

About Hang Together

Who We Are

HANG TOGETHER

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

THE PERPLEXED RIDDLER

Posted on May 5, 2013 by Daniel Kelly



*I don't know what it's
going to take to trap that
dratted Batman . . .*

So in our discussion about limits on governmental authority, here is Greg missing the point about my response to his support for wealth transfer programs as an essential component of any legitimate government structure. The nub of our argument is whether we (acting in our capacity as the government) have the authority to maintain a system of involuntary servitude (known in polite society as “wealth transfer programs”). I say no; Greg not only says we do, he says involuntary servitude is a moral imperative.

Now, I'm not ready to declare Greg a socialist, but if political philosophies were Venn diagrams, I don't see how these two statements describe different circles: (a) “I hold that there is no justification for the existence of the state that does not, in principle, justify the existence of some transfer-type programs as circumstances permit” (Greg Forster); and (b) “From each according to his means, to each according to his needs” (Karl Marx). Marx's was pithier, but the whole point of both statements is to justify forcing one person to labor against his will for the benefit of someone else.

Jurisdictional limits make government actions pursuant to either of these statements illegitimate. Prudential limits may or may not. What is the difference between the two? Think of it this way: It is the difference between “I think that is a bad idea” and “You may not do this.” One expresses a prudential limit (the former), the other jurisdictional. The latter exists out of deference to your rights. The other simply expresses the community’s sense of the best way of accomplishing an objective over which the government otherwise has jurisdiction.

Marx did not recognize jurisdictional limits to government authority. It appears Greg does not either, which (I think) is the primary reason he misunderstood my post.

Here is what I mean. In analyzing what I said about limits on governmental authority, Greg made a significant deductive error that led to some straw-man fun with Mongo the Martian Monkey God. From my argument that wealth transfer programs violate the equality mandate, and consequently exclude “the foundational concept that there are both prudential *and* jurisdictional limits on government authority,” Greg said only these two positions could possibly follow:

1. Support for “the equality mandate” as he understands it.
2. Opposition to all limits on government authority.

The best evidence this is a deductive error is that it does not account for the conjunctive “and” (even though he correctly reproduced the emphasis). In response to what I said, there are actually at least four positions one may take:

1. Support for “the equality mandate” as I understand it.
2. Opposition to all jurisdictional limits on government authority (that is, totalitarianism).
3. Opposition to all prudential limits on government authority (despotism).
4. Opposition to all limits on government authority (despotic totalitarianism).

Greg missed the other two potential positions because he didn't account for the distinction between “prudential” limits on government authority, on the one hand, and on the other “jurisdictional” limits. That's why his description of my position seemed odd to him. So yes, all political philosophers have always believed in some limits on government authority. It's just that not all of them have recognized jurisdictional limits, and that is the key to understanding the proper relationship between the people and their government. Without that understanding, you can never have a proper understanding of rights.

Accounting for the difference between these types of limitations is one of the great achievements of Western political philosophy. It distinguishes between (a) that which the government should not do because it would not be conducive to human flourishing, and (b) that which the government has no authority to do, no matter how helpful the government might think it would be. There can be no protection of rights without the second type of limitation on government authority.

When the government sets out to take the bananas you had saved for an offering to Mongo the Martian Monkey God, you might try arguing prudential limits. That is, you could argue the government ought not take the bananas because your Mongo ministrations benefit the community, give you a sense of fulfillment, and inspire you to be more productive so you can acquire even more bananas to give to Mongo.

Maybe the government will be persuaded. Maybe not. Maybe the government will decide that “Bananas for Mongo” makes a mockery of religion and the community and so your bananapalooza must be stopped. Now you have no option but to retire to your banana-free home to contemplate other ways of magnifying Mongo. Or of making a more persuasive case. But if this is all you have, you cannot demand that the government agents cease and desist when they show up to take your bananas.

Asserting jurisdictional limits, however, will yield a significantly different result. One of those limits is that the government may not violate your rights (if it could, they wouldn't really be rights, would they?) A bundle of those rights finds expression in the equality mandate – a mandate that precedes government. So whatever the government might want to do about your Mongo madness, it may not rightfully violate the equality mandate in doing so.

Therefore, before the government acts, it must first identify how your proposed action will violate someone else's right (thereby making him less than your equal), and how the proposed government action will maintain or restore everyone to their state of essential equality. If it cannot make this threshold showing, then the government's action will itself violate the equality mandate by making you less than equal to your countrymen.

Because the government has no authority to violate the equality mandate, any act in derogation of that mandate will be, by definition, tyrannical. Thus, if the government cannot establish jurisdiction, the Mongo admirer may rightfully demand that the government agent leave his bananas alone. *Demand*, not request. *Assert*, not persuade. And if the government persists in acting outside its jurisdictional limitations, the people are within their rights to dissolve it and start over. That is the difference between prudential and jurisdictional limitations.

Finally, in fine Orwellian fashion, Greg asks what “equality” is, and then refers to an unidentified “larger philosophical framework” in which “equality” means that one person may coerce another into unwillingly serving his needs. And then he says I haven’t engaged his argument. But I *have*. I challenged him to show how one person can coercively subjugate another to his need.

I think *Greg* has not engaged *my* argument. So let me put it more directly. It is the proponent of coercive action who bears the burden of establishing the right to coerce. Greg does not do this. Instead, he identifies an objective and moral good (such as the duty to rescue) and then he elevates it to the status of a right enforceable against your neighbor by subjugating him to the other’s need. But he never describes how it is that he wrestles the duty to rescue into the government’s jurisdiction.

That’s the point of the jurisdictional analysis and the equality mandate. That is how we determine the locus of enforcement.

So Greg’s mission, should he choose to accept it, is to describe how he distinguishes between those obligations enforceable by government and those that are not. If he cannot do that, then he has no principled basis for arguing

against oppressive and tyrannical governments, nor does he have any foundation for the assertion of rights.

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