

JEDER MENSCH BRAUCHT
FREIHEIT, UM SEINE
ANLAGEN UND FÄHIGKEITEN
ENTFALTEN UND
VERWIRKLICHEN ZU KÖNNEN.
DIE WIRTSCHAFT ERBLÜHT,
WENN SICH DIE MENSCHEN
VERFALLEN KULTUR UND
WISSENSCHAFTEN, STAGNIERT
DIE WIRTSCHAFT.
GEISTIGES LEBEN BRAUCHT
FREIHEIT GENAUSO, WIE DER
KÖRPER DIE LUFT ZUM ATMEN.

Liberales Institut

Richard D. North

Liberty in the Modern World



Imprint:

Published by
The Liberal Institute of the
Friedrich Naumann Foundation
Truman-Haus
Karl-Marx-Str. 2
D-14482 Potsdam

Tel.: +49 (0) 331.70 19 - 2 10
Fax: +49 (0) 331.70 19 - 2 16
Email: libinst@fnst.org
www.libinst.de

Production
COMDOK GmbH
Office Berlin
Reinhardtstr. 16
D-10117 Berlin

Printed by
ESM Satz und Grafik GmbH
Wilhelminenhofstr. 83-85
D-12459 Berlin

Second Edition 2005

Liberty in the Modern World

Richard D North

This paper is based on a presentation at the Liberal Institute's
"The Fate of Liberty – Human Rights and Civil Liberties
in the Age of Global Crime and Terror"
conference in Potsdam, Germany, 7-19 September, 2004.

Introduction

This essay is not a complaint. It will try to point out the difficulties liberty faces in the modern age. But I do not forget how lucky modern people are in their liberties. Liberty is a complicated notion at any time, and it is not necessarily pessimistic to point out its present difficulties. Indeed, in large measure liberty's present difficulties are to do with a problem of manners and morals amongst very free people. In the past, liberty often faced greater difficulties, and from the threat posed to it by vicious states.

Westerners are richer and better educated than we have ever been. We are governed by people we elect. Our governing institutions are responsive to our demands. We do not in general fear violence from our fellow citizens or the state. We expect to receive impartial judgements from the justice system. And yet we are demanding and difficult citizens. We expect to be heard, and to have our demands taken seriously, and are perhaps rather indifferent to the competing demands of our neighbours. We expect to have a lot of freedom, and are perhaps not very keen on our responsibilities. Oddly, many of us do not feel free: we feel, rather, „stressed“, even oppressed. We are surprisingly naïve, and perhaps rather „soft“. There is perhaps something almost childish about the adults living in the Western world. We are demanding, rather petulant, and prone to a sort of victimhood.

Westerners, like many others in the world, are threatened by terrorism, especially by alienated „Islamists“, and our states respond by reducing the civil liberties available to those suspected of such activity, and to the mainstream of society. What is more, we are using sophisticated surveillance devices to deal with terrorism, organised crime, low-level street violence, traffic violations, welfare fraud and computer crime: we are aware of the potential for a realisation at last of an Orwellian „1984“ all-seeing state. Are we, as some on the left suggest, sleep-walking toward tyranny?

This paper looks at how these tendencies arise out of and affect the way we think and talk about liberty - and suggests how we might do a little better.

I make no great claims for my philosophical abilities. Every thoughtful person wonders about liberty, and we all do much the same reading. What I write here aims to move arguments on a little from the work of my own heroes, Edmund Burke and Isaiah Berlin, but it does so only because it uses their insights to look at very modern circumstances.

Back to basics: The nature of liberty

Most educated people are pretty familiar with the concept of liberty, and they understand that it is an idea which comes hedged about with contradictions. At the very least, it is not a permissive state of affairs. From Locke we hear that the State of Nature (supposed to be ideal, for reasons we would be likely to dispute now), is a „state of liberty, yet it is not a state of licence“.¹ Indeed, the moment we think about it we realise that generalised licence would be nasty.

