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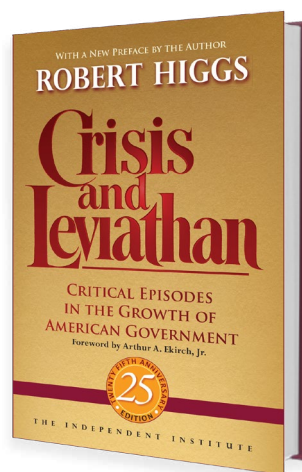
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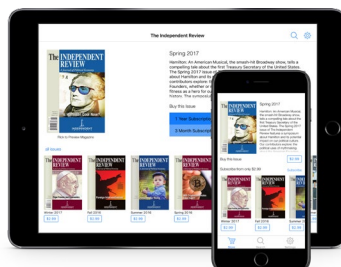
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Property Rights, Coercion, and the Welfare State

The Libertarian Case for a Basic Income for All

— ◆ —

MATT ZWOLINSKI

Most readers of this journal will probably agree that the U.S. welfare system is a disaster. The federal government alone spends well more than \$600 billion each year on more than 120 different antipoverty programs. Add in another \$284 billion of welfare spending at the state and local levels, and you have almost \$1 trillion of government spending on welfare—more than \$20,000 for every poor person in America (Tanner 2012).

That's a lot of money and a lot of bureaucracy. All of which might be excusable if the welfare state were effective at doing what it was supposed to do—helping the poor escape poverty. But it isn't. Programs such as the Supplemental Nutrition Assistance Program and Section 8 housing vouchers transform taxpayer cash into less-useful vouchers, thereby preventing recipients from buying those goods and services that best meet their needs.¹ And well-intentioned means testing leads to enormously high effective marginal tax rates and so-called welfare cliffs, thus producing a tremendous

Matt Zwolinski is an associate professor of philosophy at the University of San Diego.

1. For a particularly disheartening account of the underground market in cases of soda in rural Appalachia, see Williamson 2014.

The Independent Review, v. 19, n. 4, Spring 2015, ISSN 1086-1653, Copyright © 2015, pp. 515-529.

disincentive on the part of the poor to do the one thing most likely to help them leave poverty behind once and for all—work. As a result, despite massive expenditures by the welfare state, the problem of poverty in America remains a serious one.

But suppose we could give the system an overhaul—make it less top-heavy, more effective at relieving poverty, and maybe even less expensive. Would that be enough to make the system an acceptable one?

Some thinkers attracted to the ideals of individual responsibility and limited government believe that *any* welfare state would be unacceptable, no matter how effective and efficient it might be. After all, even a well-run government welfare program would still be *coercive*. It is coercive because all such programs involve the use of force to tax money away from some people in order to give it to others. And many libertarians and classical liberals regard an opposition to the initiation of force as the defining axiom of their creed (see, e.g., Rothbard 1973, chap. 2).

I have argued elsewhere (Zwolinski 2014) that a basic-income guarantee (BIG) would be less expensive, less bureaucratic, less prone to political opportunism, and less paternalistic and invasive than our present welfare state. These considerations make up what I called the “pragmatic libertarian argument for a basic-income guarantee.” Even if the complete abolition of the welfare state is the libertarian ideal, I argued, libertarians have good reason to regard a BIG as significantly better than what we have right now and to view the replacement of our welfare state with a BIG as a potential win–win compromise with political progressives and moderates.

In this essay, however, I want to defend a more ambitious claim. Though I still believe that libertarians should regard the BIG as a sound political compromise, I do not think that they should regard it *merely* as a compromise. Instead, they should see the BIG as an essential part of an ideally just libertarian system. This conclusion will no doubt strike many libertarians as surprising (and perhaps implausible!). But what is even more surprising is that the best *argument* for this conclusion draws its main support from precisely the same consideration that most libertarians use to *oppose* welfare measures such as a BIG—an opposition to the initiation of force.

