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# HANG TOGETHER

*"We must indeed all hang together, or most assuredly we shall all  
hang separately." – Benjamin Franklin*

## LIBERTY IS NOT A MATTER OF PERMISSION

*Posted on June 7, 2015 by Daniel Kelly*

I've been talking about how we are conceding our liberties by inverting the relationship between a free people and their State. Specifically, it seems that each day brings a new concession that the State has unbounded authority over every detail of our lives; that we are asking permission to practice our religion freely, or assemble, or speak without prior restraint. And in some as-yet unsettled and somewhat grudging sense, we are accepting that the State can say "no." A "no," after all, is a risk inherent to asking permission.

Peter Epps disagrees with my reasoning, at least in part. He phrases the difference in our approaches as follows:

*I understand Dan's recent post . . . to say "I should be permitted to [X]" based on the principle "because everyone should be permitted to [X]" rather than "because I have a religious obligation to [X]." I argue that we should do both, and I have both principled and pragmatic reasons for doing so—and*

*reason to believe that the pragmatics are not shortsighted moves that “sell out” the larger principles.*

This tells me two things. First, I obviously didn't make my argument as clearly as I thought I had (sorry about that). And second, it's a jolting ride when we keep bouncing between principle and prudence without using turn signals to alert everyone of an impending lane change.

First, my unclear argument. I am mortified that it was so sloppy that it could be understood as asserting that the essence of liberty is that I should be permitted to do “X” because everyone should be permitted to do “X.”

I'll not take any chances with clarity this time. Liberty has nothing to do with “permittedness.” “Permittedness” involves asking leave of your superior. It concedes, even before the first word of your request passes your lips, that your superior may rightfully tell you “no.”

We don't ask permission to freely exercise our religion. We don't ask if we might be allowed to speak without prior restraint. Like Nike, we just do it. Why? Because the State is not superior to us, it is inferior. It has no authority to permit – or deny – these things. You may, with as much justification, ask your neighbor for permission to petition the government for redress of grievances.

Our liberties are not requests, they are demands. We demand them as against all the world, and the world hasn't a speck of authority to deny them. If it were otherwise, they wouldn't be rights, they would be privileges handed out at the discretion of the State, cancelled when the State deems them no longer useful.

The actual structure of my argument is this: “I may do ‘X’ unless ‘X’ denies the Equality Imperative by substituting my will for that of someone else.” The State, created and deputized by We the People, may step in to authoritatively prevent that substitution because that is the nature, and full extent, of its borrowed authority. But if “X” does not endanger that imperative, then the reason I may do “X” is because no one has the authority to tell me not to. That’s why it’s a right.

It’s also the reason Peter’s key to the parish office sends us down the wrong track. The illustration suggests that the State gave us something we didn’t have before, that this thing is liberty, and that it permits us to do things we would not otherwise be able to do.

I’m afraid this just won’t do. When the State protects our liberty, we gain nothing new, it is just something old that is now more effective. The authority to vindicate one’s rights begins with the individual – in fact, the only reason State actors can legitimately protect your rights is because the authority to do so began with you. The State is using borrowed authority – authority that existed from time out of mind, going back to the first member of the human race. We lend that authority to the State for a host of reasons, not least of which is that hiring full-time agents to protect our rights can be more effective than trying to do it on our own as isolated individuals.

But it’s not possible to conclude from this that the State somehow gave us something we didn’t have before. It didn’t, and assuming it did leads to nothing but State actors so full of themselves that they actually start believing they are the source of liberty, rather than just its guardians.

This is the sense in which Hannan spoke of the individual as lifted above the collective. He did not conflate popular sovereignty with republicanism any more than our Founding Fathers did. He is resurrecting a forgotten understanding of who we really are. We are the State's masters, not its servants. We are its progenitors, not its children. It exists for one purpose, and one purpose only – to serve us by (as the Declaration of Independence says) protecting our rights. That is why it exists.

Now, about that jolting ride. I happen to agree with Peter when he speaks of freedom being teleologically oriented to primary goods. But that's only because we have now moved to a different lane on the freeway from whether liberty is a matter of right that must be protected simply because it is liberty.

How one uses liberty is a matter of preference, and your preference neither adds to, nor subtracts from, the significance of the right. So it is entirely unhelpful to defend liberty in terms of how you use it. You will win over only those who already agree with your use. And in our increasingly atomized society, that means you will almost always be in the minority.

The State is not everything, nor does it exist to do the same sorts of things as other parts of society. Society consists of individuals and all of the myriad ways in which they organize themselves, whether economically, recreationally, fraternally, religiously, politically, or any of a jumble of other ways. Obviously, they don't all have the same purpose. Perhaps not as obviously, the same principles do not apply to all of them.

The State, as I have written elsewhere, exists to exercise compulsion in service of the Equality Imperative. That makes it fundamentally distinct from every

other societal institution, and that carries consequences. The primary one is that the State's teleology is, solely, maintenance of the Equality Imperative.

That, of course, tells us nothing about how individuals will, or should, conduct themselves after satisfying that imperative. That's the point at which society's non-coercive institutions step in. Their teleology can nurture the rich fruits that freedom can bring.

Here, in the voluntary associations of life, we can talk about the specific ways in which you may wish to employ your liberty, whether for religious purposes, political, economic, etc. Here you may emphasize to your heart's content the manner in which you wish to employ the liberty protected (but not provided by) the State, and the important results that will follow.

But that's not a defense of liberty. It is a defense of how you have chosen to *use* your liberty. Liberty is not important because you use it well, it is important because it maintains the Equality Imperative. When we forget that, when we talk about protecting liberties in terms of why it is important when exercised in specific ways, then we must recognize we are doing nothing but defending our personal preferences.


So when we speak of liberty, let's keep in mind that the State is not its source, it is its guardian (and that's a grand enough purpose for any State actor, isn't it?), and that the ultimate uses and purposes of human freedom are illuminated by and through society's voluntary institutions. If we forget the distinction, we will also forget that liberty is not a matter of permission, and its significance is not derived from personal preferences in how it is exercised.

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