We vaguely understand that liberty is an idea developed from notions of good government which were identified very clearly by the Greeks (who were actually not what we think of as liberal as they discussed citizenship).² We know of Plato and Aristotle's discussion of justice in the *polis*, and that it developed slowly and haltingly throughout the European world over the intervening centuries. We would probably agree that with the European Enlightenment the idea achieved a degree of definition which has not needed much improvement since. We read our Kant, Spinoza, Leibniz, Locke and Hume (or at least snippets of their own writing and glosses on them³). These German and „English“ thinkers, especially, argued through the moral underpinnings of the idea, and at least imagined the kinds of states and constitutions which could best enshrine it. In France and America, the idea was enshrined in written constitutions. In Britain it was so accepted as an ideal that it was widely felt that a written constitution could not enshrine it better than long habits developed from medieval understandings.⁴ (It is rather forgotten how much these „unspoken“ English understandings devolved from laws such as the Bill of Rights, 1689.⁵) In Germany, a monarchical system lasted for rather longer, and liberty was less advertised as a social goal, but the rule of law – perhaps the single great essential of liberty – was highly-prized and social development kept pace with or led north European norms.⁶

1 Locke, quoted in McClelland, J. S., A History of Western Political Thought, Routledge, 1996

2 Finley, M. A. , The Ancient Greeks, Pelican, 1963

3 Cahn, Steven M., Classics of Western Philosophy, Hackett, 1990

4 Davies, Norman, Europe: A history, Oxford University Press, 1996 (An exceptionally valuable account of the evolution of constitutional understandings in Europe.)

5 Greene, Jack, P, in Empire and Identity, in The Oxford History of the British Empire: The 18th Century, Ed Marshall, P. J., Oxford University Press, 1998

6 Sagarra, Eda, An Introduction to Nineteenth Century Germany, Longman, 1980

Liberty as a social condition

It is useful to see liberty as a social condition in which freedoms are not so much maximised as optimised. Indeed, society and individuals enjoy liberty because people agree to curtail their own freedoms. We do so on a very large scale, as Jeremy Bentham would have agreed: he thought the conventional liberal idea of freedom was „nonsense upon stilts“⁷. We are not free to be idle (society insists we try to be solvent), and we are not free to be ignorant (society has made education compulsory). Arguably, society imposes one enormous unseen tyranny: Post Modernism notes that we are enculturated – our very imaginations are indoctrinated.

Isaiah Berlin was perhaps the most interesting writer on the evolution of liberty and its practical workings. He draws hugely on other thinkers, but speaks beautifully to „modern“ European history, and to our inherited dilemmas. The great puzzle he sought to resolve was the descent of high-minded 18th, 19th and 20th Century revolutions into exactly the tyranny the Greeks would have expected of „mass“ rule. Berlin pinned down the danger of idealism. He argued that the cruellest societies on earth had originally set out to limit the freedom of the powerful and nasty and increase that of the weak (who were presumed to be amiable). To help with this set of thoughts, Berlin identified „negative“ freedoms (the freedom from control, for good or ill) and „positive“ freedom (the freedom to achieve one's goals). He explained: „I wish to be a somebody, not nobody...“⁸ States involve themselves in promoting positive freedoms by seeking to engineer society so that citizens are preserved from hunger, tyranny, ignorance and so on. And yet the enterprise has often floundered, and Berlin believed that one could explain these practical failings from tendencies in the thinking of many social idealists. He targeted six, Helvétius, Rousseau, Fichte, Hegel, Saint-Simon and Maistre : „Although they all discussed the problem of human liberty, and all, except perhaps Maistre, claimed that they were in favour of it,... it is a peculiar fact that in the end their doctrines are inimical to what is normally meant, at any rate, by individual liberty, political liberty.“⁹ He pointed out that societies which contained negative and positive freedoms could be equally awful. For all that he lauded it, his greatest contribution was to argue that freedom is not by itself necessarily a good thing: „Moreover, to