I begin by discussing the relationship between the libertarian commitment to liberty and the libertarian commitment to property in external resources and by arguing that there exists a significant tension between the two. I then proceed to explain the role of the Lockean proviso in addressing this tension and its limits. Satisfaction of the Lockean proviso is necessary to render a system of property rights morally justifiable, but we cannot ensure that the proviso is satisfied for *all* simply by pointing to the general prosperity that private-property rights engender. This suggests the possibility that a state-financed social safety net might be necessary to ensure the satisfaction of the Lockean proviso and hence render the system of capitalist property rights morally justifiable for all. Once we conclude that there is a strong moral case for a social safety net, pragmatic considerations indicate that there are strong reasons for making that transfer system take the form of a BIG rather than a more restricted form.

My argument in this paper is limited not only by focusing on philosophical considerations to the relative neglect of economic, sociological, and political ones but also by discussing only a portion of the relevant philosophical issues and those in something less than comprehensive detail. The final section reflects on some of the limitations of my argument.

Property and Liberty

To be a libertarian is to take property rights seriously. At the same time, and as we have seen, many libertarians also view an opposition to the initiation of force as one of the most important defining elements of their creed.

Libertarians generally see these commitments as complementary—indeed, inseparable. At the very least, property rights constitute an indispensable *means* for protecting individuals from the use of force by others. On a more fundamental philosophical level, it is difficult to see how we might even know what the initiation of force *means* without some prior theory of who is entitled to what—that is, without a theory of property rights.²

This connection is clear enough in the case of what is arguably the most fundamental kind of property right within the libertarian system—the property right each individual has in his or her own person. To the extent that each individual’s natural right of self-ownership is recognized, that individual has the right to exercise exclusive control over his or her own body. Part of what is entailed by this right is the right to prevent other people from using one’s body without consent—as a punching bag, as a tool for sexual gratification, or as a slave. In the case of an individual’s ownership of his or her own self, respect for property and a commitment to individual liberty seem to go hand in hand.

But what is clear with respect to property rights in one’s person is much less clear with respect to property rights in external resources such as land. If I put a fence around a piece of land that had previously been open to all to use, claim it as my own, and announce to all that I will use violence against any who walk upon it without my consent, it would certainly appear as though *I* am the one initiating force (or at least the threat of force) against others. I am restricting their liberty to move about as they were once free to do. I am doing so by threatening them with physical violence unless they comply with my demands. And I am doing so not in response to any provocation on their part but simply so that I might be better able to utilize the resource without their interference.

2. Suppose George is walking across a field when David jumps out from behind a bush, grabs him, and gently but forcefully removes him from the area. In this example, it certainly *looks* as if David has initiated force against George. But if the field is David’s property and George is trespassing on it, then libertarians will conclude that David’s force is *retaliatory* in nature and that, appearances to the contrary notwithstanding, it is actually George who initiated force against David.

Why is this a permissible thing for me to do? Or *is* it permissible? This question turns out to be surprisingly difficult to answer. Historically, the most influential answer in the libertarian tradition was given by John Locke, who wrote that our right to acquire property rights in land and other external resources is grounded in our ownership of our selves and our labor. “Though the earth, and all inferior creatures, be common to all men,” he stated, “yet every man has a property in his own person: this nobody has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property” (1952, sec. 28). Thus, according to Locke, we acquire property rights in external resources by mixing something that we own (our labor) with something that we do not own (the resource).

But this is a puzzling argument. What makes property problematic from a libertarian perspective is not the relationship between the owner of the property and the thing owned. What makes property problematic is the relationship between the owner of property and *other people*. To claim a property right is to claim the right to use physical force to prevent other people from using a resource without your consent. And it is not quite clear why the fact that you went and mixed your labor with some piece of land should suffice to give you *that* right.³

The idea that Locke’s theory failed to justify the way in which property restricts *liberty* was eloquently expressed in the mid-nineteenth century by the great libertarian Herbert Spencer. For Spencer, the fundamental moral principle of libertarianism was that each person should have the maximum liberty possible compatible with an equal liberty for others. The problem with private-property rights in external resources, on his view, was that such rights run afoul of this “law of equal freedom.”

