

# LIBERTY, EQUALITY, AND NEUTRALITY

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There is in fact, no recognized principle by which the propriety or impropriety of government interference is customarily tested. People decide according to their personal preferences. Some, whenever they see any good to be done, or evil to be remedied, would willingly instigate the government to undertake the business, while others prefer to bear almost any amount of social evil rather than add one to the departments of human interests amenable to governmental control.

John Stuart Mill, *On Liberty*

Governments are by definition institutions which seek to influence human behavior by violent means. The fundamental problem for political philosophy is to ascertain the moral constraints on attempts to influence how people act by means of violence or political thought in the tradition of classical liberalism is the conviction that there are stringent moral restrictions on the state's use of force to determine how people behave. Libertarians believe that virtually every existing political regime is morally illegitimate in virtue of violating moral constraints on the use of violent force. In contrast, most political theorists today regard the libertarian attempt to revive the traditional liberal call for more stringent constraints on the uses of state power as naïve, benighted, and reactionary.

I believe that an adequate case for libertarianism cannot be made until the moral foundations on which it relies are brought into view and closely examined. My belief is that when the implicit principles on which libertarianism differs from the current consensus in favor of welfare statism are made explicit it will become clear that it is not libertarians, but proponents of the interventionist welfare state

of modern "liberalism," who have abandoned the moral ideals of classical liberalism.

My aim in this article is dialectical, insofar as I attempt to show that those who accept the equalitarian ideals of classical liberalism are rationally committed to accepting libertarian constraints on government. I do not address the question of whether the liberal belief in human moral equality can itself be rationally grounded. The argument I construct here will make no headway against those who systematically reject the tenets of liberalism. But there are, I believe, many people who still accept the liberal conception of equality even though they have rejected many of the other liberal ideals, such as radically limited government, open markets, and the rejection of paternalism and nationalism. It is to these individuals that the argument here is primarily directed.

### OBLIGATIONS TO HELP WITHOUT RIGHTS TO BE HELPED

In order to examine the fundamental differences between libertarianism and its critics I will focus upon a range of cases on which libertarians and supporters of the interventionist state typically disagree. These are cases in which what someone does is morally wrong and harmful to others, but it does not involve violence. Among these are cases in which one person ought to come to the aid of another but refuses to do so. These include situations which are typically used to illustrate the duty to rescue, e.g. Jones sees that Marvin is drowning, knows he can rescue him at no significant cost or risk to himself, but refuses to do so, thereby harming Marvin by inaction. Other cases of this kind involve less immediate need, e.g. Marvin belongs to a group of people identifiable as desperately poor, while Jones is in a very high income group. Jones' group could easily provide economic assistance to people like Marvin, but they refuse to do so, choosing instead to let them suffer rather than forego needless luxuries. Another kind of case is that in which an employer refuses to pay his workers a decent wage, leaving them no alternative but to work for subsistence wages, even though he could easily provide them with a reasonable wage. (In what follows I will speak of duties and obligations interchangeably, in either case meaning simply what someone strictly ought to do, all things considered.)

With cases of these kinds in mind, the advocate of the interventionist state contends that it is at least sometimes morally permissible to force people, by the threat of physical violence and, if that doesn't work, by violence itself, to do what they ought to do for others and to refrain from doing to others what they ought not to do to them, even though they have not themselves engaged in violence. Libertarians typically insist that resorting to violence is morally wrong in these cases. This conflict has far-reaching consequences for political theory, for from these two viewpoints arise conflicting conceptions

of the moral propriety of the state's taking a positive role in the promotion of welfare, both by regulating the marketplace and by taxing some people for the benefit of others.

Why shouldn't the state enforce moral duties to help others and to refrain from harming them? Some libertarians say that it is morally wrong for governments to resort to force against those who fail to do what they ought to do for others because, strictly speaking, there are no duties or obligations involved in these cases. On this view, it may be morally good for Jones to help Marvin when Marvin is in serious trouble, and it may be good for the employer to cease from exploitation and increase his employee's salaries, but these are not instances of an obligation to help. Eric Mack states that an individual's "obligation is fulfilled in *not* coercing others. He needn't perform any positive act in order to fulfill his natural obligations."<sup>1</sup> Robert Nozick holds that whatever does not properly concern those who wield the guns of the state is a matter of compassion, not obligation. For example, Nozick's discussion of property acquisition suggests that someone who invents something needed to save another person's life is under no moral obligation to make it available to him.<sup>2</sup> Another libertarian writer tells us that "a person does not have a duty to help other"<sup>3</sup> and that such compassionate acts "exceed the requirements of morality."<sup>4</sup> Helping those who are in great need or danger, and treating people in a humane manner, are supererogatory, matters not of duty or obligation but of charity. As such, these actions are seen as laudable, but not violently enforceable.

