

Liberty and Welfare

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There are a number of possible trajectories for those of us who write books. One possibility is that the quality of the books we produce is uniform. For example, we could write uniformly poor or mediocre books, or uniformly good or excellent ones. The other possibility is that the quality is not uniform, but actually goes up or down. The worse alternative here, of course, is when the quality goes down. Then our best work is in the past. This unfortunately is the case for many authors. It was the case for John Rawls, for example. Nothing Rawls wrote subsequently surpassed his first book, *A Theory of Justice*.¹ Alternatively, one could be writing better and better books. This alternative, I think, is the best. It is even better than to have always produced books of exactly the same high quality, because authors always hope to do better than they have done in the past, and producing something of even higher quality is always possible.

In my judgment, Tibor Machan's *The Passion for Liberty* conforms to the best trajectory, the best alternative, in authorship.² It is the best book that Machan has written in social and political philosophy, surpassing even the excellent books he has written in the past. Now while Machan discusses many different topics in *The Passion for Liberty*, I am going to focus on just one central topic of his book—his opposition to welfare rights for the poor on libertarian grounds.

There is good reason for me to focus on this one topic. Machan and I have been discussing each other's work on this topic and debating the topic publicly for many years now and so we have approached the topic from many

¹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

² Tibor Machan, *The Passion for Liberty* (Lanham, MD: Rowman & Littlefield, 2003).

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different angles. So what we have been saying to each other on this topic over the years, I think, is very important. I also think that it is important that I first record the history of that discussion before taking up the particular way that Machan approaches this topic in *The Passion for Liberty*.

I began discussing Machan's opposition to welfare rights for the poor on libertarian grounds in print in my 1988 book *How to Make People Just*; Machan returned the favor of discussing my views on this topic in his 1989 book *Individuals and Their Rights*. About a couple of years earlier, at a Meeting of the Society for the Advancement of American Philosophy, we had an important public encounter, which I always like to recount, hopefully accurately. Machan and I were on a panel with one other person who shall remain nameless. I had just presented a version of my argument that the libertarian ideal of liberty leads to an endorsement of welfare rights for the poor, and this third member of our panel began attacking my argument on the grounds that one can always formulate a political ideal in such a way as to get whatever results one wants and that this is just what I had done with the libertarian ideal. This person claimed that what I had done is skew the libertarian ideal in order to get welfare rights out of it. At that point, Machan spoke up, I hope I am remembering this correctly, claiming that he, as a libertarian, did not think that I had skewed or misstated the libertarian ideal, but that where he and I disagreed was not over the statement of the libertarian ideal but rather over the practical requirements that are derivable from it. I always remember this as one of the high points in philosophical dialogue that I have participated in over the years, and I have also always been grateful to Machan for saving me from the jaws of my critic on that occasion.

Such were the beginnings of the discussion that Machan and I have had over the relationship between libertarianism and welfare rights. Let me now recount more of its history. In an earlier book, *Individuals and their Rights*, Machan does criticize my argument that a libertarian ideal of liberty leads to a right to welfare, as I see it, accepting its theoretical thrust but denying its practical significance. I have argued that he appreciates the force of the argument enough to grant that if the type of conflict cases that I have described between the rich and the poor actually obtained, the poor would have a right to welfare. But Machan then denies that such cases—in which the poor have done all that they legitimately can to satisfy their basic needs in a libertarian society—actually obtain. “Normally,” he writes, “persons do not lack the opportunities and resources to satisfy their basic needs.”³

But this response, as I have interpreted it, virtually concedes everything that my argument intended to establish, for the poor's right to

³ Tibor Machan, *Individuals and Their Rights* (Chicago, IL: Open Court, 1989), p. 107.

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welfare is not claimed to be unconditional. Rather, it is said to be conditional principally upon the poor doing all that they legitimately can to meet their own basic needs. So it follows that only when the poor lack sufficient opportunity to satisfy their own basic needs would their right to welfare have any practical moral force. Accordingly, on libertarian grounds, I claimed that Machan has conceded the legitimacy of just the kind of right to welfare that the preceding argument hoped to establish.