[I]f one portion of the earth’s surface may justly become the possession of an individual, and may be held by him for his sole use and benefit, as a thing to which he has an exclusive right, then other portions of the earth’s surface may be so held; and eventually the whole of the earth’s surface may be so held; and our planet may thus lapse altogether into private hands. Observe now the dilemma to which this leads. Supposing the entire habitable globe to be so enclosed, it follows that if the landowners have a valid right to its surface, all who are not landowners, have no right at all to its surface. Hence, such can exist on the earth by sufferance only. They are all trespassers. Save by the permission of the lords of the soil, they can have

3. The situation is in fact worse. The Lockean labor-mixing account is an account of how property rights *might* be acquired in a morally justifiable way. But most actually existing property rights in land have their origin in conquest and bloodshed, not in the peaceful mixing of labor. Thus, even if the Lockean labor-mixing account is *correct*, it is not *relevant*, at least as far as the justification of actually existing property rights are concerned.

no room for the soles of their feet. Nay, should the others think fit to deny them a resting-place, these landless men might equitably be expelled from the earth altogether. ([1851] 1995, 103–4)⁴

Spencer's challenge is a formidable one. If libertarians are committed to the protection of individual liberty, and if property rights in land *restrict* liberty, then how can libertarians support such property rights?

The Lockean Proviso

The key to answering Spencer's challenge lies in recognizing that Locke never claimed that mixing one's labor with a resource was *sufficient* to give one a property right in it. It might be a *necessary* condition, but in order to establish a valid property right one has to do more than mix one's labor with the land. One has also to satisfy the so-called Lockean proviso.

The proviso holds that in order to take an item out of the common stock of nature and make it one's own individual property, one must ensure that one leaves "enough, and as good, in common for others" (Locke 1952, sec. 27). The proviso's purpose is to ensure that *all* individuals are able to use the earth's natural resources to support their lives. If one person were to claim rights over the entire water supply in a given area, that person would hold the power of life and death over all other persons. To get the water that they need to live, they would need to get his permission and comply with his terms. If, however, one appropriates only *some* water, leaving enough and as good for others, then one's property is "not any prejudice to any other man," and thus no one has any grounds for legitimate complaint (Locke 1952, sec. 33).

I raise the issue of the Lockean proviso not to argue by appeal to Locke's philosophical authority, but because Locke's idea seems to reflect an important moral truth. Natural resources should be used, in some sense, for the benefit of *all* persons, not just a privileged few. It is fair for some to have more than others because they worked harder or even because they simply had better luck. But it is not fair for some to prosper while others starve because the former prevented the latter from accessing natural resources that the former did nothing to create.

Important and intuitive though the Lockean proviso may be, however, many have argued that it is difficult, if not impossible, to satisfy (see, e.g., Thompson 2005, 330). Resources are scarce, and so every act of appropriation necessarily leaves less for others to appropriate. Those who find their way to unclaimed resources first get the prize, and latecomers are left begging for leftovers. Or so it might seem.

4. Spencer also makes a version of the historical injustice argument, noting that "[v]iolence, fraud, the prerogative of force, the claims of superior cunning—these are the sources to which [existing property titles] may be traced" ([1851] 1995, 104–5).

In fact, things are exactly the reverse. The reality, as David Schmitz has pointed out, is that in the “competition” between latecomers and early arrivers, it is latecomers who win big.

