

The *Los Angeles Times* deserves a listen

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Michael Kinsley, writing for the *Los Angeles Times*, believes libertarians deserve a listen.¹ He says so, and then proceeds to explain why he believes everything libertarians say is wrong. How sweet of him.

So what is wrong with the libertarian case for extremely limited government? Economics 101 teaches some of the basic justifications for government interference in the economy. Some things, such as the cost of national defense, are “public goods.” We can’t each decide for ourselves how much defense we want.²

Mr. Kinsley makes the claim that we can’t each determine how much defense we each want. However, he gives no reason why this is the case. Although most libertarians agree that it is the proper role of the state to provide defense to its citizen-subjects, I’m a radical. If it is true that competing agencies on the free market cannot provide this thing called security, for which I don’t doubt demand exists, I’d like to hear Mr. Kinsley’s argument. Unfortunately, he provides none.

Then there are “externalities,” which are costs (or, sometimes, benefits) that your decisions impose on me.

¹ Michael Kinsley, “Libertarians deserve a listen,” *Los Angeles Times*, January 12, 2008, <http://tinyurl.com/oko2uw> (accessed January 12, 2008).

² *Ibid.*, ¶ 4.

Pollution is the classic example. Without government involvement of some sort to override our individual judgments, we will produce more pollution than most of us want.³

Government protects polluters. In fact, since the government is the biggest polluter in the country, we might as well just say that government protects itself.⁴ It does this through an antiquated concept called sovereign immunity, which it uses to prevent people from suing it.

If you pollute my property, I'll sue you, that is *unless* the government is protecting you from me. Is this upsetting to you, Mr. Kinsley, because my law-suit will "impose upon you" an economic loss for polluting? I don't care. I likewise don't care what sort of economic loss I "impose upon" a thief in the process of re-acquiring my property. If the thief/polluter does not want to deal with these "impositions," then I suggest that she or he not steal or pollute.

Pollution, libertarians say, is simply theft: You are stealing my clean air. Settle it in court. This is a really terrible idea: inexpert judges, lawyers and juries using the most elaborate and expensive decision-making process known to humankind — litigation — to make inconsistent decisions.⁵

This author does not appear to be familiar with the history of common law or how or why *stare decisis* arose.

Further, let us consider the implication of a suit being brought before a free market system of competing courts, the

³ *Ibid.*, ¶ 5.

⁴ Dr. Mary J. Ruwart, "Libertarian Solutions: The Pollution Solution: Stopping the environment's worst enemy," *LP News*, June 1999, <http://tinyurl.com/tpsstewe> (accessed January 12, 2008).

⁵ Kinsley, "Libertarians deserve a listen," ¶ 7.

system advocated by the radical libertarians. Those arbitors that have a reputation for making fair decisions will be far more likely to get customers than those who have been known to make poor decisions, and thus a standard of consistency would naturally arise.⁶

And usually there is no one “right” answer: There is a spectrum of acceptable answers involving trade-offs (dirty air versus fewer jobs, etc.) that ought to be made democratically — that is, through government.⁷

Um, no. You pollute my property, and I don’t care how many employees your company loses. Those employees would be better off working for a company that doesn’t pollute.⁸

And what about, uh, intersections [in a system of privately owned highways]? Well, markets would recognize that it is more efficient for one company to own the intersections, but it would have an incentive to strike the right balance between customers on each highway. And stoplights? Ultimately, the author had worked his way up to a giant monopoly that would build, own and maintain all the roads and charge an annual fee to people who wanted to use them. None dare call

⁶ It’s also rather shocking that one could think that courts are suitable for extremely serious situations, such as rape or murder, yet that somehow a court could not handle something as easy as enforcing property rights against polluters. Perhaps the only thing more shocking than this rather-absurd position is the idea that anti-pollution legislation could be enforced in any way *not* involving courts. What exactly does Mr. Kinsley propose if he thinks court proceedings are too “elaborate”? Surely he would not be so crass as to say we should do away with the right to a fair trial. Then what? Indeed, the gentleman gives no solution to the problem; he merely criticises the libertarian solution.

⁷ *Ibid.*

⁸ Kinsley appears to be taking the Coasean position here. I do not. See Murray N. Rothbard, “Law, Property Rights, and Air Pollution,” *Cato Journal* 2, no. 1 (Spring 1982), www.cato.org/pubs/journal/cj2n1/cj2n1-2.pdf.

it government.⁹

Monopolies are inefficient. If a monopoly ever did come to own all of something—roads, for example—, it would have no market mechanisms to tell it how to appropriately allocate its resources, how much to pay its employees, or how much to charge its customers.¹⁰ It would lose its foothold, and would have to sell off portions of its property to stay afloat.

