Libertarianism
A N I N T R O D U C T I O N

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Libertarianism is a moral, social, and political doctrine that considers the liberty of individual citizens—the absence of external restraint and coercion—as the overriding value, right, and ideal that all social and political institutions ought to try to achieve or pursue. The doctrine of libertarianism also has implications for legal philosophy insofar as the laws of the state are aimed at safeguarding the rights of individuals. Libertarianism claims that one such fundamental right that law should safeguard is the right to individual liberty. Liberty is often understood as synonymous with freedom and autonomy, and it involves being able to choose and do what we want without external restraints. Freedom is construed by Thomas Hobbes and Jean-Jacques Rousseau in two different senses: the natural sense of freedom and the moral sense of freedom. Natural freedom is the freedom we have as individuals in the state of nature where there are no organized social institutions and relationships.

The moral sense of freedom has to do with the “artificial” and rational sense of freedom, which involves using rules and principles of social relationships in organized environments and institutions to achieve self-determination and self-realization. Laws, such as in cases of direct criminal prohibitions, are a way by which people place restraints on and circumscribe their own as well as others’ liberties in social and political institutions. It is in this regard that Hobbes sees the state, with its laws backed by sanctions, force, and threat, as a set of artificial chains, which, however, he thinks is better than the chains of the state of nature. Rousseau sees laws as a positive way to achieve freedom, in that we use them to impose restrictions on ourselves and others in a social environment so that we can maximize general freedom for all. Libertarianism is thus a legal doctrine insofar as it considers safeguarding individual rights to liberty as the ultimate value, ideal, or goal of laws and legal systems.
Liberty or freedom is an important concept in moral, social, political, and legal philosophy. However, this concept is also vague and ambiguous. Theories about democracy, equality, political and legal obligation, distributive and retributive justice, moral responsibility, and legal liability presuppose some notions of freedom. At least, most theorists believe that people ought to have freedom or liberty and that it is a value. But many theorists disagree about the precise nature of freedom, the acceptable limits that social, political, and legal institutions can place on individual liberties, and the context or conditions in which such limits can be placed. It is in this regard that the notion of liberty or freedom is usually seen in contrast with coercion, interference, intervention, and constraint. In other words, the notion of freedom makes sense only in a circumstance in which it can be constrained by external factors. Talk about freedom is superfluous if it cannot be infringed. Thus, the idea of freedom is usually understood in a social circumstance in which human beings have relationships and can interfere with one another’s actions. Freedom in this sense has to do with a circumstance in which there is no restraint by other people regarding what an individual chooses, can, or wants to do.

We are said to be free to the extent that we can choose and are able to do what we want without the constraints of other people. In this regard, we are free if and only if we can make choices regarding goals and how such goals are to be achieved, and are not compelled to do things that we do not choose or want to do; that is, we are not made to be unable to do what we want and choose to do. If we are not in a situation where we are compelled to act in accordance with the will of another person, via the authority and coercive apparatus of the state, then we are said to be free. The notion of freedom in this sense limits the scope of the relevant constraint to factors that are external to an individual: either another person directly or a situation created by another person. Moreover, the constraint must prevent us from doing what we choose in terms of a goal and how to achieve it. Thus, a natural condition which is not created by another person or a self-imposed limitation cannot be a legitimate constraint on individual freedom.

The description of the nature of liberty provided so far talks about what others should not do to limit our ability to do what we choose or want to do. In this sense, freedom has to do with not limiting an individual’s ability, opportunity, choice, and want. This is usually seen as a negative conception of the notion of liberty. In order to fully understand the stance of libertarianism, we need to understand the contrast between negative liberty, espoused by
libertarianism, and positive liberty, espoused by alternative theories such as egalitarianism and socialism. This will help us to understand, as I mentioned earlier, that most social and political theories presuppose some sense of liberty or freedom. Isaiah Berlin suggests that there is a positive sense of liberty. This involves what other people may do—as opposed to what they should not do—to provide or increase our ability or opportunity to make choices regarding what we want to do. This positive sense of freedom has to do with the sources of intervention or interference which may be seen as a kind of constraint or control that determines or shapes our choices and wants.

Libertarians argue against the positive kind of liberty, in that it provides a basis to increase the role of government and intervention by other people in the affairs of individuals. It justifies paternalistic states, governments, and laws. Most totalitarian and authoritarian governments and states use the notion of positive freedom to justify their positions in performing paternalistic functions. So, libertarians are in favor of limited government. The state is supposed to perform only a limited function. Such function involves preventing the use of force by others and punishing initial acts of interference, coercion, and violence by others, to the extent that these acts are limitations or constraints on individual liberties. It is in this regard that the sole purpose of the state and government is to achieve an ideal environment of liberty, where there is no constraint on individual liberties by other people. Given this ideal of libertarianism, there are some specific provisions that must be considered as basic rights for individuals: the right to life, the right to have freedom of speech and expression, the right to have freedom of assembly and the press, and the right to own property and dispose of it as one wishes.

Libertarians argue that the right to life does not include the duty of others to intervene or aid in its preservation; such right only involves not interfering with and not taking life. Hence, for them, people do not have a right to receive goods, property, and resources from other people or the government to aid the preservation of life. Simply put, libertarians argue that there are no welfare rights. However, such rights are supported by alternative theories such as egalitarianism, socialism, social-welfarism, and perhaps authoritarianism. The theoretical support for such rights derives from these theories’ alternative conception of liberty, which is in the positive sense. These theories argue that it is not enough not to interfere with other people’s freedom, because there are some basic provisions which must be given to every individual in order for them to be able to make adequate choices regarding what they want. The provision of these basic rights by the government is at the
heart of socialism. Egalitarianism also believes in the provision by the government of certain basic rights which form the basis for people's equality.

The assumption is that nature and other circumstances seem to make people unequal in social, political, and legal contexts. Some of these basic rights are provided for by social welfare and affirmative action programs. Most totalitarian and socialist theorists also rely on this positive conception of liberty to justify the redistributive functions of government and the overwhelming powers and control by the state. Libertarianism is a narrower view than liberalism. And a person can hold a liberal view and not hold a libertarian view. And a person can hold a liberal view but instead of holding the view that liberty is the overriding moral value, may hold the view that equality is the overriding moral value or ideal; such a view will be an egalitarian variant of liberalism. Another person may also hold a view about liberalism and at the same time hold the view that the general welfare of all citizens is the ultimate overriding value. Such a view will be a welfare variant of liberalism. However, it is not possible for a person to hold a libertarian view and not hold a liberal view. The readings in this module address all the above issues about the nature and limits of individual freedom in a social and political context, and the nature of acceptable limitations that other people can place on individual freedom.

These readings address the following questions: What is the nature and importance of freedom? Why is it not justifiable for the state to interfere with individual freedom? How is the distinction between negative liberty and positive liberty essential to an understanding of the concept of liberty? What is wrong with the positive conception of freedom? Why does the libertarian view of negative liberty not capture the notion of liberty? Why is the positive conception of freedom necessary to understand the notion of liberty? In what way does the libertarian understanding of the notion of freedom imply the right to life and property? What justifiable functions can the state perform to ensure individual liberty? Why is freedom of expression important? Why is it important to protect expression even if it is capable of causing harm to others? Under what conditions can the state justifiably interfere with individual liberties? Is equality necessarily antithetical to freedom? If not, how are they connected? Do we have a basic general right to liberty or is our right to liberty a special right? In what way does the provision of welfare limit liberty? Is such provision a justifiable function that a legitimate liberal democratic government can perform? Under what conditions can the state consider the interests of people as a basis for limiting their freedom?
Suggested Further Reading


