind of public policy.

MPP2-858 RADICAL FEMINISM VIOLATES DIVERSITY AND MORAL SPACE

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.78
 The reason why the right to privacy is vital, even if MacKinnon's ideal is sound, is that we are moral agents who require what Nozick called our "moral space." Second, MacKinnon's ideal plainly implies a denial of the diversity of life, including human life. It is actually a protest against this diversity and, ultimately, individuality. There are sounder moral ideals to pursue; namely, personal excellence just as one is, regardless of how this compares with other people's goals in life. Uniformity among members of a community of human individuals is plainly an impossible and therefore dangerous dream--it can produce lives of hopeless aspiration and, ultimately, cynicism. The human species is distinctive precisely in the large role that individuality plays in the moral life of every human being. Contrary to Karl Marx, who argued that "The human essence is the true collectivity of man," the human essence is the true individuality of man.

MPP2-859 HUMANS ARE SELF-CREATING

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.78
 Here is why: Human beings are different from other forms of life in large part because once they are born they begin to give shape to their lives; indeed, are self-determined. This is a controversial point but it is rather simply illustrated by reference to any kind of argumentation itself--in the process of putting forth criticism, one is shaping oneself, placing oneself in a position that is one's own making. However much the bulk of human life is interwoven with the rest of humanity--i.e., however much we all have a public or at least a social life there is an irreducible private aspect to it; namely, one's determination of what one will do and largely be, based on the choices one makes in one's thinking about the wide range of options one faces in even the most humble kind of life. This is very clearly illustrated by MacKinnon's own vigorous intellectual activity and is evident in practically every conscious human being's life.

MPP2-860 RADICAL FEMINISM DOESN'T REALLY SUPPORT CHOICE

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.76
 What is the fundamental issue that MacKinnon is bringing to light? It is that feminism, understood in certain terms, might not be concerned with choice at all. It might not concern itself mainly with a woman's right to freedom of conduct. And, as far as the abortion issue is concerned, feminism might not at heart concern itself with whether a fetus is a child or merely a potential child, but with the distribution of political power and its fair exercise.

MPP2-861 FEMINIST JUSTICE REQUIRES TOTAL UNIFORMITY

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.80
 It is a fact that we make choices about ourselves and the world around us. We mingle these choices in innumerable varieties: for better and for worse in our social lives, and this produces differences. Thus, as I hinted before, even if it became technologically feasible for men to take over women's sexual functions, that would still leave us without what MacKinnon wants--because, for her, what justice seems to demand is that we all become the same! That no one look, feel, and, most of all, be better than another.

MPP2-862 FEMINISM REPRESENTS A TRIBALISTIC DENIAL OF LIBERTY

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.82
 MacKinnon evidently believes that all these freedoms the negative kind that so many people in oppressed countries keep demanding--really make it possible for men to run roughshod over women. It does not seem to matter that since the institution of such negative political liberty - the freedom of individuals to determine their own lives within the context of their own identities and others' equal right to liberty - women have made it evident enough--with MacKinnon as one case in point--that they can choose plenty as far as their lives are concerned. MacKinnon does not trust them to do this well and is determined to have the government reassume its feudal powers and order all of us around for the ideal of uniformitarianism. I think we can safely say that this is classic reactionary political theorizing, reasserting not even the superiority of the feudal era but that of tribalism.

MPP2-863 FEMINIST DENIAL OF PRIVACY REGIMENTS SOCIETY

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.81
 Men obviously have different burdens and benefits from women in human life, and this is what, in MacKinnon's view, needs to be ended. What is needed is a reregimentation of society. As MacKinnon puts it, "the right to privacy is not thought to require social change. It is not even thought to require any social preconditions, other than nonintervention by the state." The abortion debate occurs within a community of persons with some very similar basic ideas. Both sides agree that persons should have their rights protected - the pro-choice people deny that fetuses or zygotes or embryos are persons; the pro-life groups insist on the opposite. But once they leave those matters aside, they agree that individual rights make one something of a sovereign authority about one's life. One is in charge if one has a sphere of privacy.

MPP2-864 GENDER FEMINISTS DON'T RESPECT WOMEN'S TRUE PREFERENCES

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.258

Respect for people's preferences is generally thought to be fundamental for democracy. But ideologues find ways of denying this principle. The gender feminist who claims to represent the true interests of women is convinced that she profoundly understands their situation and so is in an exceptional position to know their true interests. In practice, this means she is prepared to dismiss popular preferences in an illiberal way.

MPP2-865 THE FEMINIST VIEW IS PATRONIZING TOWARDS WOMEN

Tibor Machan, Professor of Philosophy, University of San Diego, JOURNAL OF SOCIAL PHILOSOPHY, Fall 1992, p.81-2

Some radical feminists, such as MacKinnon, deny much of this. They claim that in marriage, for instance, women are a subjugated party--but this is far too insulting to the intelligence, savvy and moral initiative of women in most Western cultures - as distinct from societies where women are politically and legally kept subservient. Once that political subservience is gone -- a subservience that MacKinnon is actually renovating for the purpose that the government establish uniformity between the sexes women can and often should take their lives in their hands, but that runs the risk that they may want to be pregnant, mothers, and even, heaven help us, housewives.

MPP2-866 FEMINISM WOULD EXERCISE PATERNALISM TOWARDS WOMEN

Tibor Machan, Professor of Philosophy, University of San Diego, *JOURNAL OF SOCIAL PHILOSOPHY*, Fall 1992, p.82
 Yet, so long as the classical liberal view of liberation is seen by MacKinnon as placing women into a position of not having the identical powers that men do in the world, she disapproves and would wish to have public policies enacted that would eradicate them. She seems to think that women are somehow too weak to determine whether to enter a contract of marriage and agree intelligently to some of the conditions of that contract, e.g., that they are going to become pregnant and may carry to full term, or lack some other powers that men at least temporarily possess, due to the division of roles in their mutually agreed to and cooperative lives. They must not be seen in this light. They are at present too inept, as MacKinnon appears to see it, to make such decisions for themselves, so long as men are this forceful, threatening group who want nothing other than to make women into pleasure slaves for themselves. As MacKinnon so directly puts it, just as pornography is legally protected as individual freedom of expression-without questioning whose freedom and whose expression and at whose expense--abstract privacy protests abstract autonomy, without inquiring into whose freedom of action is being sanctioned at whose expense."

MPP2-867 PSYCHOLOGICAL RESEARCH PROVES WOMEN AREN'T MORE PEACEFUL OR EARTHLOVING
 Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.152-3

In *The Mismeasure of Woman*, the psychologist Carol Tavis reviews the literature on sex differences and moral development. Her assessment echoes Walker's, Wood's, Damon's, and Colby's. Tavis says, "In study after study, researchers report no average differences in the kind of moral reasoning that men and women apply." Tavis rejects the "woman is better" school of feminism for lack of convincing evidence that women are more "planet-saving...pacifistic, empathic or earth-loving."