The problem with this account is that it is contrary to what many individuals regard as their most secure moral intuitions. If Jones walks by, letting Marvin drown simply because he doesn't care, or because he doesn't want to get wet, we do not regard him as merely having failed to do something praiseworthy. We would treat him as having done something evil, something he had a strict obligation not to do.<sup>5</sup> We would not respond by withholding praise; we would think it appropriate to punish him in some way (e.g. ridicule or ostracism), even if we would not resort to violence in dealing with him. Of course it is conceivable that a powerful ethical theory will convince us our intuitions in this case are mistaken, and that Jones has no duty to come to Marvin's aid, but as I hope to show below, there is no need, so far as libertarianism is concerned, to abandon these intuitions.

Not every instance in which someone could come to the aid of someone else is a case of strict moral duty; there is a distinction between the obligatory and the supererogatory. There is reasonable disagreement about what risks and costs one is morally required to bear for the sake of others, about the relevance of a victim's responsibility for the plight he is in, and about the significance of the proximity to us of the individuals who need help. But there are perfectly clear cases in which we would have a moral duty to help

someone. The blanket denial of these obligations is too high a price to pay in defense of the libertarian conception of how the state's use of force ought to be restricted.

Fortunately, the defense of the libertarian view does not require the denial of these obligations. What leads some libertarians to this untenable position is an assumption which they share with their critics. This is the widely-held assumption that if someone has a moral duty to do something for the benefit of another person, then the prospective beneficiary possesses a corresponding right against him.<sup>6</sup> So if Jones has a strict moral duty to help Marvin, then it is assumed that Marvin has a moral right against Jones for Jones to help him. On this assumption, if Jones lets Marvin drown, or go hungry, etc., then he is violating Marvin's right. Since it is the role of the state to defend people from those who would violate their rights, it follows that the state is morally justified in intervening against Jones, forcing him to do what he ought to do for Marvin. In order to avoid this conclusion, libertarians often refuse to acknowledge that Jones has a duty in this situation. For if they did, they would be unable to avoid a proliferation of welfare rights and the burgeoning government apparatus needed to secure them.

If we are to successfully defend libertarian constraints on government we must reject the assumption that if there are obligations to help there are always corresponding rights to be helped. Libertarians must find a way to deny that there are rights of this sort without denying that there are obligations to help.<sup>7</sup> Although it is widely accepted that obligations entail rights there are, I believe, no good reasons to accept this assumption.

Consider what we mean when we say that someone has a moral right to be helped. If Marvin has a right against Jones for Jones to perform some act *x* for the benefit of Marvin, then it may be morally permissible for Marvin (or someone acting on his behalf, such as a government official) to use violence to make Jones do *x*. The concept of a right involves the idea of a permission to do something, viz. resorting to violence in one's dealings with human beings, which is generally prohibited. In rejecting the claim that there are rights to be helped the libertarian can simply reject the supposition that the fact that Jones ought to do *x* is sufficient justification for making an exception to the general prohibition on violence as a method of influencing human behavior.

Some thinkers have held that strict obligations or duties do imply rights and that this is somehow derivable from the concept of obligation itself. According to John Stuart Mill, who made what is probably the clearest statement of this view:

it is part of the notion of duty in every one of its forms that a person may rightfully be compelled to fulfill it. Duty is a thing to be *exacted*

from a person, as one exacts a debt. Unless we think that it may be exacted from him, we do not call it a duty.<sup>9</sup>

On this account, to assert that someone ought, in the strictest sense, to do something is to imply that he is properly subject to violent sanction if they are needed to make him do it. Mill believes that it is often inconvenient, inexpedient, or dangerous to place the power to enforce duties in the hands of the state, but he makes it plain that he has no objection in principle to the violent enforcement of moral obligations.<sup>9</sup>

Mill argues that the concept of moral obligation arose out of legal obligation, and it is apparent that he supposes moral duties to be in many respects similar to legal obligations.<sup>10</sup> The analogy between what one ought, legally, to do and what one ought, morally, to do would provide a basis for the violent enforcement of moral duties. For the concept of a legal obligation does involve the concept of its enforcement. If a government promulgates a law, thereby creating a legal obligation for certain people to do certain things, it commits itself to forcing them to do those things. So, if Jones has a legal obligation to do something for the benefit of Marvin, then typically Marvin has a legal right against him, and this implies that it may be legally permissible for the government to force Jones to help Marvin. If moral duties were perfectly analogous to legal duties, it would be morally permissible to violently force people to do what they ought, morally, to do.

