```
[05]
      Libertarianism ~ Free Market Philosophy
      we were looking at John Stuart Mill's
0001
0002
      and his attempt
0003
     to reply
0004
     to the critics
      of Bentham's utilitarianism
0005
0006
      in his book Utilitarianism,
0007
     Mill tries to show
0008
      that critics to the contrary, it is possible
      within utilitarian framework to distinguish between higher and lower
0009
      pleasures, it is possible to make
0010
0011
      qualitative distinctions of worth,
0012
      and we tested of that idea
0013
      with the Simpsons
0014
      in the Shakespeare excerpts
0015
      and the results of our experiment
0016
      seemed to call into question
0017
      Mill's distinctions
0018
      because a great many of you
0019
      reported
0020
      that you prefer the Simpsons
0021
      but that you still consider Shakespeare
0022
      to be the higher for the worthier pleasure
0023
      that's the dilemma
0024
      with which our experiment confronts Mill.
0025
      what about Mill's
0026
      attempt to account
0027
      for especially weighty character
0028
      of individual rights and justice in chapter five of utilitarianism?
0029
      he wants to say that individual rights
0030
      are worthy
0031
      of special respect
      in fact he goes so far as to say that justice is the most sacred part
0032
0033
      and the most incomparably binding part of morality
0034
      but the same challenge
0035 could be put
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0036
     to this part of Mill's defense
0037
      why
      is justice
0038
      the chief part
0039
      and the most binding part of our morality? well he says because in the long run
0040
      if we do justice and if we respect rights,
0041
0042
      society as a whole
0043
      will be better off in the long run.
0044
      well what about that?
0045
      what if we have a case where making an exception and violating individual rights actually will
0046
      make people
      better off in the long run is it all right then?
0047
      to use people?
0048
0049
      and there's a further
0050
      objection
      that could be raised against
0051
     Mill's case for justice and rights
0052
      suppose the utilitarian calculus in the long run works out as he says it will
0053
      such that respecting people's rights
0054
      is a way of making everybody better off in the long run
0055
0056
      is that the right reason
0057
      is that the only reason
0058
      to respect people?
0059
      if the doctor goes in
0060
      and yanks the organs from the healthy patient who came in for a checkup
0061
      to save five lives
0062
      there would be adverse effects in the long run
0063
      eventually people would learn about this
0064
      and would stop going in for checkups
0065
      is it the right reason
0066
      is the only reason
0067
      that you as a doctor
0068
      won't yanked the organs out of a healthy patient
0069
     that you think
0070
     well if I use
     him in this way
0071
0072 in the long run
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0073
      more lives will be lost?
0074
      or is there another reason
      having to do with intrinsic respect for the person as an individual
0075
      and if that reason matters
0076
      and it's not so clear
0077
      that even Mill's utilitarianism
0078
      can take account of it
0079
0080
      fully to examine these two
0081
      worries or objections
     to Mill's defense
0082
0083
      we need to we need to push further
      we need to ask
0084
0085
      in the case of higher or worthier pleasures
      are there theories of the good life
0086
0087
      that can provide independent moral standards
0088
      for the worth of pleasures?
0089
      if so what do they look like?
      that's one question
0090
      in the case of justice and rights
0091
      if we suspected that Mill is implicitly leaning on notions of human dignity or respect for
0092
      persons that are not, strictly speaking,
0093
0094
      utilitarian
0095
      we need to look to see whether there are some stronger theories of rights
0096
      that can explain
0097
      the intuition
0098
      which even Mill shares
0099
      the intuition
0100
      that the reason for respecting individuals and not using them
0101
      goes beyond
0102
      even utility in the long run.