MPP2-868 GILLIGAN'S THEORIES HAVE NOT BEEN CONFIRMED

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.152
 Gilligan's standing is generally higher among gender feminist intellectuals than among scholars at large. As her general popularity has skyrocketed, her reputation as a researcher has been attacked. Professionally, Gilligan is a social psychologist concentrating on moral development. But, for want of empirical evidence, she has failed to convince many of her peers of the validity of her theories. Wendy Wood, the specialist in women's psychology at Texas A&M, voices a considered judgment shared by many professionals in the held of women's psychology: "Independent research in moral psychology has not confirmed [Gilligan's] findings." On the contrary, independent research tends to disconfirm Gilligan's thesis that there is a substantive difference in the moral psychology of men and women.

MPP2-869 RELATIONAL FEMINISM CAN REINFORCE STEREOTYPES

Patricia Smith, Professor of Philosophy, University of Kentucky, *FEMINIST JURISPRUDENCE*, 1993, p.7
 But the deficiency of the relational view is that it can easily be transformed into the old, traditional stereotype of women as biologically domestic and dependent, which perpetuate bias, discrimination, and domination instead of counteracting it. Many feminists now think that this old debate needs to 'be ended or transcended, but exactly how to do this is not clear. It is clear, however, that the sameness/difference debate is a snag, that has often divided feminists and hindered social progress.

MPP2-870 GILLIGAN'S VIEW OF FEMALE SOCIALIZATION IS RECYCLED ROMANTICISM

Christina Sommers, Professor of Philosophy, Clark University, *WHO STOLE FEMINISM?*, 1994, p.153
 Christopher Lasch, one of Gilligan's sharper critics, argues that Gilligan's idealized view of female children as noble, spontaneous, and naturally virtuous beings who are progressively spoiled by a corrupting socialization has its roots in Jean-Jacques Rousseau's theory of education. Rousseau, however, sentimentalized boys as well as girls. Lasch insists that both Rousseau and Gilligan are wrong. In particular, real girls do not change from a Rousseauian ideal of natural virtue to something more muted, pious, conformist, and "nice." On the contrary, when researchers look at junior high school girls without preconceptions they are often struck by a glaring absence of niceness and piety, including the privileged private schools Gilligan studied.

MPP2-871 FALUDI IS A DISHONEST MUCKRAKER

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.234

C. Faludi's approach is that of the muckraking reporter bent on saving women by exposing the lies, half-truths, and deceptions that the male-oriented media have created to demoralize women and keep them out of the workplace. Her readers might naturally assume that she herself has taken care to be truthful. However, not a few astonished reviewers discovered that Backlash relies for its impact on many untruths--some far more serious than any it exposes.

MPP2-872 FALUDI SERIOUSLY MISREPRESENTS HER DATA

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.234

In a letter to the New York Times Book Review, Barbara Lovenheim author of Beating the Marriage Odds, reported that she had looked into some of Faludi's major claims and found them to be erroneous. Her letter presented some egregious examples and concluded that Faludi "skews data, misquotes primary sources, and makes serious errors of omission.

MPP2-873 THE BEAUTY MYTH MISCHARACTERIZES LEGITIMATE HEALTH CONCERNS

Christina Sommers, Professor of Philosophy, Clark University, WHO STOLE FEMINISM?, 1994, p.233-4

Much of the support Wolf brings for her beauty-myth theory consists of merely labeling an activity insidious rather than showing it to be so--exercising, dieting, and buying Lancome products at the cosmetics counter in Bloomingdale's all come under attack. Characterizing Weight Watchers as a cult does not constitute evidence that it is one. In her zeal to construe every effort of American women to lose weight as a symptom of a male-induced anxiety, she overlooks the fact that many people--men as well as women--suffer from obesity and are threatened by diseases that do not affect people who are fit. Stressing the importance of diet and fitness can hardly be considered as an insidious attempt by the male establishment to disempower women. The desire to achieve greater fitness is perhaps the main motive inspiring both men and women to exercise and to monitor their diets.

MPP2-874 RIGHTS ARE A CONSTRAINT ON ACTION

Tom Regan, professor of philosophy, North Carolina State, MATTERS OF LIFE AND DEATH, 1980, p.23

What is common to these answers is that a right involves the idea of a JUSTIFIED CONSTRAINT UPON HOW OTHERS MAY ACT. If Beth has a right to x, then others are constrained not to interfere with her pursuit or possession of x, at least so long as her pursuit or possession of x does not come into conflict with the rights of others. If it does, Beth may be exceeding her rights, and a serious moral question would arise. But aside from cases of exceeding one's rights and, as may sometimes be the case, of forfeiting them, the possession of a right by one individual places a justified limit on how other individuals may treat the person possessing the right. Whether rights are entitlements or valid claims, and whether they are basic or correlative, rights involve a justified constraint or limitation on how others may act.

MPP2-875 RIGHTS LIMIT GOVERNMENT ACTION

Alasdair MacIntyre, professor of Social Philosophy, University of Essex, A SHORT HISTORY OF ETHICS, 1966

The essence of the claim to natural rights is that no one has a right against me unless he can cite some contract, my consent to it, and his performance of his obligations under it. To say that I have a right on some point is simply to say that no one may legitimately interfere with me unless he can establish a specific right against me in this way. Thus the function of the doctrine of natural right is to lay down conditions to which anyone who wishes to establish a right against me must conform. And 'anyone' here includes the state. It follows that any state which claims rights against me, that is, legitimate authority over me--and my property--must establish the existence of a contract whose form we have already specified in outline, my consent to it, and the state's performance of its part under the contract.

MPP2-876 RIGHTS ARE CATEGORICAL

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.108

Rights are categorical moral entities such that the violation of a right is always wrong. But this formal tie does not yield any substantive content for a theory of rights. Though every violation of right is a wrong, we cannot assume without argument that every wrong creates a right in him whom the wrong injures.

MPP2-877 RIGHTS APPLY EQUALLY

Tom Regan, professor of philosophy, North Carolina State, MATTERS OF LIFE AND DEATH, 1980

Moral rights are EQUAL rights. If all persons have a moral right to life, then all have this right equally; it is not a right that some (for example, males) can possess to a greater extent than others (for example, females). Neither, then, could this moral right be possessed to a greater extent by inhabitants of one country (for example, one's own) than by the inhabitants of some other country (for example, a country with which one's own country is waging war).

MPP2-878 THE MAJORITY CAN'T DEFINE RIGHTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.142

Decisions about rights against the majority are not issues that in fairness ought to be left to the majority. Constitutionalism--the theory that the majority must be restrained to protect individual rights--may be a good or bad political theory, but the United States has adopted that theory, and to make the majority judge in its own cause seems inconsistent and unjust. So principles of fairness seem to speak against, not for, the argument from democracy.

MPP2-879 GOVERNMENT DEFINITION OF RIGHTS ISN'T ALWAYS CORRECT

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.184-85

In practice the Government will have the last word on what an individual's rights are, because its police will do what its officials and courts say. But that does not mean that the Government's view is necessarily the correct view; anyone who thinks it does must believe that men and women have only such moral rights as Government chooses to grant, which means that they have no moral rights at all.

MPP2-880 RIGHTS CAN BE WEIGHED ONE AGAINST ANOTHER

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.193-94

The individual rights that our society acknowledges often conflict in this way, and when they do it is the job of the government to discriminate. If the Government makes the right choice, and protects the more important at the cost of the less, then it has not weakened or cheapened the notion of a right; on the contrary it would have done so had it failed to protect the more important of the two. So we must acknowledge that the Government has a reason for limiting rights if it plausibly believes that a competing right is more important.

