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Equal Rights for the Disabled, Indeed **by Scott McPherson**

... a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government.

— *Thomas Jefferson, 1801*

Of all the misunderstandings that exist in the world none is perhaps so widespread or so threatening to individual freedom as the common misconceptions regarding rights. They lead to frequent and extensive expansions of government power, which constitute the single greatest threat to everyone's rights and freedom.

The source of rights is itself often in contention, even among those who agree on their implications. But individual rights are generally viewed as providing a basic framework for defining proper human behavior in a social setting. Rights, when codified in law, provide the barrier that protects people from the criminal acts of others — including, and perhaps especially, those committed by their own government. Accordingly, rights are seen as safeguards for human dignity.

A “criminal act,” as defined by the libertarian thinking that influenced America's Founding Fathers, is generally one involving a physical assault upon another or a deliberate attempt to defraud him. To violate someone's rights puts the perpetrator outside the moral framework that governs civilization and renders him an outlaw subject to punishment.

The importance of this cannot be overstated. At a time when statesmen were attempting to construct a government that would not threaten individual liberty, the standard for determining whether or not governmental intervention was justified was the accusation that an individual had been the victim of violence or swindle. Nothing less would do.

The most superb accomplishment of a society based on rights, then, was that the only mechanism required to avoid the criminal sanction, was to do nothing to violate the rights of

others. It didn't cost any money, require any time, or mandate any action. To respect the rights of one's fellows, one needed only to refrain from engaging in any form of physical attack on them or from defrauding them in some way. No longer would the whims of kings or the fancies of biased legislators prevent or even hinder people from achieving their highest potential, adhering to their respective consciences, disposing of their own property, or pursuing their own happiness. People were free to live side by side with their fellow citizens, with no man having arbitrary power over another.

A perversion of rights

Unfortunately, over the last two centuries the concept of rights has gone from a moral pillar promising freedom to all to a rallying cry for the many advocates of activist government. Anti-monopoly laws, progressive income taxation, drug laws, minimum-wage requirements, workplace regulations, sexual-harassment laws, government retirement schemes, and health-care initiatives, just to name a few, are all manifestations of a statist approach to rights.

In this worldview, rights are not *negative* in nature, i.e., requiring only inaction on the part of others, but are *positive* claims on others, requiring a proactive government to rectify.

For example, an alleged right to health care requires that government take a percentage of one person's income to provide care for another; an alleged right to feel "safe" and "secure" means imprisoning those whose only crime is use of a prohibited substance; and an alleged right to a "living wage" underpins the minimum wage, which criminalizes attempts by employers and employees to settle the rate of pay on their own terms.

Likewise, sexual-harassment laws are derived from the mistaken belief that employees have a right to dictate their work environment rather than seek employment elsewhere should their job become intolerable. Except in cases of actual assault, in sexual harassment cases no one's rights are violated because no force or fraud is involved. But the mere desire to avoid unpleasant or nasty conduct from another is sufficient to have such a desire labeled a right by the statist.

Joining the chorus for such modern expansions of "rights" are Dick Thornburgh and Alan Reich, vice chairman and chairman, respectively, of the World Committee on Disability, in the November 3, 2004, issue of the *Washington Post*. In their piece, titled "Human Rights for the Disabled," the authors lament the U.S. government's failure to enthusiastically support a United Nations initiative to "provide international guidelines for the rights of more than 600 million people with disabilities."

"To be fair," they write, "the Bush administration does not actively oppose the convention; it simply announced early on that the United States would not ratify it." (The administration's position, according to Thornburgh and Reich, is that "the UN initiative is mooted by our own legal accomplishment" — the Americans with Disabilities Act.) "But is this a sufficiently worthy

and engaged response . . . from the one nation that all the others view as the pioneer for disability rights?” they ask.

The ADA

How did the United States become a “pioneer for disability rights”? “When the Americans with Disabilities Act [ADA] was passed . . . it was greeted as a welcome model for reform around the world,” they claim. “For more than a decade it has inspired progress and legislation by other countries seeking to address disability discrimination.” Yet despite this “leadership,” “fewer than 50 nations . . . have adopted similar laws against discrimination based on disability.” The UN wants the United States on board to help pressure recalcitrant states.

Never mind that the ADA was nothing less than another nail in the coffin of U.S. employers’ *real* right to control their workplace — the act’s “innovative concepts” provide the United States with the “remarkable opportunity to share America’s national experience [with disability law] with our global partners” and join an “enlightened effort to advance the UN Convention on the Rights of Persons with Disabilities” and, finally, “seize a chance to show the world the best of America.”

Obviously no decent person could fail to empathize with someone with a physical or mental handicap. But this doesn’t address a more fundamental issue, which neither Thornburgh nor Reich, nor the United Nations, nor even the U.S. government cares to discuss: what right does one person have, simply by virtue of any impairment, to lay claim, enforceable by law, over the life, property, and conscience of another?

Advocates for the disabled can certainly make much emotional hay out of the suggestion that without such protection persons with disabilities will be left to starve in the street, but this merely allows them to avoid the (more) uncomfortable question: by what divine right does a physical or mental disability grant the bearer arbitrary power over another? Bear in mind too that an employer’s decision not to install a wheelchair ramp would be considered a “violation” of the sacred rights of the disabled. Is this really a matter for government to resolve? (See “[The Ethics and Economics of Discrimination](#)” by Scott McPherson.)

Such claims are usually wrapped in the kind of rhetoric that the average person might at first embrace. For instance, legislation forbidding discrimination based on disability is said to protect the dignity of the disabled. But how much dignity is there for the employer forced to accommodate someone he may have never wanted to hire in the first place? Where is the respect for *his* right to control his own life and property and follow the dictates of his own conscience?

And how can a disabled person claim to have a shred of dignity so long as he must wield a government club over anyone not sufficiently “enlightened”? Anyone who attacks, beats, wrongly imprisons, defrauds, murders, rapes, or otherwise forcibly imposes his own will on the life or property of a person with a handicap deserves to feel the full force of the state. That is the same

protection to which each of us has a moral right. That is the sole protection government may legitimately provide.

No doubt those with disabilities have problems. But we all have problems. The ideal of America was that no man would be allowed to place his subjective desires, by force of government, over the liberty of another. Liberty and justice *for all* was once our credo — that was truly the best of America.

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