However, there is no reason to believe that moral duties so closely resemble legal duties. Those who, with Mill, hold that the concept of duty or obligation, whether it is legal or moral, includes the concept of its enforceability, often point to the fact that if someone ought, in the strictest sense, to perform some action, they are saying that his doing it is not optional but mandatory. Alan Gewirth is a contemporary moral theorist who appeals to the mandatoriness of strict moral obligations to support the conclusion that it is right to enforce them. He tells us that there are many morally valuable actions which can be characterized as preferable, praiseworthy, fitting, gracious, generous, or supererogatory but "they are at the option of the agent" rather than "strictly required of him."<sup>11</sup> As Gewirth sees it, to assert that it would be morally wrong to force Jones to help Marvin is to implicitly admit that he doesn't *have to do* it, that this act is not really strictly obligatory for him.

But the inference from the mandatoriness of moral obligations to their enforceability does not hold. There is no inconsistency in holding that, all things considered, Jones ought to come to Marvin's aid, and also that it would be morally wrong to force Jones to do so. Suppose that our threatening to shoot Jones is, in the circumstances, a necessary condition of his deciding to help Marvin, but we inform him that although he ought to help Marvin we will not resort to

this as a means of getting him to do so. We would be letting him know that, in one sense, his doing what he ought to do is optional, insofar as we are refraining from doing something that would force him to do it. In this situation there is a sense in which his doing what he ought to do is not mandatory, not required of him; it is up to him whether or not he will help Marvin. But it does not follow from this that Jones' doing it is optional or not mandatory from the point of view of morality.

Consider an imaginary situation drawn from another normative realm. Suppose there is some proposition that Jones ought to believe, in the sense that he has very strong evidence for it and no evidence against it; we may say that he ought, in a logical or epistemic sense, to believe it. Suppose that for some reason Jones refuses to accept this proposition, but we have available some sort of mind control technique, by means of which we can make Jones believe what he ought to believe. If we choose not to employ this method we do not thereby commit ourselves to the view that his believing it is optional for him from an epistemic point of view. In general, we do not give up a claim about the strength of someone's reasons for doing something when we refuse to do something that is likely to influence him to do it. The appeal to the concept of obligation does not support the contention that if someone has an obligation to do something then it is morally permissible to force him to do it, even when this is the only way he can be influenced to do it. The meaning of the moral "ought" does not force the libertarian to choose between accepting welfare statism and denying that sometimes we ought, in the strictest possible sense, come to the aid of those who need help.

Some libertarians may suspect that even if positive obligations do not have rights corresponding to them admitting the existence of moral duties to help people amounts to accepting the doctrine that "all men must live for the good of others," i.e., the tragically popular moral code of altruism, according to which it is the epitome of virtue to sacrifice oneself for others, especially if the "others" in question happen to be one's people or nation. A main theme of Robert Nozick's *Anarchy, State, and Utopia* is that individuals are not morally required to sacrifice themselves for others; we are only obligated to refrain from using others as means to achieve our ends.<sup>12</sup> And Eric Mack tells us that to admit positive moral duties is to admit that some people belong to "the domain of objects which simply exist as possible material for the use of this or that contingently determined individual," as though they were resources for others to exploit.<sup>13</sup>

But it is not obvious that acknowledging moral duties to aid others commits us to an ideology of self sacrifice once we have allowed for the possibility of duties without corresponding rights. There is a great difference between saying that Jones ought to inconvenience himself, or bear some small cost, in order to save Marvin's life, and saying he ought to make Marvin's welfare his primary aim in life,

placing Marvin's overall good ahead of his own. The oath with which Ayn Rand concludes John Galt's speech in *Atlas Shrugged*: "I swear—by my life and by my love of it—that I will never live for the sake of another man, nor ask another man to live for mine"<sup>14</sup> is not compromised by the admission that there are duties to rescue, as long as we recognize that these duties have strict (even if imprecise) limits imposed by the fact that each human being lives, and is responsible for, his own life.

In accepting that there are moral constraints on what people do to one another libertarians already accept that morality sometimes demands that we make sacrifices, bear costs, and allow ourselves to be inconvenienced. Someone may, for example, discover that a project to which he is deeply committed and to which he has devoted considerable resources cannot be completed without violating someone's rights. Jones discovers that, because of a surveying error, his almost-completed factory stands on land belonging to Marvin, who exercises his property right and insists that it be torn down. There is nothing in the notion of a moral duty demanding sacrifices for the sake of others that renders it "altruistic" in any interesting way. Libertarians who base their views in ethical egoism will tell us that one does not do one's moral duty for the sake of others, but ultimately for one's own sake. But acting in accord with a positive duty can be for one's own sake in the sense required here, just as one can develop such virtues as magnanimity and generosity for one's own sake.