Original appropriation diminishes the stock of what can be originally appropriated, at least in the case of land, but that is not the same thing as diminishing the stock of what can be owned. On the contrary, in taking control of resources and thereby removing those particular resources from the stock of goods that can be acquired by original appropriation, people typically generate massive increases in the stock of goods that can be acquired by trade. The lesson is that appropriation typically is not a zero-sum but a positive-sum game. As Locke himself stressed, it creates the possibility of mutual benefit on a massive scale. It creates the possibility of society as a cooperative venture. (2012)

Land held in the commons is prone to overuse and underdevelopment. Processes that allow individuals to take land out of the commons and into private ownership allow societies to avoid the tragedy of the commons. And by allowing individuals to reap the benefits of what they sow, private ownership generates incentives for individuals to invest in improving their land and putting it to productive use. Early arrivers may have gotten all the good land. But *we* got grocery stores, indoor plumbing, iPhones, and massively increased life expectancy. And we got it precisely *because* of the production and trade that early arrivers set in motion by taking land out of the commons.

Private property makes it possible for us to live peaceful, productive, and prosperous lives together. If that fact doesn’t render some form of private property morally justifiable, it is difficult to see what would.

But even if this fact justifies *some* form of private property, it still leaves us with important questions about the precise *kind* of property arrangement that is justified. A strict libertarian minimal state with no redistribution whatsoever (other than the sort involved in taxing some persons in order to provide protective services to others) is *one* kind of private-property regime. But a (classical) liberal regime that allows modest scope for redistribution and the provision of public goods is another. A (progressive) liberal regime with an even more expansive scope for state action is still another. Does Schmitz’s argument give us any reason to favor one of these kinds of regimes over the others?

Consider, first of all, the fact that significant levels of state-based redistribution appear to be compatible with high levels of production, trade, and economic growth. The case of Denmark provides an interesting example. Its welfare state is one of the most generous in the world, providing free health care, free education, and subsidized child care for all its citizens. And yet Denmark is also consistently ranked as one of the most economically free countries in the world, scoring significantly higher than the

United States on measures such as respect for property rights, business freedom, monetary freedom, trade freedom, and more (see Heritage Foundation 2012). As a result, Denmark has enjoyed strong levels of economic growth, and its population is widely regarded as the happiest in the world (see United Nations Social Development Network 2013).

The second point to bear in mind is that the Lockean proviso is *individualistic*, not *aggregative*, in terms of its underlying moral principle. In this way, it is fundamentally unlike utilitarian principles, which seek to justify acts or institutions in terms of their *overall* costs and benefits regardless of how those costs and benefits are distributed among different individuals. The point of the proviso is to ensure that *no one* is set back in his or her ability to pursue his or her good by others' appropriation of the common bounty of nature.

But if this is the justificatory hurdle that the Lockean proviso sets, then aggregative data about economic growth and well-being will not be sufficient to clear it. After all, it is entirely possible to have a society that is *generally* prosperous while still containing significant pockets of poverty and misery. And to the extent that this poverty and misery can be attributed, even in part, to a lack of access to natural resources, then the Lockean proviso will not have been met.

In sum, the Lockean proviso says that the private appropriation of unowned natural resources *can* be justified, but only if that appropriation leaves "enough and as good" for others. Fortunately for fans of strong rights of private property, private appropriation of natural resources generally *does* leave enough and as good for others—not by leaving resources in the commons but precisely by taking them *out* of the commons, where they can be put to productive use. Unfortunately for fans of strong rights of private property, the *general* prosperity produced by private appropriation leaves open the possibility that some, perhaps many, individuals are made worse off by that appropriation. And this is precisely what the Lockean proviso disallows.

Force and Freedom

Before proceeding with the main course of my argument, I want to take a brief detour to ensure that the structure of that argument is entirely clear. In the previous section, I mentioned the possibility of pockets of poverty in a generally prosperous society and suggested that this possibility posed a problem for the attempt to justify property rights on Lockean grounds.