MPP2-881 RIGHTS OUTWEIGH CONSEQUENCES

Charles Fried, Harvard Law School, *RIGHT AND WRONG*, 1978, p.81

A claim of right blocks the appeal to consequences in justifying violations of a right, just as such an appeal is blocked in the case of wrongs.

MPP2-882 RIGHTS OUTWEIGH CONSEQUENCES

Charles Fried, Harvard Law School, *RIGHT AND WRONG*, 1978, p.139

There can be no allotment of benefits to those less favored without a corresponding exaction from the more favored. Yet the actual obtaining of such a fair contribution may conflict with negative rights. Now, social schemes must not depend on violations of rights, must not use such violations as a means, even if the end of the scheme is to accomplish justice by assuring fair shares. This constraint is implicit in the proposition that the violation of a negative right is wrong: good purposes will not justify wrongful means.

MPP2-883 RIGHTS OUTWEIGH UTILITY

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.202-03

If a man has a right to speak, if the reasons that support that right extend to provocative political speech, and if the effects of such speech on violence are unclear, then the Government is not entitled to make its attack on that problem by denying that right. It may be that abridging the right to speak is the least expensive course, or the least damaging to police morale, or the most popular politically. But these are utilitarian arguments in favor of starting one place rather than another, and such arguments are ruled out by the concept of rights.

MPP2-884 RIGHTS OUTWEIGH UTILITY

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.277

The concept of an individual political right, in the strong anti-utilitarian sense I distinguished earlier, is a response to the philosophical defects of a utilitarianism that counts external preferences and the practical impossibility of a utilitarianism that does not. It allows us to enjoy the institutions of political democracy, which enforce overall or unrefined utilitarianism, and yet protect the fundamental right of citizens to equal concern and respect by prohibiting decisions that seem, antecedently, likely to have been reached by virtue of the external components of the preferences democracy reveals.

MPP2-885 GENERAL BENEFITS DON'T JUSTIFY INFRINGING RIGHTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.193

The prospect of utilitarian gains cannot justify preventing a man from doing what he has a right to do, and the supposed gains in respect for law are simply utilitarian gains. There would be no point to boast that we respect individual rights unless that involved some sacrifice, and the sacrifice in question must be that we give up whatever marginal benefits our country would receive from overriding these rights when they prove inconvenient. So the general benefit cannot be a good ground for abridging rights, even when the benefit in question is a heightened respect for law.

MPP2-886 ONLY INDIVIDUALS HAVE RIGHTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978,

We must recognize as competing rights only the rights of other members of the society as individuals. We must distinguish the 'rights' of the majority as such, which cannot count as a justification for overruling individual rights, and the personal rights of members of a majority, which might well count.

MPP2-887 COLLECTIVE INTERESTS CAN'T BE BALANCED AGAINST RIGHTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.199

So the first model is indefensible. It rests, in fact, on a mistake I discussed earlier, namely the confusion of society's rights with the rights of members of society. 'Balancing' is appropriate when the Government must choose between competing claims of right--between the Southerner's claim to freedom of association, for example, and the black man's right to an equal education. Then the Government can do nothing but estimate the merits of the competing claims, and act on its estimate. The first model assumes that the 'right' of the majority is a competing right that must be balanced in this way; but that, as I argued before, is a confusion that threatens to destroy the concept of individual rights.

MPP2-888 RIGHTS OUTWEIGH SPECULATIVE INTERESTS

Ronald Dworkin, New York University Law school, *TAKING RIGHTS SERIOUSLY*, 1978, p.203

The speaker's motives may be relevant in deciding whether he does the right thing in speaking passionately about issues that may inflame or enrage the audience. But if he has a right to speak, because the danger in allowing him to speak is speculative, his motives cannot count as independent evidence in the argument that justifies stopping him.

MPP2-889 RIGHTS OUTWEIGH SPECULATIVE INTERESTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.195

If we allow speculation to support the justification of emergency or decisive benefit, then, again, we have annihilated rights. We must, as Learned Hand said, discount the gravity of the evil threatened by the likelihood of reaching that evil.

MPP2-890 OVER-VALUING RIGHTS RISKS LESS THAN UNDER-VALUING THEM

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.199

But then it must be wrong to say that inflating rights is as serious as invading them. If the Government errs on the side of the individual, then it simply pays a little more in social efficiency than it has to pay; it pays a little more, that is, of the same coin that it has already decided must be spent. But if it errs against the individual it inflicts an insult upon him that, on its own reckoning, it is worth a great deal of coin to avoid.

MPP2-891 ONLY VERY IMPORTANT INTERESTS OUTWEIGH RIGHTS

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.308

Sometimes the interests of others will be great enough, quite apart from any question of competing rights, to defeat an abstract right. But that will happen only when these interests are very important and the impact very severe.

MPP2-892 CONSENSUS ACCEPTS THE CONCEPT OF RIGHTS

Ronald Dworkin, New York University law school, *TAKING RIGHTS SERIOUSLY*, 1978, p.184

The debate does not include the issue of whether citizens have SOME moral rights against their government. It seems accepted on all sides that they do. Conventional lawyers and politicians take it as a point of pride that our legal system recognizes, for example, individual rights of free speech, equality, and due process. They base their claim that our law deserves respect, at least in part, on that fact, for they would not claim that totalitarian systems deserve the same loyalty.

MPP2-893 CONSENSUS ACCEPTS THE CONCEPT OF RIGHTS

Ronald Dworkin, New York University law school, *TAKING RIGHTS SERIOUSLY*, 1978, p.184

The language of rights now dominates political debate in the United States. Does the Government respect the moral and political rights of its citizens? Or does the Government's foreign policy, or its race policy, fly in the face of these rights? Do the minorities whose rights have been violated have the right to violate the law in return? Or does the silent majority itself have rights, including the right that those who break the law be punished? It is not surprising that these questions are now prominent. The concept of rights, and particularly the concept of rights against the Government, has its most natural use when a political society is divided, and appeals to co-operation or a common goal are pointless.

MPP2-894 CONSENSUS OF PHILOSOPHERS SUPPORTS RIGHTS

Richard Brandt, Professor of Philosophy, University of Michigan, *MORALITY, UTILITARIANISM, AND RIGHTS*, 1992, p.196

Virtually all philosophers now agree that human beings - and possibly the higher animals - have moral rights in some sense, both special rights against individuals to whom they stand in a special relation (such as a creditor's right to collect from a debtor), and general rights, against everybody or against the government, just in virtue of their human nature.

MPP2-895 RIGHTS DERIVE FROM THE HUMAN POINT OF VIEW

John Hospers, philosopher, University of Southern California, *HUMAN CONDUCT*, 1982, p.248-49

It may be that our attribution of rights to human beings is simply the result of our viewing people from the 'human point of view.' We can think of our fellow human beings in a number of ways--as foolish, or dangerous, as lawyers or street cleaners. But, according to some moral philosophers, when we view them from the human point of view, we mean that: 'They are capable of being viewed by others imaginatively from their own point of view. They 'have shoes' into which we can always try to put ourselves; this is not true of mere things. It may follow (causally, not logically) from this way of so regarding them that we come to RESPECT them in the sense tied to their 'human worth'.