0103
      today we turn
0104
      to one
0105
      of those strong theories of rights
0106
      strong theories of rights say
0107
      individuals matter
      not just as instruments to be used for a larger social purpose
0108
0109 or for the sake of maximizing utility
```

```
individuals
0110
      are separate beings with
0111
      separate lives
0112
     worthy of respect
0113
      and so it's a mistake
0114
      according to strong theories rights, it's a mistake
0115
     to think about justice or law
0116
0117
      by just getting up preferences
0118
      and values
0119
     the strong rights theory we turn to today
0120
      is libertarianism
0121
     libertarianism
     take individual rights seriously
0122
      it's called libertarianism because it says the fundamental individual right
0123
      is the right to liberty
0124
      precisely because we are separate individual beings
0125
     we're not available
0126
0127
     to any use
0128
     that the society might
      desire or devise. precisely because we're individual
0129
0130
      separate human beings
0131
     we have a fundamental right to liberty
0132
      and that means
0133
      a right
0134
     to choose freely
0135
     to live our lives as we please
0136
      provided we respect other people's rights
0137
     to do the same
0138
     that's the fundamental idea
0139
      Robert Nozick
0140
      one of the libertarian philosophers we read
0141
      for this course puts it this way
0142
     individuals have rights
0143
      so strong and far-reaching are these rights
     that they raise the question of what, if anything
0144
     the state may do.
0145
0146 so what does libertarianism say
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about
0147
0148
     the role of government
     or of the state
0149
     well there are three things that most
0150
     modern states do
0151
     that
0152
      on the libertarian theory of rights
0153
0154
      are illegitimate
0155
      are unjust
      one of them
0156
0157
      is paternalist legislation
0158
     that's passing laws that protect people from themselves
0159
      seat belt laws for example
0160
      or motorcycle helmet laws
0161
     the libertarian says
0162
      it may be a good thing if people wear seat belts,
0163
      but that should be up to them
0164
      and the state
0165
     the government
      has no business coercing them, us
0166
     to wear seat belts
0167
0168
      by law
0169
     its coercion
0170
      so no paternalist legislation
0171
      number one. number two
0172
      no morals legislation
0173
     many laws
0174
     try to promote
0175
     the virtue of citizens
0176
     or try to give expression
0177
     to the moral
0178
      values
0179
      of the society as a whole.
0180
     libertarians say that's also
0181
      a violation of the right to liberty
     take the example of, well a classic example of legislation offered in the name of promoting
0182
0183 morality traditionally,
```

```
have been laws that prevent
0184
0185
      sexual intimacy
0186
      between
0187
      gays and lesbians
0188
      the libertarian says
      nobody else is harmed
0189
0190
      nobody else's rights are violated
      so the state should get all of the business entirely
0191
0192
      of trying to promote virtue
0193
      or to enact morals legislation.
      and the third kind of law
0194
0195
      or policy
0196
      it is ruled out
0197
      on the libertarian philosophy
0198
      is any taxation
0199
      or other policy
      that serves the purpose
0200
      of redistributing income or wealth
0201
      from the rich to the poor
0202
      redistribution
0203
      is a kind of, if you think about it
0204
      says libertarianists, a kind of coercion
0205
      what it amounts to is theft
0206
0207
      by the state
0208
      or by the majority
0209
      if we're talking about a democracy
0210
      from people who happen to do very well and earn a lot of money
0211
      now Nozick and other libertarians allow that there can be a minimal state
0212
      that taxes people for the sake of
0213
      what everybody needs
0214
      the national defense
0215
      police force
0216
      judicial system to enforce contracts and
0217
      property rights
0218
      but that's it.
     Now I want to get your reactions
0219
0220 to this third
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0221
     feature
      of the libertarian view
0222
     I want to see
0223
0224
     who among you
0225
      agree with that idea and who disagree
0226
      and why
      and just to make a concrete and to see what's at stake
0227
      consider the distribution of wealth
0228
0229
      in the united states.