For the Lockean, however, the problem is not *poverty as such*. Locke's theory provides no grounds for objecting on grounds of justice to a situation in which some people have less money or resources than others. It does not even provide grounds for objecting on grounds of justice to a situation in which some people do not have *enough* money or resources to live minimally decent lives. It reserves its objection, correctly I believe, for cases in which some individuals are poor or

otherwise disadvantaged *because* of the actions of other human beings—specifically those cases in which people are poor or otherwise disadvantaged *because* others have deprived them of access to the earth’s natural resources.

Consider the kind of case that socialist critics of capitalism often like to employ: Peter the Propertyless Proletarian.⁵ Peter has no money, no real estate, nothing to sell in exchange for money but his labor. So if Peter wants to eat, he must find a capitalist—someone who claims ownership rights over the means of production—and get himself hired. Once he has been hired, he must do whatever the capitalist tells him to do—no matter how arbitrary or capricious it may be—in order to avoid becoming destitute. The threat of poverty thus keeps him in a position of servility in which he must submit to being bossed around by somebody else simply in order to survive.

Such a situation would probably strike many as troubling regardless of *how* it came about. Friedrich Hayek, for example, thought that the basic moral imperative of a free society is to minimize the use of coercion in human affairs and that coercion occurs whenever one person is subject to another’s arbitrary will (Hayek 2011, 58–59). Government agents have the power to coerce citizens insofar as they can threaten those citizens with legal punishment unless they comply with their demands. And therefore, in many cases the goal of minimizing coercion will be best served by reducing the power of government. But even if government is the most common and the most dangerous source of coercion, it is nevertheless not the only possible source of coercion. Employers can coerce, too, especially when the market competition that usually keeps them in check is weakened or absent (Hayek 2011, chap.8).⁶

Hayek’s worry is made even stronger, however, once we recognize that whatever coercive power employers wield is made possible only by the *prior* coercion involved in the system of capitalist property rights. An employer can only tell her employee to “take it or leave it” because her claim to ownership of the means of production is backed up by the coercive power of law. Absent that coercive power, the employer would have no leverage with which to threaten a worker with termination for, say, refusing to remove a political bumper sticker from his car or writing “inappropriate” comments on his Facebook page or even having a beer after work.⁷

That someone is poor or otherwise disadvantaged through no fault of his own is almost certainly something we ought to regret and might indeed be something that we ought to seek to redress as a matter of beneficence. But it is not, on the view I am defending here, sufficient grounds for claiming that an *injustice* has occurred. The person who is badly off because she was born with a naturally debilitating

5. For a work that draws heavily on such examples, see Cohen 1995.

6. The case of monopsony is only the most extreme case. Periods of acute unemployment can also leave employers in a position to dictate terms to their employees with which they must comply or else face disastrous consequences.

7. For a discussion of these and many other similar examples, see Maltby 2009.

condition or because she has made poor choices or simply because she has been unlucky has no claim of *justice* against others to rectify her situation. Disadvantage is a case of injustice, on my view, only when it is brought about by an act of wrongful coercion. The worker who is unable to find work or is able to maintain employment only by submitting to her employer's demeaning requirement suffers an injustice only insofar as the system of property rights in which she operates subjects her to wrongful coercion.

I take it to be relatively uncontroversial that all systems of property rights are by their very nature coercive. It is an essential part of the *point* of property rights to be coercive—without that coercion, the right to exclude that is at the core of property rights is meaningless, and such rights could not provide the sort of stability and protection that makes them attractive in the first place.

Unlike Marxists, however, I do not believe that property rights' coercive nature renders them *necessarily* unjust. Systems of property rights *can* be unjust if they fail to satisfy the Lockean proviso. But systems of property rights that satisfy the proviso are *not* unjust.

From Lockean Proviso to Safety Net

I argued earlier that facts pertaining to the *general* prosperity engendered by systems of private property will not by themselves be enough to ensure the satisfaction of the Lockean proviso. The fact that private property makes *most* people in society better off does not show that it makes *everyone* better off, and the Lockean proviso is a moral principle that focuses on *individuals*, not on aggregates.

