

Rights and Responsibilities

Editorial



A journalist asked me recently what I thought of a proposal of self-styled communitarians to “suspend for a while the minting of new rights.” How many ways, I thought, does that get it wrong? Communitarians seem to see rights as little boxes; when you have too many, the room gets full. In my view, we have only one right—or an infinite number. The one fundamental human right is the right to live your life as you choose so long as you don’t infringe on

the equal rights of others.

But that one right has infinite implications. As James Wilson, a signer of the Constitution, said in response to a proposal that a bill of rights be added to the Constitution: “Enumerate all the rights of man! I am sure, sirs, that no gentleman in the late Convention would have attempted such a thing.” After all, a person has a right to wear a hat—or not; to marry, or not; to grow beans, or apples; or to open a haberdashery. It is impossible to enumerate a priori all the rights we have; we usually go to the trouble of identifying them only when someone proposes to limit one or another. Treating rights as tangible claims that must be limited in number gets the whole concept wrong.

Every right carries with it a correlative responsibility. My right to speak freely implies your responsibility not to censor me. Your right to private property implies my responsibility not to steal it, or to force you to use it in the way I demand. In short, the protection of my rights entails my respecting the rights of others. So why do I feel uncomfortable when I hear communitarians talk about “rights and responsibilities”? The problem is that there are three senses of the term “responsibility,” which are frequently confused.

First, there are the responsibilities noted above, the obligations that correlate with other people’s rights.

Second, there are the “responsibilities” that some would insist that we assume as a prerequisite to exercising our rights. This sense, frequently found in communitarian writings, echoes the *ancien régime* approach, the notion of rights as privileges that we retain only so long as we use them responsibly. That idea degrades the American tradition of individualism. It implies that we have our rights only so long as someone—the government, in practice—approves of the way we use them. In fact, as the Declaration of Independence tells us, humans have rights before they enter into governments, which are created for the very purpose of *protecting* those rights.

Conservatives as well as communitarians sometimes fall into that way of thinking. Our friend Stuart Butler of the Heritage Foundation defends government-mandated health insurance on the ground that “freedom also implies responsibility.” But if the government can *require* us to act in the way it deems responsible by buying health insurance, what kind of freedom do we have?

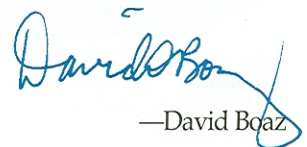
People rarely try to take our rights when they think we are

using them responsibly. No one tries to censor popular, mainstream speech; it is obscene or radical speech that is frequently threatened. We must defend even the irresponsible use of rights *because* they’re rights and not privileges. Governments never begin by taking away the rights of average citizens and taxpayers. But by establishing legal precedents through attacks on the rights of despised groups, governments lay the groundwork for the narrowing of everyone’s rights.

Third, there are the moral responsibilities that we have outside the realm of rights. It is frequently charged—famously by communitarian philosopher Mary Ann Glendon—that “the language of rights is morally incomplete.” Of course it is; rights pertain only to a certain domain of morality, a narrow domain in fact, not to all of morality. Rights establish certain minimal standards for our treatment of each other: we must not kill, rape, rob, or otherwise initiate force against each other. That leaves a great many options to be dealt with by other theories of morality. But that fact doesn’t mean that the idea of rights is invalid or incomplete *in the domain where it applies*; it just means that most of the decisions we make every day involve choices that are only broadly circumscribed by the obligation to respect each other’s rights.

Libertarians are often charged with ignoring or even rejecting moral responsibilities. There may be some truth to the first charge. Libertarians obviously spend most of their time defending liberty and thus criticizing government. They leave it to others to explore moral obligations and exhort people to assume them. Why is that? I see two reasons. First, there is the question of specialization. We do not demand of the AIDS researcher, Why aren’t you searching for a cure for cancer as well? With government as big as it is, libertarians find the task of limiting its size thoroughly time-consuming. Second, libertarians have noticed that too many nonlibertarians want to legally enforce every moral virtue. As Bill Niskanen puts it, welfare-state liberals fail to distinguish between a virtue and a requirement, while contemporary conservatives fail to distinguish between a sin and a crime. (The unique contribution of communitarians to the current debate may be that they make both of those grievous errors.)

When libertarians omit moral values from their social analysis, however, they are ignoring the lessons taught by all their intellectual mentors. Adam Smith wrote *The Theory of Moral Sentiments*. F. A. Hayek stressed the importance of morals and tradition. Ayn Rand set out a fairly strict code of personal ethics. Thomas Szasz’s work challenges the reductionists and behaviorists with a commitment to the old ideas of good and bad, right and wrong, and responsibility for one’s choices. Charles Murray emphasizes the value and indeed the necessity of community and responsibility. Libertarians should do more to make clear the role of moral responsibility in their philosophy. However, they will rightly continue to emphasize that government can undermine the values necessary for a free society—honesty, self-reliance, reason, thrift, education, tolerance, discipline, property, contract, and family—but it cannot instill them.


—David Boaz