The only difference that remains, I claimed, is a practical one. Machan thinks that virtually all of the poor have sufficient opportunities and resources to satisfy their basic needs and that, therefore, a right to welfare has no practical moral force. In contrast, I think that many of the poor do not have sufficient opportunities and resources to satisfy their basic needs and that, therefore, a right to welfare has considerable practical moral force.

But isn't this practical disagreement resolvable? Who could deny that most of the 1.2 billion people who are currently living in conditions of absolute poverty "lack the opportunities and resources to satisfy their basic needs?"⁴ And even within our own country, it is estimated that some 32 million Americans live below the official poverty index, and that one fifth of American children are growing up in poverty.⁵ Surely, it is impossible to deny that many of these Americans also "lack the opportunities and resources to satisfy their basic needs." Given the impossibility of reasonably denying these factual claims, I have claimed that Machan would have to concede that the right to welfare, which he grants can be theoretically established on libertarian premises, also has practical moral force.

But to my chagrin, Machan did not reach the same conclusion. In *Morality and Social Justice: Point/Counterpoint*, which Machan and I jointly authored with others, he claimed that the conclusion I drew here is a *non sequitur* "because it speaks not to what may be expected in a country that functions within the framework of laws guided by Lockean libertarian principles—individual human negative rights, including the rights to life, liberty and property—but is true of (a) the world at large and (b) the United States in the 1990s."⁶

As I noted in the same book, however, this response concedes that many of the poor lack the opportunities and resources to satisfy their basic needs, but then contends that this lack is the result of political oppression in

⁴ Alan Durning, "Life on the Brink," *World Watch* 3 (1990), p. 24.

⁵ *Ibid.*, p. 29.

⁶ Tibor Machan, James Sterba, Alison Jaggar, et al., *Morality and Social Justice* (Lanham, MD: Rowman & Littlefield, 1995).

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the absence of libertarian institutions. Now one might try to reconcile this response with Machan's earlier claim that "[n]ormally, persons do not lack the opportunities and resources to satisfy their basic needs" by interpreting the claim as maintaining only that normally in libertarian societies the poor do not lack the opportunities and resources to satisfy their basic needs. The problem with this interpretation is that when Machan makes his "normally" claim he goes on to refer to typical conditions in actual societies. So this does raise the question of what sort of society Machan really intends his "normally" claim to refer to.

Suppose, for the sake of argument, that we take it to refer to an idealized libertarian society. This interpretation, I have argued, places the main responsibility for the fate of the poor on nonlibertarian political oppressors, but it also suggests that because of the existence of political oppressors, there is something the poor can do to meet their basic needs which they are not doing, namely, they can throw off their political oppressors and create libertarian societies. So, according to this line of argument, the poor's lack of opportunities and resources to meet their basic needs is to some degree their own fault. They could throw off their political oppressors, but they have not done so.

But I have argued that this is to place responsibility for the fate of the poor where it does not belong. In actual societies, where the poor are oppressed, they usually have little or no political power to change the political system under which they live. Under conditions of oppression, virtually all of the responsibility for the failure to meet the basic needs of the poor must be placed on the political oppressors themselves and on those who benefit from such a system but fail to oppose it.

Granting that this is the case, I have asked, what is the remedy? We can all agree that oppressive societies must be transformed into nonoppressive ones, but Machan contends that this involves transforming them into libertarian societies as well. I am on record as having no objection to this, provided that it is recognized that within a libertarian society the liberty of the poor takes precedence over the liberty of the rich to the extent required to secure welfare rights. Machan, of course, has resisted this interpretation of libertarianism, but to do so, I have argued, he needs to show how the denial of these rights to the poor is not itself a form of oppression that conflicts with the "ought" implies "can" principle, as I have interpreted it. And I don't see how this can be done.