We can agree that people ought to help those who are in need while disagreeing as to whether it would be right to do what is, in the circumstances, necessary to make them provide that help. On the assumption that governments are institutions that claim and exercise monopolies on violent sanctions against evildoers, a disagreement as to whether an action morally warrants a violent sanction constitutes a disagreement about the moral restrictions on the activities of the state. Libertarians are not usually pacifists, but accept that we are sometimes morally justified in resorting to violence against individuals who engage in morally wrong activities. But libertarians believe that there are relatively few kinds of action that morally warrant the violent sanctions that governments monopolize. Supporters of the interventionist welfare state believe that it is permissible for governments to impose violent sanctions against a wide variety of malefactors, including many of those who would otherwise fail to do what they ought to do for other people. The disagreement between libertarians and their opponents is fundamentally a disagreement about how violent, and thus government, sanctions can be morally justified.<sup>15</sup>

## NEUTRALITY

How can disagreements about whether wrongful actions justify violent sanctions be resolved? There are, I believe, two basic approaches to the justification of violent sanctions. First, the attempt to justify the use of violence against someone can take a *consequentialist* form. On accounts of this kind, whether it is permissible for the state to force someone to perform some act that he strictly ought to do for the benefit of some other person depends on the consequences of the state's forcing him to do it. For example, whether it is morally right for the state to use violence to force Jones to save Marvin's life depends on a comparison of the effects of letting him refrain from helping Marvin and the consequences of forcing him to perform the rescue.

The badness of consequences can be compared on any number of bases, but the most reasonable consequentialist theory of sanctions is one which weighs consequences in terms of harm inflicted on persons. A harm-oriented consequentialist view of sanctions has an initial plausibility, for consequentialist considerations of this sort cannot reasonably be ignored in an inquiry into moral constraints on what governments do when they intervene against wrongdoers. It would be wrong to bomb a building full of people when this is the only way to prevent the murder of one of its inhabitants. In this case the harm the sanction imposes is too great relative to the harm it prevents for it to be morally acceptable. Even in cases in which only the prospective wrongdoer would be harmed by the sanction, it may be morally wrong to do what is necessary to prevent the wrongdoing. For example, if Marvin owes Jones \$100 and the only way we can make him pay his debt is by torturing him, it would be morally wrong to impose the necessary sanction.

However, there are many situations in which the imposition of a violent sanction minimizes harm, and it may seem to be morally justifiable for the state to force some people to do what they ought to do for others on the ground that the harm it does them is outweighed by the harm it prevents.<sup>16</sup>

The second basic approach to the moral justification of violent sanctions is one we can think of as *categorical*. On a categorical account of sanctions whether it is permissible for the state to use its violent methods to make someone do something he ought to do depends not only on the relative consequences of his being forced to do it and of his being allowed to refrain from doing it, but also on the type of action being prevented or permitted. Operating on a categorical theory of sanctions a government prohibits acts of certain kinds, threatening violence against anyone who engages in them under certain conditions. An action's belonging to a prohibited category is a necessary condition of its being subject to state intervention.



I believe that a categorical approach to sanctions is the implicit foundation of libertarian constraints on the activities of governments. Libertarians typically hold that an act's being violent is a necessary condition of its being properly subject to the state's interdiction. For libertarians, the harm that an act causes is not of primary importance in determining whether it is morally permissible for governments to intervene against it. Actions that involve neither violence nor the threat of violence are seen as exempt from state action, no matter how harmful they are. Actions that involve violence are *prima facie* subject to violent sanctions, even if they would have overall good consequences. On the libertarian view the state may intervene against those who engage in acts of violence but it may never intervene against those who merely do harmful things to themselves or others, either by commission or omission, even when those acts are things they ought, in the strictest sense, not to do.

Libertarianism's focus on violence, and its correlative lack of support for state intervention against a wide range of morally wrong harmful actions, makes it appear in the eyes of many a simplistic, primitive doctrine, held only by those who are oblivious of, or insensitive to, the harm that can be caused by means that do not involve violence, especially on the part of those in possession of economic or social power. In claiming that the state ought to limit itself to acting only against violence, the libertarian is insisting that it stand by and allow evil actions to be done, even if they are nonviolently coercive or inflict serious harm on the innocent. Given magnitude of the harm that governments (allegedly) can prevent merely by threatening to do violence to anyone who engages in certain kinds of morally wrong actions, many find it incomprehensible that any thoughtful person would insist that the state should be restricted to the interdiction of violence.

Nonetheless, there is at least one good reason to reject any consequentialist view of sanction. The consequentialist approach to justifying sanctions is incompatible with the traditional liberal idea of the state as neutral with respect to competing conceptions of the human good. If the state were to impose sanctions with a view to realizing a particular conception of the good it would clearly have deviated from moral neutrality. Those who accept that ideal of the good would regard the state as their ally, while those who have conflicting visions of the good would regard it as an enemy. Every attempt to justify sanctions on the basis of consequences requires abandonment of the liberal ideal of neutral government.