MPP2-896 RIGHTS STEM FROM THE IDEA OF HUMAN DIGNITY

John Hospers, philosopher, University of Southern California, HUMAN CONDUCT, 1982, p.248

Instead of saying that rights are tied to human worth, it has been suggested that rights are tied to the concept of human DIGNITY. Human beings have (to varying degrees) the capacity for full human development--not only reason but will and emotion as well; and if I interfere coercively with your attempt to fulfill your human potential, then I am (to the extent that I do this) dehumanizing you, treating you as something other than a human being with a mind and will of your own. If, for example, I use physical force (instead of reasoning and persuasion) against you to make you do something against your will, I am not treating you as a human being, and thus I am violating your rights as a human being.

MPP2-897 MISAPPLICATION OF RIGHTS TALK DOESN'T DENY THAT SOME FORMS CAN BE VALID

Donald VanDeveer, NC State philosopher, PATERNALISTIC INTERVENTION, 1986, p.427

Some writers, of course, press the matter further by suggesting that today we not only encounter talk of civil rights and women's rights, but chimpanzee rights or even attributions of rights to redwood trees, snail darters, or ecosystems. The frequent implication is that "rights talk" is somehow arbitrary and misguided. It is surprising, perhaps, that otherwise intelligent persons take such "arguments" seriously. There is no reason to assume that all appeals to rights are rationally defensible. Further, there is no reason to assume, in the absence of explicit argument to the contrary, that all attributions of rights stand or fall together. This point is too obvious to deserve elaboration.

MPP2-898 RIGHTS ARE ESSENTIAL TO RULE OF LAW
Ronald Dworkin, New York University Law School, TAKING RIGHTS SERIOUSLY, 1978, p.205

The Government will not re-establish respect for law without giving the law some claim to respect. It cannot do that if it neglects the one feature that distinguishes law from ordered brutality. If the Government does not take rights seriously, then it does not take law seriously either.

MPP2-899 RIGHTS ARE THE BASIS OF OUR CONSTITUTIONAL SYSTEM

Ronald Dworkin, New York University Law School, TAKING RIGHTS SERIOUSLY, 1978, p.147

Our constitutional system rests on a particular moral theory, namely, that men have moral rights against the state. The difficult clauses of the Bill of Rights, like the due process and equal protection clauses, must be understood as appealing to moral concepts rather than laying down particular conceptions; therefore a court that undertakes the burden of applying these clauses fully as law must be an activist court, in the sense that it is prepared to frame and answer questions of political morality.

MPP2-900 RIGHTS ARE KEY TO MINORITY INTERESTS
Ronald Dworkin, New York University law school, TAKING RIGHTS SERIOUSLY, 1978, p.205

The institution of rights is therefore crucial, because it represents the majority's promise to the minorities that their dignity and equality will be respected. When the divisions among the groups are most violent, then this gesture, if law is to work, must be most sincere.

MPP2-901 RIGHTS ARE KEY TO HUMAN DIGNITY

Ronald Dworkin, New York University law school, TAKING RIGHTS SERIOUSLY, 1978, p.198

Anyone who professes to take rights seriously, and who praises our Government for respecting them, must have some sense of what that point is. He must accept, at the minimum, one or both of two important ideas. The first is the vague but powerful idea of human dignity. This idea, associated with Kant, but defended by philosophers of different schools, supposes that there are ways of treating a man that are inconsistent with recognizing him as a full member of the human community, and holds that such treatment is profoundly unjust.

MPP2-902 RIGHTS ARE KEY TO HUMAN DIGNITY

Ronald Dworkin, New York University Law School, TAKING RIGHTS SERIOUSLY, 1978, p.199

So if rights make sense at all, then the invasion of a relatively important right must be a very serious matter. It means treating a man as less than a man, or as less worthy of concern than other men. The institution of rights rests on the conviction that this is a grave injustice, and that it is worth paying the incremental cost in social policy or efficiency that is necessary to prevent it.

MPP2-903 RIGHTS SERVE A FOCUSING FUNCTION

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.193

First, the account of "a right" sets at the center what it is that a person is to be enabled to do, have, or enjoy, and that it is important for the welfare of the person. We might call this the "focusing" function of rights talk, as contrasted with talk of duty or obligation. Consider the right of women to equal treatment. Corresponding to this right are a great many duties, the legal ones of which are gradually being spelled out in court and administrative decisions. "It is one's duty to employ the best qualified person for a certain job, irrespective of sex." "It is a husband's duty not to press menial chores on his wife, but to seek for her equal opportunities for development. We could go on and on. A manifesto of the women's movement might list innumerable duties of men, corporations, or government, in respect of women. But such a list would lack focus. After all there is a target here: that women have an equal opportunity for a good life. That is what all these duties are aimed at; the duties are what other people must do if women are to have an equally good life.

MPP2-904 RIGHTS ARE DISTINCT FROM INTERESTS

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.193

In talking of a right to equal opportunity, we focus attention on the intended good. The above explication makes this clear. So would an explication that identified rights with interests, but this explication would be overly simple. For not every interest is a right; I have an interest in my own happiness, but I have a right only to freedom to pursue it. Only those interests are rights that other people can do something to secure, and which it is desirable for the moral code of society to be invoked in securing.

MPP2-905 APPEAL TO RIGHTS IS MORE EFFECTIVE THAN APPEAL TO DUTY

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.193-4

Listing the various things persons must do, or avoid doing, in order not to harm or threaten or deprive others is by implication to list rights; but listing these does not provide much of a manifesto. But if we focus, as rights talk does (according to our explication), on important interests, or their necessary conditions, we can draw on human understanding and sympathy in a way we cannot do by just talking of duties and obligations. Talk of rights can start a revolution - but hardly talk of duties.

MPP2-906 APPEAL TO RIGHTS CARRIES STRONG MORAL FORCE

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.194

Second, the phrase "has a right to" implies quite strong moral force as compared with "obligation." Notice that we can say, "I have an obligation to go to tea, since I promised I would," but we should only in very special circumstances say that the prospective host "has a right" to my appearance. Similarly we can say that one has an obligation to do something for a certain friend, but hardly that he has a right to it. (It is true that this difference may arise from something other than the normally overriding force of rights.) It would widely be agreed, now, perhaps partly because of the influence of Ronald Dworkin's writings, that rights have greater moral force than even substantial increments to the general welfare.

MPP2-907 RIGHTS TALK STIMULATES SOCIAL MOVEMENTS

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.194

There is a third benefit of the language of rights, in that, if the explication is correct, it encourages the patients of right-infringing actions to feel resentment, to protest, to take a firm stand. To say "You have a right to this" seems to imply that these attitudes/behaviors are justified. It hardly needs pointing out that encouragement of the oppressed and maltreated to stand up in their own behalf is beneficial for society, in the long run. The sympathy of impartial spectators may be a fairly strong motivation in the direction of beneficent change, but it may not be enough or the reflections that excite it may not occur, where there is not the support of protest by those who are injured or deprived or threatened. The history of rights movements shows that sympathy, even of enlightened people, moves the public conscience or at least custom and legal institutions only slowly when there is not supporting motivation from protests, nonviolent noncooperation, and sometimes violent action.