There is a further question of how radical the transformations would have to be to change oppressive societies into libertarian societies. Machan has suggested that the changes that are necessary are fairly minimal, but a closer analysis suggests that only a radical transformation would do the job. This is because in oppressive societies wealth and resources have usually been concentrated in the hands of a few. To transform an oppressive into a

nonoppressive society this inequality of wealth and resources would have to be eliminated. One way to do this would be radically to redistribute wealth and resources in favor of the poor. In fact, I have argued that such a radical redistribution of wealth and resources is required by the libertarian's own ideal of liberty. But Machan does not want radically to redistribute wealth and resources in this way. The kind of changes that Machan seems content with would not directly challenge the current unequal distribution of wealth and resources in existing oppressive societies, but only rule out certain oppressive or coercive ways of acquiring wealth and resources in the future. But this is like stopping a race in which some runners have been forced to wear heavy weights while others were left unencumbered, and then continuing the race after doing no more than letting the runners with weights remove them. Surely, this would not suffice to make the results of the race fair. There is also a need for some kind of a corrective to compensate for the advantage enjoyed by those runners who ran the whole race unencumbered. Similarly, more needs to be done to transform oppressive societies into nonoppressive ones than Machan seems willing to do. After blaming oppressive structures for the plight of the poor, Machan seems reluctant to take the steps required to secure the basic needs of the poor.

Machan elsewhere develops a different line of argument to try to undercut the practical force of my argument that the libertarian ideal leads to welfare rights. Rather than argue about what would obtain in an ideal libertarian society, Machan here seeks to defend libertarianism by comparing actual societies. Accordingly, he contends that when we compare economic systems to determine which produce more poverty, “[n]o one can seriously dispute that the near-libertarian systems have fared much better than those going in the opposite direction, including the welfare state.”⁷ Here one might think that Machan has the U.S. in mind as a “near-libertarian system,” because earlier in the same paragraph he claims that “America is still the freest of societies, with many of its legal principles giving expression to classical liberal, near-libertarian ideas.”⁸ Yet apparently this is not what Machan thinks, since in a footnote to the same text he says: “It is notable that the statistics that Sterba cites (mentioned above) are drawn from societies, including the United States of America, which are far from libertarian in their legal construction and are far closer to the welfare state, if not to outright

⁷ Tibor Machan, “The Nonexistence of Welfare Rights” (rev. version), in *Liberty for the 21st Century*, ed. Tibor Machan and Douglas Rasmussen (Lanham, MD: Rowman & Littlefield, 1995), pp. 218-20.

⁸ *Ibid.*

socialism.”⁹ Obviously, then, Machan is surprisingly unclear as to whether he wants to call the U.S. a near-libertarian state, a welfare state, or a socialist state. Yet, whichever of these designations is most appropriate, what is clear is that the poor do less well in the U.S. than they do in the welfare liberal or socialist states of Western Europe such as Germany, Sweden, and Switzerland.¹⁰ For example, 22.4 percent of children live below the poverty line in the U.S. as compared to 4.9 percent in Germany, 5 percent in Sweden, and 7.8 percent in Switzerland, and the U.S. shares with Italy the highest infant mortality rate of the major industrialized nations. The U.S. also ranks 67 among all nations in the percentage of national income received by the poorest 20 percent of its population, ranking the absolute lowest among industrialized nations.¹¹ Accordingly, the success that welfare liberal and socialist states have had, especially in Western Europe, in coming close to meeting truly the basic needs of their deserving poor should give us good reason to doubt what Machan proclaims is the superior practical effectiveness of “near-libertarian states” in dealing with poverty.

Machan takes still another tack on the liberty and welfare debate.¹² There he challenges the idea that in his response to me, he has made any concession to welfare rights even when the poor really do not have any option for surviving unless they can legitimately exercise the liberty not to be interfered with in taking what they need from the surplus possessions of the rich. Rather what obtains in such situations, according to Machan, is that a person ought to disregard individual rights to property and take from another what he or she needs. In addition, Machan claims that such situations are quite rare.