So not all boats are lifted, or lifted enough, by the rising tide of prosperity. But that doesn't mean that we should ignore the facts that the tide is rising and that property rights are an important part of the cause. If rights of private property fail to make everyone sufficiently better off to satisfy the Lockean proviso, this doesn't mean that we should throw out such rights altogether. We just need to make sure that something is done to help those whom the general tide of prosperity has left behind.

This is the role of a government-financed safety net in libertarian theory. By ensuring that all citizens have access to an adequate level of resources, a safety net ensures that all citizens benefit from the general prosperity that a system of private property makes possible. And in so doing, the safety net renders that system of property rights morally justifiable insofar as it ensures that the Lockean proviso is satisfied for all, not just for most citizens of a legal regime.

This is why the libertarian case for a social safety net is immune to the first-line libertarian objection that taxes violate property rights. The proper response to this objection is that insofar as a tax-financed social safety net is necessary to satisfy the Lockean proviso, those taxes are a necessary precondition of the legitimacy of property rights in the first place. Other kinds of taxes—say, taxes to support local artists or to build a new football stadium—might properly be regarded as violations of property

rights because the services funded by those taxes are morally optional—they are not *required* in order to render the system of property rights justifiable. Because of their connection to the Lockean proviso and hence to the basic moral justification for having any property rights at all, taxes used to fund a social safety net are different.⁸

The kind of safety net that is justified by this argument is different in several important respects from other kinds of welfare programs that people sometimes endorse. And these differences, I think, are ones that should make the idea of a safety net more attractive to those libertarians who may be skeptical that any such program could be morally defensible.

First, the kind of safety net justified by this argument is one that seeks to achieve a standard of *sufficiency*, not of *equality*. Libertarians are rightly skeptical of egalitarian theories that hold that the state ought to try to equalize wealth, incomes, or even opportunity. Insofar as inequality of outcomes or opportunities are the result of the free exercise of individual liberty, such inequality does not constitute an *injustice*. But justice might require that people have *enough* even if it does not require that people have *the same*. The Lockean proviso merely requires people to have *sufficient* access to resources. If some people then use what is rightfully theirs to acquire more or less than others, that in no way renders the underlying system of property rights unjust.

Second, and relatedly, the safety net I am defending here is one focused on *opportunity*, not on *outcome*. Taking land out of the commons and making it one's own private possession is morally worrisome because it deprives others of the opportunity to use that land themselves. The way to make this worry go away is to make up for that lost opportunity by providing other equally or more valuable opportunities. But valuable opportunities can be squandered or lost through ill fortune. Even if we ensure that no one is any worse off in terms of opportunity than they were prior to the appropriation of natural resources, some people will no doubt wind up suffering, perhaps suffering a great deal, because of a combination of bad choices and bad luck. Such suffering is to be regretted, of course, but on the argument I have presented here it is no injustice. Justice requires that people be given the opportunities that they are owed, but what they make of those opportunities is up to them.

From Safety Net to Basic Income

My argument so far has attempted to show that *some* kind of state-financed social safety net is compatible with—indeed, required by—a Lockean libertarian theory of property rights. But I have not yet said much about the particular *form* that safety net ought to take. Specifically, I have thus far given no reason for thinking that a BIG would be better than some other, more restrictive form of safety net—perhaps one

8. This argument has similarities to Gerald Gaus's discussion of the "order of justification" with respect to property rights and redistribution (2011, 509–11).

that provides assistance in the form of vouchers or services rather than cash or one that provides assistance only to those who are working or willing to work.

Indeed, it might seem that some such more restrictive form of safety net is all that *can* be justified by the argument I have given. That argument, after all, is a kind of compensation-based argument, which would seem to justify transfer payments only to those who have been *harmed* in some way by the past appropriation of natural resources. Not everyone will fall into this category. Why, then, should those who have suffered no harm receive any benefit at all?