Although this is obvious when the state pursues perfectionist aims, it may not be obvious in other cases, such as when it aims at minimizing harm. But even the goal of minimizing harm requires that the state take sides with respect to the conceptions of the good held by its citizens. When a government considers intervening against someone, e.g. Jones, to force him to do what he has a duty to do for someone

else, e.g. Marvin, it must determine whether the harm it would thereby impose upon Jones is greater than, less than, or equivalent to the harm Jones would impose upon Marvin if he were allowed to refrain from doing what he ought to do. The harms in question must be commensurable, otherwise it would be impossible to rank them. The consequentialist approach to sanctions presupposes at least an ordinal scale on which the harms that are inflicted on one person can be compared to those inflicted on another.

As traditionally conceived a harm is an invasion of an interest. Therefore, a ranking of harms presupposes a ranking of interests in terms of their importance. In our example Jones has an interest in going about his business as he pleases, without being forced to help Marvin, while Marvin has an interest in staying alive and, in this situation, an interest in Jones rescuing him, even if he must be forced to do so. Most of us would have no difficulty in ascertaining which of the two harms is greater. We find it obvious that the state harms Jones less when it forces him to save Marvin's life than Jones harms Marvin when he refuses to rescue him and by inaction causes him to die.

Making a judgment as to whether one harm is as bad as another and indeed, whether something that is done to someone really is harmful, rather than merely something he dislikes, requires a view about what sorts of things really are in someone's interests. A conception of what can, and what cannot, be in a human being's interests presupposes an idea of what a person ought to want, irrespective of what he actually wants. In turn, a conception of what a human being ought to want is tantamount to a conception of what is good for him as a human being. A general notion of human interests amounts to a conception of the human good. Therefore, determining whether someone is harmed and, if so, whether he is harmed as much as someone else, presupposes at least an implicit vision of the good for man. Making comparative judgments about the harmfulness of actions is incompatible with adopting a position of neutrality toward competing conceptions of the good.

However, the state can exemplify neutrality only in its defense of the overall framework of liberal society. As noted above, consequentialist considerations cannot reasonably be ignored by agents of the state as they use violent methods to control the behavior of those who initiate violence. Given finite resources, a government may sometimes have to judge that a particular intervention is not worthwhile. In other situations, a judgment may have to be made as to which of two (or more) prohibited actions should be dealt with. In either sort of case the state must apply some conception of the good if it is to make a rational decision.

I suspect that it is the fact that governments cannot avoid making comparative judgments about violent acts that makes some sort of democratic procedure morally necessary. Ultimately, it is individuals

who devise and operate the mechanisms which defend and maintain the neutral framework, but it is not feasible for everyone in a society to become directly involved in the activities of government. Democratic forms allow all those who want to have a say in how the state acts in situations where some ideal of the good must be taken into account.

As private individuals we ought not to be neutral toward the various conceptions of the good. We ought to try to find out what sort of life is worth living and try to live it, and we ought to try to influence others to pursue the good, so long as our efforts remain within whatever limited morality imposes on the pursuit of the good. People have often found it worthwhile to create institutions to facilitate their attempt to realize the good as they conceive it. Governments came into existence as institutions dedicated to realizing the good by violent means. The particular conception of the good pursued depended on who had control of the state's coercive apparatus. Governments, by and large, have been mechanisms for realizing whatever vision of the good those in power thought worth realizing. Historically the officially proffered perfectionist, religious, or altruistic aims were not, of course, always those the state really promoted; often the state became a tool for achieving what the ruling elite saw as good for itself. But it was widely assumed that if someone knew the good and acquired the means to regiment other people in pursuit of it, then it was right for him to do so. If we are convinced that we possess the correct vision of the good for man, why should we hesitate to actualize it, even if doing so involves violent coercion? Why should the state be morally neutral when it can be such an effective means of actualizing the good? In what follows I argue that the liberal conception of *equality* requires that we refrain from using the state to realize the good.

## EQUALITY

The idea that governments ought to be morally neutral is, I believe, the essence of liberalism as classically conceived. In contrast to the idea of the state as the consummate vehicle for organized attempts to realize the human good, liberalism gave up the idea of a substantive moral goal for governments and replaced it with the idea of the state as sustaining a neutral framework within which a multiplicity of responsible individuals peacefully (i.e. nonviolently) pursue their disparate conceptions of the good. Governments maintain the framework by using, or at least threatening to use, violence against those who resort to violence in the course of pursuing whatever ends they think worth pursuing.<sup>17</sup> This is all the neutral state does; it assiduously avoids taking sides in favor of, or against, any particular conception of how human beings ought to live their lives. Anyone who advocates that governments impose violent sanctions in order to minimize harm at least implicitly rejects the classical liberal conception of the state as morally neutral.