⁹ Ibid.

¹⁰ Richard Rose and Rei Shiratori, eds., *The Welfare State East and West* (Oxford: Oxford University Press, 1986). In fact, the living standards of poor children in Switzerland, Sweden, Finland, Denmark, Belgium, Norway, Luxembourg, Germany, the Netherlands, Austria, Canada, France, Italy, United Kingdom, and Australia are all better than they are in the United States. See James Carville, *We're Right They're Wrong* (New York: Random House, 1996), pp. 31-32.

¹¹ Michael Wolff, *Where We Stand* (New York: Bantam Books, 1992), pp. 23 and 115; George Kurian, *The New Book of Work Rankings*, 3d ed. (New York: Facts on File, 1990), p. 73; Keith Bradsher, “Gap in Wealth in U.S. Called Widest in West,” *New York Times*, April 17, 1995.

¹² Tibor Machan, “Sterba on Machan’s ‘Concession’ ,” *Journal of Social Philosophy* 32, no. 2 (Summer 2001), pp. 241-43.

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But how does this differ from my account? In my account, in such situations a person is permitted to take from those who have a surplus (which is simply more than you need). Surprisingly, Machan appears to make an even the stronger claim than I do here. Where I claim that those in need are permitted to take from those with a surplus, Machan claims that they ought to do so. This is because the underlying foundations for his libertarian view is what he calls classical egoism, which holds that each person ought to do what best serves his or her overall interest.¹³ But while classical egoism does maintain that the needy ought to take from the rich in certain conflict situations, it also holds that in those same conflict situations, the rich ought to stop the poor from doing so. Eric Mack explicitly accepts this conclusion of classical egoism and, since Machan and Mack have endorsed each other's views on many occasions, I am assuming that Machan has the same position as Mack here.¹⁴ Machan can correct me if I am wrong about this.

Assuming then that I am interpreting him correctly, Machan is not making a stronger claim than I am here, because my claim that those in need are permitted to take from those with a surplus is stronger than an "egoistic" ought-claim. The permissibility claim implies that others ought not to interfere with doing what is permitted, whereas egoistic ought-claims have no such implication. As in competitive games, it can be the case that one person ought to do X at the same time that someone else ought to stop the person from doing it. However, this classical egoist solution is not a moral solution. It violates the "ought implies can" principle that both Mack and Machan recognize as a requirement of morality. It violates the "ought implies can" principle because it requires the poor to accept the results of a power struggle in which both the rich and the poor are at liberty to appropriate and use the surplus of the rich insofar as they are able to do so. Obviously, such a solution favors the rich over the poor. Consequently, it would be no more reasonable to require the poor to accept this resolution than it would be to require them to accept the resolution that Mack concedes fails to satisfy the "ought implies can" principle—a resolution that secures for the rich property rights to their surplus in these circumstances. This implies that for severe conflict-of-interest situations only a resolution that guarantees the poor a right to welfare would satisfy the "ought implies can" principle, and thus be a moral resolution.

So once we recognize that Machan's egoistic resolution here is morally unacceptable because it violates the "ought implies can" principle, this leaves my resolution the only viable alternative. This is why I have

¹³ Machan, *The Passion for Liberty*, p. 31.

¹⁴ Eric Mack, "Egoism and Rights," *The Personalist* 54 (1973), pp. 5-33.

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claimed that once Machan acknowledges that property rights are inoperative in certain severe conflict situations, he should accept what I have called *action welfare rights* that are grounded in the priority of the liberty of the poor over the liberty of the rich in such conflict situations.