MPP2-908 RIGHTS TALK CAN LEAD TO REVOLUTIONARY ACTION

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.194

Historically talk of "rights" has occurred in the context of complaint or revolution or lawsuits. Some civil rights leaders have asserted that no gain for their cause has come from morality or altruism of the well off; gains come only from the action of the oppressed. Doubtless this goes too far: witness aid to underdeveloped nations and future generations, and laws about cruelty to animals. Nevertheless the moral system is not healthy and effective unless both sympathy for the oppressed and a readiness of the threatened to protest on their own behalf cooperate in social change.

MPP2-909 RIGHTS APPEALS STRENGTHEN REFORM MOVEMENTS

Richard Brandt, Professor of Philosophy, University of Michigan, MORALITY, UTILITARIANISM, AND RIGHTS, 1992, p.195

One may say that what is important is not the concept of rights, but that the oppressed are resentful and willing to protest, and do so without any feeling of shame - or even disapprove of those among the oppressed who do not speak out. One may say that the concept of something's being one's right is not important. This sounds plausible. But the concept and the attitudes are not so easily pried apart. For, if the explication is right to say that someone has a right is to say, in part, that these attitudes or; the part of the oppressed are justified. And to say that an attitude is justified is to support it, just as to think an attitude is unjustified is to undermine it. We may wonder how many civil rights leaders would have taken a strong stand in protest if they had believed that their resentment etc. was unjustified. The very concept of moral rights, then, seems to play a role in the development of a more humane morality and society. It seems, then, that an optimal conceptual scheme for morality needs the notion of a moral right in the sense our explication makes explicit.

MPP2-910 RIGHTS TALK CAN BE AN EFFECTIVE INSTRUMENT

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1408-9

We can talk about discretionary choices and about obligations, including obligations of justice, without mentioning 'rights.' By contrast, it is difficult to see how we could dispense with ought-talk, may-talk, and duty- (or obligation-) talk. Rights-talk seems reducible to the latter sort of talk without remainder, but the latter sort of talk is certainly not reducible to rights-talk without remainder. This is not to suggest, however, that we should never use rights-talk. Rights-talk can be useful, for, as Finnis has noted, '[t]he modern language of rights provides . . . a supple and potentially precise instrument for sorting out and expressing the demands of justice.'

MPP2-911 RIGHTS LANGUAGE CAN FOCUS ON COMMON GROUND

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1413-4

What is the merit of the second critique, thus understood? First, if successful, it supports, abandonment not of rights-talk, but of the sorts of moral claims in question. Second, although it is true that both prima facie and other abstract moral claims (whether or not cast in terms of 'rights') are not determinative of outcomes, the observation does not extend to sufficiently contextualized claims. Furthermore, even prima facie and other abstract claims have a role to play in practical discourse: they can serve to focus the interlocutors' attention on shared ground--their shared beliefs as to the nature and relative weight of the interest(s) at stake. That is not an insignificant role, even though those sharing that common ground will often, because of OTHER ground--OTHER beliefs--not shared, reach different conclusions.

MPP2-912 RIGHTS TALK IS RELEVANT IN SOME CONTEXTS

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1414

There are different ways to describe any activity. The different descriptions often serve different functions, play different roles, respond to different concerns. Rather than call for abandonment of rights-talk as a way of describing certain activities, why not simply point out alternative and perhaps more appropriate ways, richer ways, in the circumstances, of describing, characterizing, the activities in question? Tushnet forgets that there are some contexts -- the courtroom, for example--where the most appropriate description, or at least ONE appropriate description, may well be that what we were doing in the streets that turbulent afternoon was 'exercising our [constitutionally protected] rights.'

MPP2-913 RIGHTS ARE LIBERATING

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1486

Although their critical power is substantial, neither version of the critique of rights has been clearly constructive. The ambiguity centers on whether rights are inherently undesirable or whether only the liberal version of rights should be abandoned. This ambiguity is nowhere better illustrated than in Duncan Kennedy's contradictory assertions that rights theorizing represents 'a liberating accomplishment of our culture' and that 'the left doesn't need a counter-theory that ends with rights' because 'our program for the future must emerge dialectically from our past, rather than as a deduction from it.' Yet the reader is left to ponder why, if rights theory is a 'liberating accomplishment,' it should not play a central part in 'the program for the future.' To that extent at least, the program must represent a 'deduction' from our past. Accordingly, great care must be taken to ensure that the liberating baby is not thrown out with the liberal bathwater.

MPP2-914 EVEN THE CRITICAL LEGAL STUDIES MOVEMENT WANTS SOME RIGHTS

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1487-8
The consciousness of rights also serves as a source of enlightenment and liberation. Even wholly negative critiques or 'trashing' enable individuals to comprehend how the rhetoric of rights subtly reinforces existing patterns of hierarchy and domination. But this strand of the critique appears to be directed more at exposing the injustice of contemporary social relations than at denigrating the core idea of human rights. The central claim of CLS is that rights-talk lends an illusion of naturalness and objectivity to fundamentally illegitimate hierarchical arrangements. But CLS does not seem committed to abandoning wholly the basic philosophical value that is the source of the idea of a human right--the notion that individuals are themselves independent sources of value.

MPP2-915 THE CLS CRITIQUE APPLIES TO ALL MORAL ARGUMENTS

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1411
Although Tushnet seems not to understand it, the first two of his four critiques are directed not against rights-talk, but against moral claims of certain sorts, whether or not cast in what Tushnet calls the 'rhetoric of rights.' Therefore, if successful, the first two critiques support abandonment not of rights-talk, but only of the sort of moral claims in question.

MPP2-916 RIGHTS LANGUAGE IS NO WORSE THAN OTHER MORAL LANGUAGE

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1415
My point is not that employing the rhetoric of rights, as opposed to some other kind of moral talk, will make a difference. It might. But that depends on the audience. My point is simply that, so far as I can tell, Tushnet has said nothing in support of the position that employing some other kind of moral talk, as opposed to the rhetoric of rights, will make a difference.

MPP2-917 THE CLS CRITIQUE JUSTIFIES POLICY CHANGES, NOT REJECTING RIGHTS

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1415
Tushnet argues that in enforcing first amendment 'rights' of free speech in the modern period, the Supreme Court has played, on balance, a regressive role. His interesting and provocative discussion emphasizes the Court's protection of the capacity of corporations and other monied interests to dominate the political process by spending unlimited sums of money to disseminate their views. This is an argument, however, not for abandonment of rights-talk, but for a 'passivist' rather than an 'activist' Court. One could readily agree with Tushnet's argument that the 'party of humanity' would be better off without an activist judiciary, without for a moment thinking that rights-talk ought to be abandoned in contemporary American political-moral discourse.