At the level of abstract moral principle, this objection is sound. The argument I have presented in this paper, if it is successful, supports transfers to *some* citizens, but not to *all*. How, then, can it be used to support a BIG, one of the defining characteristics of which is guarantee of a basic income to *all*?

As I see it, the case for a BIG rather than some more restrictive form of transfer system is largely pragmatic in nature. If we could guarantee that the moral principles we endorse would be perfectly implemented by the state's public policy, then a more restrictive form of welfare system that provides transfers to some, but not to others, would indeed be morally preferable.

In the real world, however, wise public policy should be designed in a way that anticipates and minimizes the risk of harm caused by human ignorance and greed. When transfer systems provide benefits to some but not to others, people will inevitably spend a great deal of time and resources trying to get politicians to put them in the "some" category and not the "other" one. One of the virtues of a universal grant, as James Buchanan (1997) recognized, is that it severely reduces the incentive for this wasteful competition between interest groups.

But if public-choice theory provides some reason to favor a BIG over a more restrictive transfer system, another and much more powerful reason is to be found in Hayekian considerations about the inevitable limitations of our knowledge. In order to establish a transfer system that gives to those who have a valid claim to compensation but not to those who don't, we would have to *know* who has a valid claim to compensation and who doesn't. And this is something that we simply cannot trust state agents to know or to figure out.

Consider: on the argument I have presented in this paper, a person is entitled to compensation if her suffering is caused by others' failure to satisfy the Lockean proviso in their appropriation of natural resources, but not if her suffering is caused by her own poor choices or bad luck. This seems to be a sound moral principle and a valid basis for distinguishing between what have sometimes been referred to as the "deserving" and the "undeserving" poor.

But even if the distinction is a valid one, how on earth are the actual human beings charged with administering the welfare state supposed to make it? When a person shows up to file a claim for benefits because he lost his job and can no longer afford to feed his family, how is the bureaucrat in charge of his case supposed to determine whether his misfortune is due to poor choices, poor luck, or an unjust

restriction of his opportunities? Exactly what questions should he ask in order to make that determination? And what sort of investigation should he conduct in order to ensure that the answers given are in fact true?

The point is not merely that such questions are *difficult* to answer, though of course they are. The point is that they may be *impossible* to answer given our inherent inability to know with certainty and completeness the “particular circumstances of time and place” that explain why a person winds up needing assistance from the state.⁹

Agents of the state can, of course, try to do the best they can with the knowledge they have available to them. After all, that’s what most of us do when we form judgments about people we know in our daily lives. We don’t know *everything*, but we know enough to decide who is trustworthy, who is irresponsible, and who is just plain unlucky.

But there are good reasons for not wanting the *state* to make these kind of judgments, even if making them is perfectly appropriate for private individuals. For starters, requiring agents of the state to make detailed investigations into the intimate circumstances of people’s lives is costly and invasive. Distinguishing between the deserving and undeserving is difficult business and requires a variety of invasive, demoralizing, and degrading inspections into the intimate details of applicants’ lives. “Fill out this form, tell us about that man you live with, pee in this cup, and submit to spot inspections of your home by our social workers—or else.” Some may view this intrusiveness as merely part of the cost that welfare recipients must pay in order to receive assistance from the state. But it seems to me that if libertarians are to embrace a social safety net (or at least to reconcile themselves with it), they have reason to embrace a safety net that is less rather than more paternalistic and invasive and more rather than less consistent with liberal values of the rule of law and people’s ability to live their lives free from state supervision.

Moreover, once we place the discretionary power to decide who is deserving and who is not into the hands of the state, there is no guarantee that the state will use this power in the way we intended. Everyone involved in the welfare state, from the legislator charged with crafting the legal rules that govern it to the front-line case worker charged with applying those rules to particular individuals, is a human being with his or her own interests and his or her own biases. And the more subjective the standards we ask those individuals to apply, the more leeway we give them to rationalize decisions that serve those interests and biases.