The libertarian call for restricting the activities of governments to the interdiction of violence can be construed as an insistence that they maintain strict neutrality toward the various visions of the good individuals seek to realize. Libertarians believe that governments ought to intervene only against those who use violence as a method to influence human behavior. The libertarian state, taking a categorical, violence-prohibiting approach to sanctions, would allow some citizens to harm others, taking action only when someone initiates violence. A government acting in accord with libertarian constraints would be indifferent to the fact that it could minimize harm or maximize the good by forcing Jones to rescue Marvin, or by taxing people at Jones' income level and giving the proceeds to people at Marvin's level, or by demanding that Jones pay his workers a specified minimum wage. A government's adoption of a position of neutrality effectively keeps it from trying to make the world a better place. Neutrality ensures that all the state can do is try to keep peace. Realizing that this is what the concept of state neutrality involves, many have rejected the liberal idea of a neutral framework for the pursuit of the good as variously conceived and have returned to the concept of the state as taking an active role in minimizing harm and promoting goodness. Those who reject this central tenet of classical liberalism perceive libertarianism, which alone still insists that the state ought to restrict itself to keeping the peace, as a morally unacceptable doctrine.

What can be said in defense of the ideal of government neutrality? I do not assume that it is possible to derive libertarian constraints on the state from some fundamental moral principle, or from some apodictic nonmoral foundation, thereby demonstrating that acceptance of the moral neutrality of government is rationally inescapable. The most I hope to show is that the libertarian conception of the moral limits on violent sanctions comports with other beliefs to which we are deeply attached. I will conclude by suggesting that a government's neutrality with respect to its citizen's varied attempts to realize the good is alone compatible with the moral equality of human beings.

Libertarians are not famous for their support of egalitarian causes, so it may seem incongruous to assert that libertarianism is at bottom an egalitarian outlook, but I believe it is.<sup>18</sup> Indeed, the strongest consideration in favor of restricting governments to keeping the peace by categorically prohibiting violence lies in the fact that this alone is compatible with accepting the fundamental equality of all human persons as moral agents. Classical liberalism sprang from the realization that each person is, and ought to be treated as, someone who forms a conception of the human good and seeks to realize it. Most people at most times have, of course, rejected the liberal idea of equality, evading the facts about individual human agency and acting as though individuals are resources for the pursuit of what is *really* good, whether or not they agree that it is worth realizing.

Advocacy of government neutrality should not be confused with skepticism or relativism with respect to the good life for human beings. Since the most important defenses of libertarianism are grounded in Aristotelian versions of ethical egoism, it is worth noting that nothing I have said here implies that the ontological and epistemological foundations of ethical egoism are mistaken: perhaps there is a human nature which we can know and from which we can draw conclusions about how human beings ought to live their lives.<sup>19</sup> The fact that there is, at least at a high level of generality, a human good does not imply that it is morally permissible for those who know it to employ whatever means happen to be necessary to bring others into conformity with it. The necessary actions, e.g., violent ones, might themselves be inconsistent with realizing the human good in one's own life. Further, means that at first seem necessary to make others do what they ought to do might, on reflection, turn out to undermine the moral qualities they are intended to inculcate.<sup>20</sup>

It should be noted that a morally neutral government's categorical prohibition on violence does not presuppose that the concept of violence is morally neutral, as though it were a purely descriptive concept with no normative significance. The argument with which we are concerned here is between libertarians and others who share the assumption that violence requires moral justification, but disagree about how to justify violent sanctions against violence. We should also note that the concept of violence suffers from the imprecision characteristic of any concept applicable to the complexities of human life. There may be reasonable disagreement about whether a particular action actually involves violence.<sup>21</sup> But neither the fact that the concept of violence has a normative aspect, nor the fact that it is imprecise, undermines my dialectical attempt to justify libertarian constraints on the state by appeal to the connection between a categorical prohibition on violence and liberal equality. For, in the context of political argument, generally there is a background of shared descriptive and normative judgement. For example, libertarians and their opponents disagree on whether the police may break down Marvin's door and confiscate his cocaine, but they agree that the state's action in this situation is violent and that it requires moral justification.

Although most nonlibertarians pay lip service to the idea of equality it is, on reflection, evident that those who reject libertarian constraints on the state are in a crucial sense inegalitarian. Once the inegalitarianism of contemporary welfare statism is made explicit it may become more difficult to accept. Imagine one person saying to another: "You and I are equals, insofar as we are both moral agents, beings capable of forming conception of the good and acting on them. So far as I am concerned you may form whatever idea of the good you can and strive to realize it...but of course I will not permit you to do anything wrong!" It is obvious that the speaker does not grasp the idea of the equality of human persons as moral

agents. His mistake is analogous to that of someone who asserts that all persons have an equal right to free speech but then tells others they may form and express whatever opinions they please, just so long as they utter no falsehoods. This individual does not really accept, or does not really understand, the equal right to speak. Similarly, those who believe that the state should prevent people from doing evil or that it should try to make them do good, cannot at the same time accept that all human beings are equal pursuers of the good.

