

TRACK SEVENTEEN:

LIBERTY - A DANGEROUS ALLY OF HUMAN RIGHTS

Human rights are about achieving freedom for all, not protecting it for the few

RESPONSES

I unlocked quite a groundswell of hostility to libertarianism. Federico Burlon was first off. I liked his references to Latin America and also many of his phrases ('Libertarianism seeks to preserve the status quo to the detriment of the dispossessed'). Colin Harvey entirely accepts 'the atomistic, selfish and isolated caricature' of libertarianism that to an extent I agree I painted. Paul Bernal sees this version of freedom as the way 'the powerful get to assert their power.' Fatima worries about the 'hijacking' by libertarians of 'the rhetoric of human rights'. Craig Valters, coming in a bit later, is also very hostile. And Alice castigates 'the startling inability of libertarianism to address the malign and unaccountable influence of supra-national capitalism'.

So we were all in broad agreement about much of this track – indeed I'd say Federico and perhaps others would go further than even I did. Luis Paulo Bogliolo sums up this part of the discussion: 'liberty must indeed know its place'

So is there much to discuss?

For sure there is – many threads headed off out of the main thoroughfare into very interesting territory.

PRIVATE POWER

I was struck by a criticism many of you made of libertarianism that I had not picked up on – its inability to say anything at all about private power.

The focus on the state detracts the libertarian from seeing the malign effect on freedom of corporate power – whether this takes a media or a more conventional business shape. Luis Paulo develops this theme, as do Alice and others of you as well. It is certainly a strong point: through its uninterest in the abuse of private power, indeed its frequent sympathies with the entities engaged in such actions, libertarianism is exposed as little more than the handmaiden of privilege.

And once we are freed from having to take liberty as seriously as the libertarians insist, we suddenly discover all this energy for media reform (Luis Paulo; Richard Buck) and for corporate regulation (Alice's 'real power'). For progressive politics in other words – human rights in action.

There is a big project theme in all this. As Luis Paulo puts it ‘We cannot talk about human rights without placing ourselves ideologically and politically.’ So what if this is controversial – anything worth saying always is.

THE ROLE OF THE STATE

I think Richard’s remark that states are the ‘ultimate libertarians’ is helpful to our understanding of the subject – it reminds me of how Hobbes viewed international law. For me (and Richard I think) it helps point out the necessity of international partnership.

Richard thinks I give ‘the state too much credit.’ Maybe - but I don’t think his vision of a state with the *proper* balance of power between liberty and community that he goes on to propound (his ‘best bet’) is that far from my own. *Proper* here does not and must not entail institutional impotence. I don’t think the best state is the one that can do least – and I think sometimes that advocates of separation of powers have this goal implicitly in mind. (I am not sure if Richard is one of these – though I suspect he might be.... At least a bit)

Speaking about states needing power and libertarians enjoying too much of it leads to some tricky dilemmas. Does Rwanda ‘highlight that the idea of a “free press” is not some “trump” which overrides other clearly more important factors – or even necessarily “better” than a not-so-free press’ as Craig says? This is a difficult one. I have been to Rwanda a couple of times and of course President Kagame spoke at the centre for the study of human rights when I was its director – some of the audience at least felt I had no business inviting him, not least because of his record on press freedom.

Intuitively and on the basis of my experience of Rwanda I agree with Craig on this – though where does it end? Can President Kagame and his ministerial team do whatever they want? Surely being opposed to unfettered media freedom does not mean the government must have a blank cheque? But unless you have an independent judiciary, a lively civil society, a fearless legal culture and an impartial police force that is exactly what you risk – how many countries have these? Does Rwanda?

Favio Farinella (strongly supported by Christina) puts the other side strongly – ‘freedom is better defended with more freedom’ as Christina says. I think that the examples Favio gives of state clampdowns are of states (Egypt, Yemen, Tunisia) where the conditions are malign and where it is right for us to think the worst of such illiberal governments. They have not created any kind of liberal space so deserve no benefit of the doubt.

WHAT IS A SUCCESSFUL LIFE?

As we are constantly encountering in our discussions in this project, there is a benign aspect to state power, one that unqualified libertarianism unequivocally threatens. I am with Anthony J Langlois in his strong defence of the state as a vital deliverer of human rights ('the authorising instrument for what we are legitimately due' as he puts it with characteristic elegance).

Anthony says this: 'human rights are about identifying fundamentally important aspects of human being and making sure they are available for all.' He sees the role of the democratic state in securing this while also emphasizing the need to empower rights-bearers to say what they need, not simply to be talked about by us.

I agree with Anthony and indeed he is developing further what I said in the track. We are for the community wresting the power of definition from (libertarian?) elites.

But

.... is the individual getting lost in all this?

Ronan McCrea opens the point up when he challenges my theory of human rights to be accommodating to all sorts of people, to be sensitive to how they want to build their lives, and above all not to impose 'objective' versions of success on all. To be open to individual interpretation in this way, the idea of a successful life needs to be nuanced (Ronan's word) with a dose of libertarianism (my awkward phrase).

There is a big point here. Is a successful life entirely in the eyes of the life-holder? Ronald Dworkin's [new book](#) is very interesting on this

Look at this sentence from Ronan: 'Respecting someone's right to choose their own identity and life respects their dignity to a greater degree than imposing one's own ideas of dignity on them.' The key word here is 'choosing'. There is reflection, engagement, the thinking through a plan, not just drift. It's the same as with Dworkin I think. With the right to lead a successful life comes the responsibility to choose what that means. With this caveat I agree entirely that (as Ronan puts it) 'the human rights movement must be wary of trampling excessively on individual liberty in pursuit of its own goals.'

AN INFORMATION FREE FOR ALL?

This is Colin's neat description of the post Wikileaks era. My respondents were fairly conflicted, as am I. Luis Paulo for example wants 'legitimate restrictions' but acknowledges at the same time that 'governments have abused secrecy and deceived citizens too often. And as Colin notes even in his free-for-all world stuff is still held back – nothing is quite as free as it seems. I agree with Colin that while

libertarianism is not the answer 'there needs also to be space to be free from our open, transparent, free for all world.'

To Paul, Julian Assange has managed 'to reverse the former balance of power'. Wikileaks is 'more about freedom than about the more damaging side of libertarianism.' It as 'brought at least a degree of accountability' – to others rather than themselves I am tempted to add. It strikes me that it is about accountability as much as about power. (See Paul's SIDE TRACK FIVE – ADD HYPER LINK) for his further thoughts.)

Anthony's link interested many of you. My friend John Naughton has written a fascinating [essay](#) for the *Guardian* that has attracted a great deal of attention (deservedly). (And here is John's further effort to [make sense of the issue](#).)

Craig captures the mood of our discussion when, having seen the value of the releases but also their danger, he queries 'where does the line get drawn – and most crucially really – who draws the line?' Back to accountability and justification which in turn feed back to culture – constants in deep thinking about human rights.