0230
     The united states is among the most
0231
      In-egalitarian societies as far as distribution of wealth,
0232
      of all the advanced democracies
      now is this just
0233
0234
      or unjust
0235
     well what is the libertarian say
     the libertarian says
0236
     you can't know just from the facts
0237
     I just given you
0238
      you can't know whether that distribution
0239
0240
      it's just or unjust.
      you can't know just by looking at a pattern or a distribution or a result
0241
      whether it's just or unjust
0242
0243
     you have to know how it came to be
0244
     you can't just look at the end state or the result
0245
     you have to look at two principles
0246
      the first he calls justice in acquisition
0247
      or in initial holdings
0248
      and what that means simply is
0249
      did people get the things they use
0250
     to make their money
0251
     fairly
0252
      so we need to know
0253
     was there justice in the initial holdings, did they steal the land or the factory or the
0254
      goods that enabled them to make all that money?
0255
     if not,
     if they were entitled to whatever it was that enabled them to
0256
0257 gather the wealth
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0258
     the first principle is met.
0259
      the second principle is
      did the distribution arise
0260
      from the operation of free consent
0261
      people buying and trading on the market
0262
      as you can see the libertarian idea of justice
0263
      corresponds to a free market
0264
      conception of justice
0265
0266
      provided
0267
      people
0268
      got what they used
0269
      fairly
      didn't steal it
0270
0271
      and provided
      the distribution results from the free choice of individuals' buying and selling things
0272
      the distribution is just
0273
      and it's not
0274
0275
      it's unjust.
      so let's, in order to fix
0276
      ideas for this discussion, take
0277
0278
      an actual
0279
      example
0280
      who's wealthiest person
      in the united states, wealthiest person in the world
0281
      Bill Gates, it is, you're right. here he is.
0282
0283
      you'd be happy too
0284
      now, what's his net worth?
0285
      anybody have any idea?
0286
      that's a big number
0287
      during the Clinton years remember there was a controversy, donors, big campaign contributors
0288
      were invited to stay overnight in the Lincoln bedroom at the white house
0289
      I think if you contributed twenty five thousand dollars or above
0290
      someone figured out
0291
      at the median contribution
0292
      that got you invited to stay a night in the Lincoln bedroom
      Bill Gates could afford to stay in the Lincoln bedroom every night for the next sixty six
0293
0294 thousand years
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0295
      somebody else figured out
0296
      how much does he get paid on an hourly basis
0297
      so they figured out since he began Microsoft
0298
      suppose the worked about fourteen hours per day
0299
0300
      a reasonable guess
0301
      and you calculate
0302
      this is net wealth
0303
      it turns out
      that his rate of
0304
0305
      pay
0306
      is
0307
      over
0308
      a hundred and fifty dollars not
0309
      per hour,
0310
      not per minute
      a hundred and fifty dollars, more than a hundred and fifty dollars per second
0311
0312
      which means
      which means
0313
      that if on his way to the office
0314
      Gates noticed a hundred-dollar bill on the street
0315
      it wouldn't be worth his time to stop and pick it up
0316
0317
      now most of you would say
0318
      someone that wealthy
0319
      surely we can tax them
0320
      to meet
0321
      the pressing needs
0322
      of people who lack of education or lack enough to eat
0323
      or lack decent housing
0324
      they need it more than he does
0325
      and if you were a utilitarian
0326
      what would you do? What tax policy would you have
0327
      you'd redistribute in a flash wouldn't you
0328
      because you would know
0329
      being a good utilitarian
     that taking some, a small amount, he's scarcely going
0330
0331 to notice it, but it will make a
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0332
      huge improvement in the lives and in the welfare of those at the bottom
0333
      but remember
     the libertarian theory says
0334
      we can't just add up
0335
0336
      and aggregate preferences and satisfactions
0337
      that way
0338
      we have to respect
0339
      persons
0340
      and if he earned that money fairly
0341
      without violating anybody else's rights
      in accordance with the two principles of justice in acquisition and justice in transfer, then
0342
0343
      it would be wrong
      it would be a form of coercion
0344
0345
      to take it away
     Michael Jordan is not as wealthy Bill Gates
0346
      but he did pretty well for himself
0347
      you want to see Michael Jordan?