The only other way it could stay afloat is to use force, and if it did, then it *would* be a government, inasmuch as any criminal constitutes a government.

If you're allowed to shoot yourself through the head, why aren't you allowed to drive without a seat belt?¹¹

Indeed, why not? If a private owner of this or that road wants me to wear a seatbelt while driving her road, I can't really object, since I have no right to drive *on* her road—doing so is nothing more than a privilege. But government roads are supposedly owned by the people, by the tax-payers. If that is true, as the government claims, then it has no authority to tell us, the people, whether or not to wear seatbelts in our own cars.

The answer is that it's a bad analogy. When you drive without a seat belt, you are not motivated by a desire to die, or even a desire to take a small risk of dying. Why should your motive matter? Because your death — especially your death in a car crash — does impose externalities on me. I would pay good money not to see your bloody carcass lying beside the highway, or endure the traffic jam or pay the emergency room costs. A serious right, like the right to choose the

⁹ Kinsley, "Libertarians deserve a listen," ¶ 9.

¹⁰ Murray N. Rothbard, *Man, Economy, and State with Power and Markets*, The Scholar's Edition (Auburn, AL: Ludwig von Mises Institute), 612–615, 659.

¹¹ Kinsley, "Libertarians deserve a listen," ¶ 9.

time and manner of one's death, may be worth the cost, while a right to be careless or irresponsible is not.¹²

Does Mr. Kinsley not understand the difference between not wishing to wear a seatbelt and purposely causing one's self to get in an auto accident? If you don't want to see a bloody carcass, then don't rubber-neck. The traffic jam is nearly inevitable whether the accident is caused by a seatbelt-wearer or not. And, in a libertarian society, no one is forced to pay for someone else's hospital stay.

Although one has a right to commit suicide, one does not have a right to harm someone else or someone else's property in the act of committing suicide. Therefore, no one has a right to commit suicide by crashing one's vehicle into another person's, unless one has acquired the explicit consent of all of the persons who are to be involved in the "accident," including the owner(s) of the road upon which the "accident" is to occur.¹³

Libertarians are quick to see hidden costs of ignoring libertarian principles, and slow to see such costs in adhering to them. For example, Tucker Carlson reported in the Dec. 31 *New Republic* that Ron Paul wants to end the federal ban on the interstate sale of unpasteurized milk. No one should want to drink unpasteurized milk, and almost no one does. Paul himself doesn't. But it bothers him that the government tells people they can't.¹⁴

The hidden cost in maintaining that law is a little thing called Freedom.

¹² Ibid., ¶ 10.

¹³ For more minutia on the rights and natural obligations of those aiming to commit suicide, see Alexander S. Peak, "The Intelligent Yet Flawed Jonah Goldberg," AlexPeak.com, July 8, 2008, <http://alexpeak.com/ww/2008/014.html>.

¹⁴ Kinsley, "Libertarians deserve a listen," ¶ 13.

A similar flaw affects libertarian thinking about government-mandated income redistribution. Extreme libertarians believe this is immoral or even unconstitutional, and even moderate libertarians disapprove of social welfare programs as an infringement on the freedom of taxpayers. But freedom is only one of the two core values our nation was built on. The other is equality. Defining equality, libertarians tend to take a narrow view, believing that it means only political equality with no financial aspects. Defining freedom, by contrast, they take a broad view, and see a violation in every nickel a citizen is forced to spend.¹⁵

You cannot have both equality before the law *and* a forced “equalisation” of income. I choose the former, for both ethical and practical reasons.

Libertarians ask: By what justification does the government concern itself with inequality, financial or otherwise? They are nearly alone in asking this question. Even conservatives claim a great concern for equality of opportunity, while opposing equality of result.¹⁶

Libertarians *do* support equality of opportunity, or as I prefer to call it, equality before the law. Conservatives, conversely, usually *do not*.

Take, for example, gay marriage. Whereas conservatives typically wish to use the power of big government to ban gay marriage—as well as polygamy—thus making marriage a “special right” for monogamous heterosexuals, libertarians want to see a separation of marriage and state, thus making homosexuals equal before the law to heterosexuals and making polygam-

¹⁵ *Ibid.*, ¶ 14.

¹⁶ *Ibid.*, ¶ 15.

ists equal before the law to monogamists.¹⁷ On this issue, as well as others, conservatives have a tendency to not support equality before the law.

Overall, I come away from this *Los Angeles Times* article finding it to be highly flawed. Mr. Kinsley and his likes ought to be listened to, however; not because they are right, but because they at least make us re-analyse our positions, which is never a bad thing. In doing so, they ultimately remind us why libertarianism is so obviously appropriate.

¹⁷ See e.g. Alexander S. Peak, "Marriage and The State," October 4, 2007, <http://www.towson.edu/clt/editorials/peak12.html>.