MPP2-918 CULTURAL RELATIVISM DOESN'T DENY THE VALUE OF RIGHTS

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1477
The debate about rights has been marked more by its passion than by its productivity. It is true that no scheme of rights and entitlements can plausibly claim to be neutral or natural; it is equally evident that all systems of rights can be traced to some particular and historically specific theory of human nature. This insight, however, does not necessarily demonstrate the general bankruptcy of rights discourse. Such a critique of rights merely moves the debate forward; it does not resolve it.

MPP2-919 ABSTRACTNESS ISN'T A FATAL FLAW OF RIGHTS LANGUAGE

Michael Perry, Northwestern Law School, TEXAS LAW REVIEW, May 1 1984, p.1412
Third, not ALL abstract moral claims are unacceptable--for example, the prima facie claim that one ought not intentionally to kill an innocent person (or, cast in terms of 'rights,' that an innocent person has a prima facie right that no one intentionally kill him).

MPP2-920 RIGHTS AREN'T ABSOLUTE

Ronald Dworkin, New York University Law School, TAKING RIGHTS SERIOUSLY, 1978, p.354
I conceded, moreover, that even the grand individual rights are not absolute, but will yield to especially powerful considerations of consequence, which I called, too dramatically, 'emergencies'. The argument of principle that establishes the individual right as an abstract right must recognize, in more concrete circumstances, negative arguments of principle from which it may follow, for example, that no one has a right to speak his mind freely when the result would be to cripple the defense capacity of the nation.

MPP2-921 RIGHTS CAN BE OVERRIDDEN

C.E. Harris, philosopher, Texas A&M, APPLYING MORAL THEORIES, 1986, p.137-38
Our first inclination might be to argue that we should never override the rights of others, but the preceding considerations have shown us that sometimes we must. In situations that involve criminal activity or a conflict of obligations, someone's freedom or well-being must be overridden.

MPP2-922 RIGHTS VARY IN IMPORTANCE

Ronald Dworkin, New York University Law School, TAKING RIGHTS SERIOUSLY, 1978, p.366
The theory of rights I offer does not deny that some rights are more important than others. No alleged right is a right (on my account) unless it overrides at least a marginal case of a general collective justification; but one right is more important than another if some especially dramatic or urgent collective justification, above that threshold, will defeat the latter but not the former.

MPP2-923 IT'S PERMISSIBLE TO RISK RIGHTS VIOLATIONS

Charles Fried, Harvard Law School, *RIGHT AND WRONG*, 1978, p.82

If my right against you to the security of my property means that you do me wrong if you take even a chance at damaging my property in pursuit of some other end, then that is right is too intrusive, potentially barring you from the pursuit of any goals--since everything carries some minuscule risk of producing the untoward result.

MPP2-924 RIGHTS AREN'T TOTALLY DEONTOLOGICAL

Ronald Dworkin, New York University Law School, *TAKING RIGHTS SERIOUSLY*, 1978, p.313

Few people hold a rigidly deontological theory of rights. So most judges will think that, even when moral and political rights are in question, consequentialist arguments will play a role in defining the dimensions of these rights.

MPP2-925 NATURAL RIGHTS REQUIRE A DIVINE LAW GIVER

Alasdair MacIntyre, professor of Social Philosophy, University of Essex, *A SHORT HISTORY OF ETHICS*, 1966, p.154

The attack upon the concept of natural rights normally takes the following form. A right can only be claimed or exercised in virtue of a rule which entitles a certain class of people to claim or exercise the right. Such rules are intelligible when embodied in some system of positive law, enacted by a sovereign legislature. But outside ordinary positive law the notion of a right appears only to make sense if we suppose a divine lawgiver who has enacted a system of law for the universe. Yet the claim that there are natural rights does not rest on an appeal to divine law, and it does not rest, EX HYPOTHESI it cannot rest, on any appeal to positive law. For the particular legal system does not concede to some individual or class within the community the rights to which he or they are entitled.

MPP2-926 INTRINSIC HUMAN WORTH DOESN'T JUSTIFY RIGHTS

John Hospers, philosopher, University of Southern California, *HUMAN CONDUCT*, 1982, p.247-48

Rights are often thought to derive from the fact that all human beings have a certain intrinsic WORTH, and that in view of this worth all human beings should be treated in certain ways and not in other ways. But it is difficult to see what this 'intrinsic worth' is. Certainly not all persons are equally worthy: some people are conniving, villainous, outright despicable, and the world would be better off had they not been born.

MPP2-927 KANT'S ETHIC DOESN'T JUSTIFY RIGHTS

George P. Fletcher, Columbia Law School, *COLUMBIA LAW REVIEW*, April 1 1987, p.544

Advocates of rights draw heavily from Kant's deontological, nonconsequentialist moral theory. Yet this reliance is misplaced. Kant's liberal legal theory builds, of course, on the Right as well as on individual rights. But the moral theory, the inspiration for those pitted against utilitarian ethics, rests on the notion of duty rather than on individual rights. True, in the legal sphere, rights correlate with duties, precisely as Hohfeld would have it. In the moral sphere, however, there are duties but no corresponding rights.

MPP2-928 RIGHTS RHETORIC IS OUT OF CONTROL

L.W. Sumner, professor of philosophy, University of Toronto, *THE MORAL FOUNDATION OF RIGHTS*, 1987, p.1

Like the arms race the escalation of rights rhetoric is out of control. In the liberal democracies of the West, and especially in the United States, public issues are now routinely phrased in the language of rights.

MPP2-929 INFLATED RHETORIC UNDERMINES RIGHTS

L.W. Sumner, professor of philosophy, University of Toronto, *THE MORAL FOUNDATION OF RIGHTS*, 1987, p.9

In an arms race it can be better for each side to increase its stock though the resulting escalation will make all sides worse off. Where military weapons are concerned the increased threat is that of mutual annihilation. Where rhetorical weapons are concerned what all sides must fear is a backlash of skepticism or cynicism. An argumentative device capable of justifying anything is capable of justifying nothing. When rights claims have once been deployed on all sides of all public issues then they may no longer be taken seriously as means of resolving those issues. Indeed, the danger is that they will no longer be taken seriously at all. Just as fiscal inflation reduces the real value of money, the inflation of rights rhetoric threatens to erode the argumentative power of rights.

MPP2-930 NO AGREEMENT EXISTS OVER RIGHTS

Alasdair MacIntyre, professor of Social Philosophy, University of Essex, *A SHORT HISTORY OF ETHICS*, 1966, p.233

A more serious criticism of such theories is intimately connected with one of Bentham's most important motives in attacking them. Suppose that anyone asserts that men possess natural rights and are bound by natural laws: invite him, then, to make a list of such rights or laws. It is notorious that adherents of such theories offer lists which differ in substance from each other. Is there, then, any criterion for the correct inclusion of an item on such a test?

MPP2-931 VIEWING RIGHTS AS TRUMPS IS A MYTH
Tom Beauchamp, Department of Philosophy at the Kennedy Institute of Ethics, Georgetown University, RIGHTS TO HEALTH CARE, Thomas Bole III and William Bonderson, ed., 1991, p.79.

The idea of rights as trumps is a myth of modern philosophy. Rights conflict with needs for other resources that individuals can claim by virtue of some other, presumably equally justified, allocational commitments. Only negotiation within the culture, not some philosophically sound argument, will ultimately resolve these issues. At the present time we have neither a philosophical nor a negotiated solution adequate for addressing these allocational questions with the needed depth.