When we admit that each human being is equally entitled to seek the good as he conceives it we do not thereby commit ourselves to letting others do exactly as they please. One person's vision of the good may involve serious harm to other people, either because he sees this as inherently worthwhile, or because he sees this as a means to ends he considers worthwhile. Accepting moral equality among persons does not commit us to passivity in the face of evil or harmful actions. Admitting equality commits us to *reciprocity* in our dealings with one another. In general, we ought to try to avoid harming other people although, given a plurality of conflicting conceptions of the good, this is not always possible. Moral equality requires that we restrict ourselves to aiming at harm only to those who harm others. Each person, conceiving of himself as one among equals, may mete out harm to those who harm, judging by his own rights whether the harm he imposes upon them is morally appropriate. For example, it is generally wrong to insult people, but the fact that someone has insulted you may give you dispensation to insult him. It is generally wrong to aim at driving a competitor out of business, but if someone is driving you out of business it may then be permissible to respond in kind. It is generally wrong to coerce people, to force them to do things they have no good reason to do, but a coercive response to coercion may be morally proper.<sup>22</sup>

Libertarianism is best understood as the application of the moral principle of reciprocity to matters of violence, which is to say, to the realm of politics. It is, in general, morally wrong to introduce violence into our relations with other human beings, but when others initiate violence we may be morally justified in responding violently. I express my moral equality with other people by refusing to claim special justification for the use of violent means against them. Anyone who insists that it is permissible for him to initiate violence against others while maintaining that others are not justified in employing violence against him implicitly denies that other persons are his equals as moral agents. He claims privileged access to a category of often decisive methods for influencing human action. Any government which violently intervenes against those who are not themselves engaged in violence implicitly denies the moral equality of those against whom it acts.

Although Jones ought, in the strictest sense, to help Marvin, rather than harming him by callous inaction, it would be wrong to violently

intervene against him, since this would be a departure from reciprocity, and thus from treating him as our moral equal. Although the employer may have a moral duty to stop exploiting his workers and provide them with a reasonable rate of pay, he is not engaged in a violent activity and thus ought not to be subjected to the state's violent intervention, for he is our equal *qua* moral agent, even though as a person he may well be morally worse than others. This does not imply that it would be morally impermissible to harm wrongdoers who are nonviolently harming others. On occasion it may be permissible or even obligatory to try to force nonviolent evildoers to do what they ought to do or to desist from what they ought not to do, as long as we do not resort to violence. Libertarian constraints on violence should not be confused with moral constraints on harming people or with moral constraints on coercion in general, although these constraints have a common root in the principle of reciprocity, and thus in the liberal idea of human moral equality.

### CONCLUSION

What initially appears as a rather limited and arbitrary libertarian focus on violence on examination reappears as a recognition of the moral requirement that governments adopt a position of strict neutrality with respect to the conceptions of the good their citizens embrace. The state can, and often does, threaten individuals with violence and thereby keep them from pursuing the ends that seem best to them in order to channel their efforts toward the realization of ends that others—kings, dictators, bureaucrats, democratically elected legislators—consider worthwhile. When it does this it fails to accord human beings equal status as moral agents. Despite appearances, libertarianism alone today stands for the traditional liberal ideal of a community of moral equals.

1. Eric Mack, "In Defense of 'Unbridled' Freedom of Contract" in *The Main Debate*, ed. Tibor R. Machan (New York: Random House, 1987), p. 429.
2. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 248, n. 48.
3. Lansing Pollock, *The Freedom Principle* (Buffalo: Prometheus, 1981), p. 103.
4. *Ibid.*
5. The fact that two acts are equally contrary to duty does not entail that they are equally bad; some violations of duty are worse than others.
6. Joel Feinberg, in *Social Philosophy* (Englewood Cliffs, NJ: Prentice-Hall, 1973) notes that there are duties that lack corresponding rights, but the cases he has in mind are not relevant to the crucial range of cases considered in this article. He cites examples of "imperfect" moral duties, such as duties of charity, which "require us to contribute to one or another of a large number of eligible recipients, no one of whom can claim our contribution as his right." (63) My point in this article is that there can be 'perfect' duties to definite individuals who have no corresponding rights against those who have the duties. A point essentially similar to the one I make here is implied by a question John Hospers poses in *Human Conduct* (New York: Harcourt Brace

Jovanovich, 2nd ed., 1982) where he asks "Perhaps you ought to help out a friend in need; but does the friend have a claim on you? Can she claim your help as her right?" (245) Hospers' use of a friend in this example might suggest that there is a duty only because of a special relationship to the individual in need. My view is that one could have a duty to help a total stranger. A clearer exception to the consensus in favor of the inference from general, perfect duties to rights is Judith Jarvis Thomson. See her "A Defense of Abortion," reprinted in *Rights, Restitution, and Risk*, ed. William Parent (Cambridge: Harvard University Press, 1986), p. 13.