0348
      there he is
0349
      his income alone
0350
0351
      in one year was thirty one million dollars
      and then he made another forty seven million dollars in endorsements for Nike and other
0352
0353
      companies
0354
      so his income
0355
      was
0356
      in one year seventy eight million
0357
      the require him to pay
0358
      say a third of his earnings
0359
      to the government
0360
      to support good causes
0361
      like food and health care and housing and education for the poor
0362
      that's coercion
0363
     that's unjust
0364
     that violates his
0365
      rights
0366
      and that's why
      redistribution is wrong.
0367
0368
     Now, how many agree with that argument
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0369
      agree with the libertarian argument that
      redistribution for the sake of
0370
      trying to help the poor is wrong?
0371
0372
      and how many disagree with that argument?
      all right let's begin with those who disagree?
0373
0374
      what's wrong with the libertarian case against
0375
      redistribution?
0376
      I think these people like Michael Jordan have received,
      we're talking about working within the society
0377
      they received a larger
0378
      gift from the society and they have a larger obligation
0379
      in return to give that through distribution
0380
      you know you can say that Michael Jordan may work just as hard as someone who works
0381
0382
      you know
      doing laundry twelve hours, fourteen hours a day
0383
      but he's receiving more
0384
      I don't think it's fair to say that you know
0385
      it's all on his
0386
0387
      inherent hard work. All right
      let's hear from defenders of libertarianism
0388
0389
      why would it be wrong in principle
0390
      to tax the rich to help the poor.
0391
      My name is Joe and I collect skateboards.
0392
      I've since bought a hundred skate boards and live in a society the hundred people
0393
      I'm the only one with skateboards suddenly everyone decides they want skateboard they
0394
      come into the house to take my, they take ninety nine of my skateboards. I think that is unjust
0395
      now I think in certain circumstances, it
0396
      becomes necessary to overlook injustice and perhaps condone that injustice
0397
      as in the case of the cabin boy being killed
0398
      for food if people are on the verge of dying
0399
      perhaps it is necessary
0400
      to overlook that injustice but I think it's important to keep in mind
0401
      they were still committing injustice
0402
      by taking people's belonging or assets. Are you saying that taxing Michael Jordan say at thirty
0403
      three percent tax rate
0404
     for good causes
0405 to feed the hungry
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0406
      is theft
      I think it's unjust, yes I do believe it's theft, but perhaps it is necessary
0407
     to condone that theft.
0408
      But it's theft. Yes.
0409
     why is it theft, Joe?
0410
0411
      because
      why is it like your collection of skateboards?
0412
0413
      it's theft because
0414
      or at least
      in my opinion and by the libertarian opinion
0415
0416
      he earned that money fairly
0417
      and
      it belongs to him and so take it from him
0418
0419
      is by definition theft.
      alright let's see if there is
0420
      who wants to reply to Joe?
0421
     yes go ahead
0422
      I don't think this necessarily a case in which you have ninety nine skateboards and
0423
      the government, or you have a hundreds skateboards and the government is taking ninety nine of them
0424
      it's like the
0425
0426
      it's like you have more skateboards than there are
0427
      days in the year, you have more skateboards than you're going to be able to use your entire lifetime
0428
      and the government is taking
0429
      part of those. And
0430
      I think that if you're operating in society
0431
      in which the government
0432
      in which the government doesn't redistribute wealth
0433
      that that allows for people to amass so much wealth
0434
      that people who haven't started from
0435
      the equal footing in our hypothetical situation,
0436
      that doesn't exist in our real society,
0437
      get undercut for the rest of their lives.