Now there is still another difference in our accounts, which does figure in Machan's reluctance to speak of a right to welfare in such situations. It is that he thinks that such situations are rare, whereas I do not. This again raises the question about whether we are talking about actual societies or as-yet nonexistent ideal libertarian societies. If we are talking about actual societies, including our own, it should be obvious that such situations are not rare, even in this country. Moreover, the fact that we might rightly blame oppressive governments or oppressive individuals for the number of people who are actually needy does not show that the needy in these actual societies do not have an action welfare right—even against nonoppressive rich people if it turns out to be the only way for them to meet their basic needs. For these reasons, I think that an action right to welfare is inescapable for actual societies.

Even if we are talking about nonexistent, ideal libertarian societies, it is also hard to see how we can say that it will be rare for people in such societies to be needy. In wealthy societies that surely depends on whether resources are appropriately distributed to meet the basic needs of all of their members. Moreover, if we take into account the needs of distant peoples and in future generations as well, it is hard to see how it would be rare for the poor to lack the opportunities to meet their basic needs. Not interfering with the liberty of the rich does not seem like a prescription for providing the poor with adequate opportunities to meet their basic needs, especially when not interfering with the liberty of the rich involves interfering with the liberty of the poor.

Machan has offered two new considerations against my argument from liberty to welfare.¹⁵ He argues that by denying the poor a right to welfare the rich would not be doing violence to them (that is, unjustly interfering with them), because the poor would still be in need if the rich did not exist. I wonder whether this claim is supposed to hold of both existing societies and of a not-yet existing ideal libertarian society? In the same book, I responded by arguing that what Machan claims here is not true for just any particular group of rich people. A particular group of rich people's hoarding of resources may be exactly why other people are poor. Moreover, consider a case where the claim holds. Suppose you and I would still be very needy even if certain rich people did not exist. Does this show that we do not have a right

¹⁵ Tibor Machan, "Libertarian Justice," *Social and Political Philosophy: Contemporary Perspectives*, ed. James Sterba (London: Routledge, 2001), pp. 93-114.

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not to be interfered with in taking from the surplus resources of those same rich people when they do exist? Suppose you and I are drowning in a pond. Even when others did not cause our plight, they may still be required not to interfere with our attempts to save ourselves, even when these attempts involve using their surplus resources. So I don't see how what Machan argues here undermines action welfare rights.

In the same volume, Machan also claims that there may be other ways to meet the needs of the poor, for example, by obtaining wealth from the punishment of rich citizens or from resources not owned by anyone. My response was that it stands to reason that I am all in favor of utilizing these means for meeting the needs of the poor. I just don't see how these means will suffice to meet the basic needs of all those who are poor without also having recourse to a right to welfare.

In his newest book, *The Passion for Liberty*, Machan restates some of the lines of argument that he had previously used against the possibility of welfare rights on a libertarian foundation. But there is at least one line of argument that he develops here that I do not recall from his previous work. It opposes welfare rights on the grounds that "no one may be used by another without consent because each individual is important and valuable in his or her own right." This grounds that Machan provides against welfare rights has a Kantian flavor to it, but Kant's restriction never to use anyone as a means only appears to be a far weaker restriction than the one that Machan endorses here. Machan's restriction against using people is absolute unless actual consent is secured. Kant's restriction against using people allows for using them provided that they are treated as ends as well, and it can presumably be satisfied even when actual consent has not been secured. So the Kantian restriction appears to be consistent with welfare rights because taxing those who have surplus for the benefit of the deserving poor is consistent with wanting everyone to have the necessary resources for a decent, flourishing life and, therefore, treats them as ends at least to that extent.

Moreover, it is possible to show that even Machan's apparently more restrictive prohibition against using people is still consistent with welfare rights. In the type of conflict situation between the rich and the poor that we have been considering to determine who is using whom, we need to know who has an enforceable right against whom. If the poor do have a right not to be interfered with in taking from the surplus possessions of the rich what they need to meet their basic needs, then the rich do not have the right to be interfered with in using their surplus to meet their luxury needs. If so, the poor would not be using the rich when they appropriate what they have a right to appropriate, and so would not be violating even Machan's seemingly more restrictive principle against using people. Who is using whom here all depends of whose liberty—that of the poor, or that of the rich—has greater priority.