7. "Special" rights and duties arising out of an individual's voluntary actions are not at issue here. Libertarians accept that if, e.g., someone has borrowed money from Jones and thus has acquired a duty to pay it back to him, then Jones has a corresponding right to be paid back.

8. John Stuart Mill, *Utilitarianism* (Indianapolis: Bobbs-Merrill, 1957), p. 60.

9. *Ibid.*, pp. 60-62.

10. *Ibid.*, pp. 59-60.

11. Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978), pp. 67, 228.

12. Nozick, *op. cit.*, pp. 33-35.

13. Mack, *op. cit.*, p. 428.

14. Ayn Rand, *Atlas Shrugged* (New York: Random House, 1957), p. 1069.

15. Libertarians as well as defenders of the interventionist state are guilty of obscuring this central issue. Libertarians often say that the state ought to restrict itself to intervening against those who initiate force or coercion, but when they say this they are tacitly stipulating that "force" or "coercion" denote only acts of physical violence (or the threat of violence). Critics are quick to point out that there are ways of coercing people that do not involve violence. For example, Stephen L. Newman writes that libertarians exhibit a "curious insensitivity to the use of private authority as a means of social control," *Liberalism At Wit's End* (Ithaca: Cornell University Press, 1984), p. 45. Newman goes on to ask: "When the price of exercising one's freedom is terribly high, what practical difference is there between the commands of the state and those issued by one's employer?" *ibid.*, pp. 45-46. Libertarians should recognize that the main problem of political theory is not the general question of the permissibility of coercion, but the specific question of the limits of violent coercion.

On the other hand, supporters of the interventionist state should recognize that whatever government *qua* government does is violent. When they are not seeing coercion everywhere, they tend to forget that the legal means by which the state forces people to do certain things are violent, as though promulgating a law which makes provision for the use of violent force against those who disobey it is essentially dissimilar to pointing a gun at someone and demanding that he act in a certain way. Building on a distinction drawn by Alan Gewirth (*op. cit.*, p. 305) we can say that the state is not necessarily always violently coercing, but it is always violently coercive.

16. A developed theory of sanctions would not necessarily accord the harm inflicted on a wrongdoer the same weight as the harm he inflicts on the innocent. It might be proper to severely discount harm to the guilty relative to harm the guilty do to the innocent; e.g. it might be permissible to shoot and kill a rapist although the harm the state thereby inflicts on him is greater than the harm he intends for his victim. I am assuming that even a consequentialist approach to sanctions could be developed within a framework of deontological permissions and prohibitions, and is not necessarily part of a thoroughgoing consequentialism.

17. Michael J. Sandel, a critic of liberalism, provides a clear characterization of it in terms of the neutral framework in his *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982), p. 1:

society, being composed of a plurality of persons, each with his own aims, interests, and conception of the good, is best arranged when it is governed by principles that do not *themselves* presuppose any particular conception of the good.

18. Although libertarians have generally left egalitarian arguments to statists, the



moral significance of equality has been a minor theme in expositions of the libertarian position. Tibor Machan, writing in *Human Rights and Human Liberties* (Chicago: Nelson Hall, 1975) points out that when a government keeps people from pursuing their ends and redirects their efforts and resources to ends it selects, it violates a principle of equality every legal system ought to embody. (p. 263) Murray Rothbard writes: "the libertarian...insists on applying the general moral law to everyone, and makes no special exemption for any one person or group," including agents of the state *For A New Liberty*, (New York: Collier, rev. ed. 1978), p. 24. And, in defense of the claim that there are natural moral slaves and no natural moral masters...there is a moral equality among persons" ("In Defense of 'Unbridled' Freedom of Contract," p. 427).

19. For this kind of derivation see Eric Mack, "Individualism, Rights, and the Open Society" in *The Libertarian Reader*, ed. Tibor R. Machan (Totowa, NJ: Rowman and Allenheld, 1982) and "How to Derive Libertarian Rights" in *Reading Nozick*, ed. Jeffrey Paul (Totowa, NJ: Rowman and Littlefield, 1981). (I hope that those who cannot overcome their scruples against this type of argument may be moved by my appeal to the ideal of liberal equality.)

20. An argument for this latter point comprises Douglas Den Uyl's "Freedom and Virtue" in *The Main Debate*, ed. Tibor R. Machan (New York: Random House, 1987).

21. In any event, the concept of violence has the virtue of being less imprecise than other concepts to which libertarians appeal, e.g. coercion, force, aggression.

22. Nothing said here implies that a morally good person would generally operate on a principle of strict reciprocity, retaliating against anyone who harms him. In a decent human society of the sort libertarianism could help make possible many people would be forbearing, forgiving, and magnanimous, not always paying back evil for evil. But it is worth remarking that recent evidence suggesting that, in game-theoretic terms, a simple 'tit for tat' strategy is the optimum route to peace and social stability, cf. Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984).