MPP2-932 RIGHTS ARE SOCIAL CONSTRUCTS

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1370

The inductive program whose first step I have just sketched would show that every specific right is just as contingent on social and technological facts as the right to reproductive choice. There is no reason to believe that the program cannot be executed. If it can, it will show that the set of rights recognized in any particular society is coextensive with that society. The conditions of the society define exactly what kind of rights-talk makes sense, and the sort of rights-talk that makes sense in turn defines what the society is.

MPP2-933 ABSTRACT RIGHTS ARE MEANINGLESS

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1364

It does not advance understanding to speak of rights in the abstract. It matters only that some specific right is or is not recognized in some specific social setting. It is, for example, literally incoherent to claim that women in neolithic societies ought to have had the right to choose not to bear children. Such a claim would have been meaningless to them.

MPP2-934 RIGHTS CONFLICTS ARE UNRESOLVABLE

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1484-5

In any actual dispute, however, both parties can express their claims in the language of rights. Unless some meta-theory enables the adjudicator to choose between competing rights, a rights scheme will be meaningless. But liberalism possesses no such meta-theory. The various argumentative techniques lawyers commonly employ provide equally plausible justifications for opposite results, depending on whether the initial emphasis is on freedom or on security.

MPP2-935 RIGHTS DON'T FACILITATE DISCUSSION

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1375

In conversation people sometimes acknowledge that rights-talk is indeterminate. But, they say, it is useful because it allows us to carry on coherent discussions about what ought to be done. Technical indeterminacy shows that even this modest claim is wrong. The discussions are coherent only so long as the participants agree not to raise questions about the measure of value, level of generality, or description of the background. But as soon as a rights-claimant sees that her claim is likely to be rejected if the discussion proceeds, the claimant ought to raise those questions. At that point coherence disappears and shouting begins.

MPP2-936 RIGHTS AREN'T A BARRIER TO TYRANNY

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1383

Moreover, the social theory according to which rights advance human interests is at best only tenuously established. In one of its incarnations, the social theory calls the critique of rights Stalinist because rights are an important part of what stands between us and the Gulag. In this version at least, the theory is just wildly implausible. In the language of classical rhetoric one might analogize this incarnation of the theory to a synecdoche, which takes a denial of rights, a part of Stalinism, for the whole. The Gulag was, of course, a denial of rights, but surely no one would defend a theory of society or history which held that it was caused by the denial of rights rather than by the personalities of Lenin and Stalin, the social, political, and economic situation of the Soviet Union in the 1920s, and so on.

MPP2-937 RIGHTS UNDERMINE COMMUNITARIAN VALUES

Roberto Unger, Harvard Law School, THE CRITICAL LEGAL STUDIES MOVEMENT, 1986, p.36

The established system of rights presents another, less familiar obstacle to the aims of this institutional program: the absence of legal principles and entitlements capable of informing communal life--those areas of social existence where people stand in a relationship of heightened mutual vulnerability and responsibility toward each other.

MPP2-938 RIGHTS UNDERMINE COMMUNITARIAN VALUES

Roberto Unger, Harvard Law School, THE CRITICAL LEGAL STUDIES MOVEMENT, 1986, p.36-37

For one thing, our dominant conception of right imagines the right as a zone of discretion of the rightholder, a zone whose boundaries are more or less rigidly fixed at the time of initial definition of the right. The right is a loaded gun that the rightholder may shoot at will in his corner of town. Outside that corner the other licensed gunmen may shoot him down. But the give-and-take of communal life and its characteristic concern for the actual effect of any decision upon the other person are incompatible with this view of right and therefore, if this is the only possible view, with any regime of rights.

MPP2-939 RIGHTS FALSIFY HUMAN SOCIABILITY

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1485

The second strand of the rights critique is a 'consciousness' argument. It argues that rights theory produces an inherently false vision of the world. Liberalism imagines society as a collection of rights-bearing citizens, as if rights had an independent existence 'out there.' This conception is a 'falsification of human sociability.' It prevents the emergence of any genuine sense of community because it assumes that individuals are separate and egoistic, striving for 'a liberty that is only an anxious privatism.'

MPP2-940 RIGHTS REINFORCE SOCIAL ISOLATION

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1485-6

Marx saw the rights of equality, liberty, and property as reinforcing the assumption that man is an 'isolated nomad, withdrawn into him-self.' These rights separate individuals from each other by failing to go beyond 'egoistic man, man as he is, as a member of civil society; that is, an individual separated from his community, withdrawn into himself, wholly preoccupied with his private interest and acting in accordance with his private caprice.' Thus, individuals come to see in others the limitation rather than the realization of their own freedom.

MPP2-941 RIGHTS LEGITIMATE INJUSTICE

Alan Hutchinson and Patrick Monehan, New York University Law School, TEXAS LAW REVIEW, May 1 1984, p.1486

Rights-consciousness also sees a legitimating function. The claim that liberal society secures individual rights helps to justify existing patterns of social hierarchy. It is a means of securing acquiescence in a fundamentally unjust social order.

MPP2-942 RIGHTS IMPEDE PROGRESSIVE CHANGE

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1387

The first amendment has replaced the due process clause as the primary guarantor of the privileged. Indeed, it protects the privileged more perniciously than the due process clause ever did. Even in its heyday the due process clause stood in the way only of specific legislation designed to reduce the benefits of privilege. Today, in contrast, the first amendment stands as a general obstruction to all progressive legislative efforts. To protect their positions of privilege, the wealthy can make prudent investments either in political action or, more conventionally, in factories or stocks. But since the demise of substantive due process, their investments in factories and stocks can be regulated by legislatures. Under *Buckley v. Valeo* and *First National Bank v. Bellotti*, however, their investments in politics--or politicians--cannot be regulated significantly. Needless to say, careful investment in politics may prevent effective regulation of traditional investments.

MPP2-943 RIGHTS IMPEDE PROGRESSIVE CHANGE

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1393-4

But the persuasive power of the description cannot be denied. And because it is persuasive, it obstructs the development of a more complete set of positive rights. One can argue that a party of humanity ought to struggle to reformulate the rhetoric of rights so that Judge Posner's description would no longer seem natural and perhaps would even seem strained. I cannot pretend to have an argument against that course and would not want to weaken my comrades' efforts to build a society that guarantees positive as well as negative rights. But there do seem to be substantial pragmatic reasons to think that abandoning the rhetoric of rights would be the better course to pursue for now. People need food and shelter right now, and demanding that those needs be satisfied -- whether or not satisfying them can today persuasively be characterized as enforcing a right -- strikes me as more likely to succeed than claiming that existing rights to food and shelter must be enforced.

MPP2-944 RIGHTS PERPETUATE CAPITALISM

Mark Tushnet, Georgetown Law School, TEXAS LAW REVIEW, May 1 1984, p.1363

The liberal theory of rights forms a major part of the cultural capital that capitalism's culture has given us. The radical critique of rights is a Schumpeterian act of creative destruction that may help us to build societies that transcend the failures of capitalism.