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Now it might be objected here that I am employing a moralized sense of using people, whereas the sense that Machan employs is descriptive. But this is not the case. Consider our practice of incarcerating prisoners against their will for serious crimes against persons such as murder, rape, and other forms of aggravated assault. Surely, in the descriptive sense of using people, we are usually using these prisoners against their will by imprisoning them. But then in a moralized sense of using people, which I am employing and Machan must certainly employ as well to deal with such cases, we are not really using people because our actions are fully morally justified, and in other ways, we are still treating the prisoners as ends in themselves to an appropriate extent.

There is still another line of argument that makes its appearance in *The Passion for Liberty* as part of the case against the recognition of welfare rights on libertarian grounds.¹⁶ While Machan has advanced it in his earlier work, I have not commented on it before. What Machan argues is that the most fully moral actions we perform are those we do freely. So if we are coerced to do something, as we would be if we are forced to pay taxes to help the poor, our helping the poor in this way would not be as moral as it could be. So if we want the highest level of morality possible we should want only voluntary assistance of the poor—not assistance that comes by way of a coercive welfare system. In response to this argument, I agree that if a system of voluntarily helping the poor would do the job, that is, take care of those who are in need, we would not need welfare rights. In fact, virtually all defenders of welfare rights, maintain, as I do, that welfare rights are only justified when voluntary charity is insufficient. But when voluntary charity is insufficient, surely the poor would be better off with a welfare system.

Now it might be objected that some of those who were not moral enough to voluntarily help the poor would find ways to evade the costs of the welfare system or even to take advantage of it. Surely, this can happen but those same individuals would probably cause trouble in the absence of a welfare system as well. There are always ways for evil people to be evil. Moreover, for many others the coercive welfare system would provide them with the opportunity to be as morally good as they can be. This is because they may be willing to help the poor but only when they can be assured that others are making comparable sacrifices, and a coercive welfare system does provide this assurance that comparable sacrifices will be made by all those with a surplus. So if many, possibly even most, people fall into this category of being willing to help if they can be assured that other similarly situated people will do likewise, a coercive welfare system would provide just the right setting for those who would only help if all were required to do likewise. This also seems to be a dominant reason why most electorates voted to set up

¹⁶ Machan, *The Passion for Liberty*, p. 31.

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such coercive welfare systems in first place. In addition, a welfare system would also provide the opportunity for the poor to morally develop themselves, now that they would have the resources needed for a decent life.

Moreover, those who would have given generously to the poor even when they were not coercively required to do so would still have this virtuous disposition even if they cannot as clearly display it. Their disposition to greater virtue is still there; it is just not as visible for all to see. But this is hardly a great loss. Nor is much virtue displayed by those who would not voluntarily have helped the poor, and are only doing so because they are coerced to do so. These are the persons who are really coerced by an electorate's choice of a welfare system. But even here there are moral gains for the poor because they now would have the necessary resources morally to develop themselves.

In sum, voluntary charity is morally preferable only when it suffices to take care of the needs of the poor. When it does not suffice, a welfare system: (1) does not take away the virtue of the supremely generous who would display their supreme generosity more clearly in a society without welfare, (2) provides the right kind of help for many people to enable them to be as generous as they can, and (3) provides the needed resources for the poor so that they can be as virtuous.

Machan's *The Passion for Liberty* is a cogent and passionate defense of liberty. A passion for liberty is a commitment that both Machan and I share. Where we disagree is over what that commitment practically requires with respect to welfare. In many other areas of political and social life, Machan and I agree about the practical requirements of liberty. With respect to the issue of welfare, however, agreement still eludes us. Nevertheless, I think that we have made considerable progress, as our discussion over the years attests. Machan's new book has motivated me to reflect on the history of our discussion and on the new arguments that *The Passion for Liberty* brings to it. It has also given me new hope that our disagreement over welfare can be resolved. If Machan's new book only does as much for other readers, it is sure to be a fabulous success.