For these reasons, it seems to me preferable that the social safety net take the form of a BIG rather than some more restrictive form of transfer system. We should guarantee a basic income for everybody not because everybody *deserves* a check but because some people deserve it as a matter of justice, and sorting out the deserving from the undeserving is an impossible and dangerous task.

9. The phrase, of course, is borrowed from Hayek 1945.

Hard Questions

My essay has focused almost exclusively on the philosophical justification of a BIG and not at all on the myriad economic and political questions that would arise should we decide to put such a program into practice. How big would the BIG be? Would we be able to afford it? Would absolutely *everybody* get a check? Or would certain categories of persons—children, felons, resident aliens—be excluded? Which other transfer programs would a BIG replace, and how could such replacement be realistically effected through existing political processes?

My view on many of these questions remains unsettled, and at any rate they fall outside the meager realm of my professional competence. In most respects, though, I think the detailed proposal that Charles Murray lays out in his 2006 book *In Our Hands: A Plan to Replace the Welfare State* is an attractive one, and I refer readers to it for reasonable answers to questions of this sort.

But even on the purely philosophical questions, the argument I have presented in this essay leaves many questions unanswered. This is especially true with respect to the idea that is central to my argument, the Lockean proviso. As I have presented it, that proviso is violated whenever the appropriation of previously unowned resources makes some people worse off. In interpreting the proviso in this way, I follow both my understanding of what Locke himself said and Robert Nozick's influential discussion of Locke's idea (Nozick 1974, 178–82). But how exactly should we understand “worse off”? Worse off compared to *what*? Specifying the relevant baseline turns out to be incredibly important because according to some baselines (“how you would have fared had all property been left in the commons”) almost everyone will turn out to be better off with appropriation than without it, whereas according to other baselines (“how you would have fared if *you* had been the one to appropriate it”) almost no one will. Unfortunately, it is not entirely clear how one is supposed to go about selecting between the almost infinite variety of alternative baselines (see, for discussion, Steiner 1977; Bogart 1985; Cohen 1995, chap. 3).

The Lockean proviso raises other difficult questions as well. Once we settle on a baseline, for instance, we must also settle upon a metric. That is, we must answer not only the question “Better off *than* what?” but also the question “Better off *in terms of* what?” Freedom? Utility? Opportunities? And is the Lockean proviso supposed to be applied to *individual acts* of appropriation, as Locke himself suggests, or rather to *systems* of appropriation, as some recent Lockean libertarians have claimed (e.g., Nozick 1974; Mack 2010)?

Setting out a list of difficult questions that I have no intention of answering in this essay is, I suppose, a rather uninspiring way to conclude my argument. I do think they can be answered, and some of the philosophical literature I have cited seems to me to make good progress in doing so.

For now, however, I raise these details only to acknowledge their existence and to put them to the side. They matter. But my purpose in this essay has not been to

make a *comprehensive* case for a BIG or even, more modestly, to make a *comprehensive philosophical* case for a BIG.

My purpose instead has been to present, in rather broad strokes, an argument that (1) some form of state-financed social safety net is compatible with and even required by Lockean libertarian principles and (2) for pragmatic reasons a BIG is better suited to fill that role than other more restrictive kinds of transfer programs. One of the most powerful sources of libertarian resistance to a BIG is the belief that *any* sort of coercive transfer program is necessarily a violation of individual property rights and hence impermissible. If my argument in this essay is correct, then this objection is mistaken. And that, it seems to me, is a philosophically and practically significant conclusion.

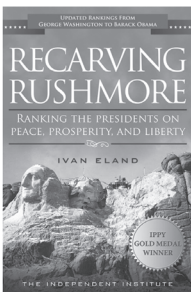
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