0438
      so you're worried that if there isn't some degree of redistribution if some are left at
0439
      the bottom
0440
      there will be no genuine equality of opportunity
      alright. the idea that taxation is theft,
0441
0442
     Nozick takes that point one step further
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0443
      he agrees that it's theft
      he's more demanding than Joe, Joe says it is theft,
0444
      maybe in an extreme case it's justified
0445
      maybe a parent
0446
      is justified in stealing a loaf of bread
0447
      to feed his or her hungry family
0448
      so Joe is a what? What would you call yourself a compassionate quasi libertarian?
0449
      Nozick says, if you think about it
0450
0451
      taxation
0452
      amounts
0453
     to the taking of earnings
0454
      in other words it means
0455
     taking
0456
     the fruits
      of my labor
0457
0458
      but if the state has the right
0459
      to take my earnings or the fruits of my labor,
      isn't that morally the same
0460
      as according to the state
0461
     the right
0462
0463
      to claim
      a portion of my labor?
0464
0465
      So taxation actually
0466
      is morally equivalent
0467
      to forced labor
0468
      because forced labor
0469
      involves the taking
      of my leisure, my time, my efforts
0470
0471
      just as taxation
0472
     takes the earnings
0473
     that I make
0474
     with my labor.
0475
     And so for Nozick
0476
      and for the libertarians
0477
     taxation for redistribution
     is theft as Joe says,
0478
0479 but not only thing left
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0480
      it is morally equivalent
0481
     to laying claim
     to certain hours
0482
      of a person's life
0483
      and labor
0484
      so it's morally equivalent to forced
0485
      labor
0486
      if the state has a right to claim the fruits of my labor
0487
0488
      that implies that it really
0489
      has an entitlement
     to my labor itself
0490
      and what is forced labor?
0491
      forced labor
0492
      Nozick points out
0493
      it's what? it's slavery
0494
0495
      because
      if I don't have the right, the sole right
0496
      to my own labor
0497
0498
      then
      that's really to say that the government or the
0499
      political community
0500
0501
      is a part owner in me
      and what does it mean for the state to be a part owner in me?
0502
      if you think about it
0503
0504
      it means
0505
     that I am a slave
0506
     that I don't own myself
0507
      so what this line of reasoning brings us to
0508
      is the fundamental
0509
      principle
0510
      that underlies the libertarian case for rights
0511
     what is that principle?
0512
     it's the idea
0513
     that I own myself
0514
     it's the idea
     of self-possession
0515
0516 if you want to take rights seriously
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0517
      if you don't want to just regard people as collections of preferences
0518
      the fundamental moral idea
     to which you will be lead
0519
      is the idea
0520
0521
      that we are the owners or the proprietors of our own person
0522
      and that's why
0523
      utilitarian goes wrong
0524
      and that's why it's wrong to yank the organs from that healthy patient
0525
      you're acting as if
0526
      that patient belongs to you or to the community
0527
      but we belong to ourselves
0528
      and that's the same reason
0529
      that it's wrong to make laws to protect us from ourselves
0530
      or to tell us how to live
0531
      to tell us what virtues
      we should be governed by
0532
      and that's also why it's wrong
0533
0534
      to tax
      the rich to help the poor even for good causes even to help those who are displaced by the
0535
0536
      hurricane
0537
      Katrina
0538
      ask them to give charity
0539
      but if you tax them
0540
      it's like forcing them to labor
0541
      could you tell Michael Jordan he has to skip next
0542
      week's games and go down to help the people
0543
      displaced by hurricane Katrina?
0544
      morally it's the same
0545
      so the stakes are very high
0546
      so far we've heard some objections
0547
      to the libertarian argument
0548
      but if you want to reject it
0549
      you have to break into this chain of reasoning which goes
0550
     taking my earnings
0551
     is like
0552
     taking my labor
0553 but taking my labor
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0554	is making me a slave
0555	and if you
0556	disagree with that
0557	you must believe in the principle of self-possession
0558	those who
0559	disagree
0560	gather your objections
0561	and we'll begin with them next time.