MPP2-945 NEGATIVE AND POSITIVE RIGHTS DEFINED

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978,

A further distinction is that between positive rights and negative rights. Positive rights are rights TO something and include such things as a claim under a contract or a minor child's claim to support by his parents. A negative right is right NOT to be treated in certain ways, a right not to be the object of certain actions, wrongful actions.

MPP2-946 NEGATIVE RIGHTS FORM THE BASIS OF MORAL PERSONALITY

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.140

Recall the discussion of the importance of bodily integrity to a sense of personal worth and integrity; recall further that the decision to give the negative right to the victim in the hypothetical assault was based on the notion that only in this way do we assert that a person, being in possession of her own body, is in possession of herself. In this way the negative right furnishes part of the foundation for the moral personality of individuals.

MPP2-947 NEGATIVE RIGHTS FORM THE BASIS OF MORAL PERSONALITY

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.132

The system of rights gets its concreteness and specificity from negative rights. Negative rights give the system grit; they block the impression that, after, all the individual disappears, is submerged in the collectivity, receiving back from it as of right only his fair share.

MPP2-948 NEGATIVE RIGHTS ARE CATEGORICAL

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.113

Honoring negative rights is costly. But the distinction I am making does not depend on the hypothesis that negative rights are costless in the economist's sense. Rather, my point is that it is logically possible to treat negative rights as categorical entities. It is logically possible to respect any number of negative rights without necessarily landing in an impossible and contradictory situation.

MPP2-949 NEGATIVE RIGHTS AREN'T LIMITED BY SCARCITY

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.112

The intuitive notion is that negative rights do not run up against the problem of scarcity, do not involve competing claims to limited resources, since they require only forbearance from certain actions-- harming, lying, falsely arresting, stealing. Just as we can avoid doing any number of intentional wrongs without risking conflict, so too scarcity does not put any limit at all on our ability to avoid violating negative rights--provided we understand a negative right as the right not to be wronged intentionally in some specified way. We can fail to assault an infinity of people every hour of the day.

MPP2-950 COMMON SOCIAL MEMBERSHIP CREATES POSITIVE RIGHTS

C.E. Harris, philosopher, Texas A&M, APPLYING MORAL THEORIES, 1986, p.146

The state also has positive obligations to its citizens. This function is what we shall call the supportive state. The relationship of the state to its citizens to one another requires that the positive test of the means-ends principle be applied, which in turn requires the state to promote the freedom and well-being of its citizens. The state could not claim political authority without a commitment to the welfare of its citizens, and citizens have some obligation to one another by virtue of living in the same society. Thus the state should make some provision for the health, education, and general welfare of its citizens and give special support for those who, through no fault of their own, are not able to provide for themselves

MPP2-951 EQUAL RESPECT FOR PERSONS ENTAILS POSITIVE RIGHTS

C.E. Harris, philosopher, Texas A&M, APPLYING MORAL THEORIES, 1986, p.144-45

Our obligation to help others, especially when help can be given with relatively little cost to us, follows from the means-ends principle. We have already seen that failure to help others in distress violates the positive test of the means-ends principle, as long as giving the aid does not seriously jeopardize our own status as ends.

MPP2-952 NEGATIVE RIGHTS IMPLY POSITIVE RIGHTS

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.118

There are aspects of common humanity which we share because of the efforts of others to produce them: the fruits of common labor, the security of civil society, the riches of culture and civilization, the fact of language. These things bind us together not only because, like our bodies, we all have them and thus are enabled to recognize our fellows through them, but also because others have expended their energy in order to produce them for us. They bind us because they oblige us. They are the basis of positive claims. Thus it is inconceivable that respect for common humanity should compel the recognition of the negative rights of our fellow men even at disastrous cost to ourselves, while leaving us totally indifferent to their needs--needs which may be desperate and which we may easily be able to alleviate.

MPP2-953 THE CONCEPT OF FAIR DISTRIBUTION IS THE BASIS FOR POSITIVE RIGHTS

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.130-31

There is no simple way to recognize positive rights, that is, positive claims to scarce resources, except as part of an overall distributive norm which holds that our fellow citizens have a claim (based on common citizenship) to some fair share of the objective resources produced and available in our society. The basis for meeting positive rights is through a conception of a fair distribution of objective income.

MPP2-954 POSITIVE RIGHTS CAN'T BE ABSOLUTE

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.113

Positive rights, by contrast, cannot as a logical matter be treated as categorical entities, because of the scarcity limitation. It is not just that it may be too costly to provide a subsistence diet to the whole Indian subcontinent in time of famine--it may be simply impossible. But it is this impossibility which cannot arise in respect to negative rights.

MPP2-955 POSITIVE RIGHTS CAN BE BALANCED

Charles Fried, Harvard Law School, RIGHT AND WRONG, 1978, p.42

There are duties of concern and beneficence toward all human beings, but they are not absolute. They allow for weighing and calculation-- inevitably--as the absolute norm does not.

MPP2-956 THERE ARE NO WELFARE RIGHTS

John Edwards, Lecturer in Social Policy, University of London,
JOURNAL OF SOCIAL POLICY, April 1 1988, p.131

Thus Hayek's argument against justified welfare provision rests solely on arguments about repertory justice and is ultimately an empirical claim. Poverty, destitution and need, he argues, whilst they may engage our sympathy and draw from us acts of charity, do not, and cannot, establish any CLAIM to welfare. No one (in his epistemology) is to blame for people's poverty; it is simply a natural and inevitable consequence of social and economic functions.

MPP2-957 POSITIVE RIGHTS IMPEDE NEGATIVE RIGHTS

John Hospers, philosopher, University of Southern California,
HUMAN CONDUCT, 1982, p.268

There is a difference between the rights we will now discuss and all the previous examples of rights: the previous ones were all NEGATIVE rights, and these are POSITIVE rights. Respecting others' rights to life, property, and liberty requires only that you forbear to interfere with their exercise of them. But if welfare rights exist, then others must not only forbear to interfere, they also must positively DO something. If you have a right to food and shelter from me, then I have an obligation to supply that food and shelter. And your right may involve a considerable compromise of my right to live by MY choices.

MPP2-958 NEGATIVE RIGHTS IMPEDE POSITIVE RIGHTS

Mark Tushnet, Georgetown Law School, TEXAS LAW
REVIEW, May 1 1984, p.1393

Moreover, the predominance of negative rights creates an ideological barrier to the extension of positive rights in our culture. I find it striking that the rights actually recognized in contemporary constitutional law are almost all negative ones. To the extent that our society recognizes positive rights, it does so through statutory entitlement programs, which are subject to substantial political pressure and which receive almost no constitutional protection.

MPP2-959 NEGATIVE RIGHTS IMPEDE POSITIVE RIGHTS

Mark Tushnet, Georgetown Law School, TEXAS LAW
REVIEW, May 1 1984, p.1392

Part of the conventional wisdom about rights distinguishes between negative rights--to be free from interference--and positive rights to have various things. People sympathetic to the party of humanity usually agree that the present balance between negative and positive rights is askew and that we should strengthen or create positive rights while preserving most of our negative rights. Yet, viewed pragmatically, it may be impossible to carry out that program. In our culture, the image of negative rights overshadows that of positive ones and may obstruct the expansion of positive rights.