7 Jeremy Bentham quoted and commented on in Stirk, P. M. R., and Weigall, D, An Introduction to Political Ideas, Pinter, 1995

8 Berlin, Isaiah, Two Concepts of Liberty, in his The Proper Study of Mankind: An anthology of essays, eds Hardy, H and Hausheer, Pimlico, 1998

9 Berlin, Isaiah, Freedom and Its Betrayal: Six enemies of human liberty, Chatto & Windus, 2002

speak of freedom as an end is much too general"¹⁰. A society which prized freedom might stress that it had no rationale for limiting the freedom of the nastiest and strongest of its members.

Liberty and government

What was the core idea which Westerners at every level in society seemed to understand and which they wanted to inform the way they were governed? If Berlin gives us the most nuanced account of freedom and its conflicted nature, the clearest sight of the problem came from J S Mill, when he proposed that people should be free to do what they liked so long as it did not harm anyone else: „The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is as of right, absolute."¹¹ People needed this freedom, he thought, because modern society risked imposing the will of an oppressive majority – as opposed to the ancient problem of imposition by an oppressive minority. Of course, this is a purist definition and its very purity shows one how useless it is to be simplistic about an idea so human as this. We immediately see the big problem: how should anyone gauge the value to himself or society of some action, and set it against its potential or actual harm to others? Surely, a very great gain to me (or society) by an action of mine ought to be worth some inconvenience or worse to someone else.

And we see here the core problem with freedom. It is definitely not something which can be maximised, at least not by the persons who have it. It is a profound good, but it is not a good which any individual can seek to endlessly increase for himself. In other words, though only persons can have liberty, it is an intensely social good. Montesquieu wrote: „Liberty is a right of doing whatever the laws permit: and if a citizen could do what they forbid, he would be no longer possessed of liberty, because all his fellow citizens would have the same power."¹² A society could plausibly aim to maximise the amount of liberty the totality of its citizens enjoyed, but it could only seek to optimise the amount of liberty any one individual enjoyed.

10 Berlin, Isaiah, in the introduction to *Four Essays On Liberty*, included in *Liberty*, ed Hardy, H, Oxford University Press, 2002

11 J. S. Mill's *On Liberty* quoted and commented on in Stirk, P. M. R., and Weigall, D, *An Introduction to Political Ideas*, Pinter, 1995

12 Montesquieu's *The Spirit of the laws*, quoted and commented on in Stirk, P. M. R., and Weigall, D, *An Introduction to Political Ideas*, Pinter, 1995

But liberty is not a zero-sum game. We need not be mercantilist about it. It is not as though there is a fixed pot of liberty within societies and we are trying to share it out equitably. My having more liberty does not depend on your having less. At least, things are not precisely like that. And yet it is true that I only have liberty because others are not exercising their freedom. The people around me only have liberty because I do not press home my own freedoms. „Liberty“ simultaneously expresses freedom and constraints.

And here we see one of the enormously interesting problems with liberty. It is a slippery and tricky idea which nonetheless must be defined. People make very passionate claims for their right to exert this or that very detailed liberty, and others as vociferously and passionately dispute it. In short, where people cannot agree to differ over some rather vaguely defined right to some subtle liberty or other, adjudications have to be made. Liberty is at once a very vague and a very precise area of operations. Indeed, we need to see that liberty is a word used for very competing purposes. On the one hand we use it to equate with something like „my freedom“, or „my rights“; and on the other we use it for a very different, contradictory purpose: to express the social arrangement whereby the competition between my freedoms and rights and those of the rest of society – of society – are resolved.

Liberty and rights

Liberties and rights are not the same thing. For working purposes, my rights enshrine my liberties. Because I have rights, I know what my liberties are and that I am free to exert them. The distinction seems to be this: rights are prior to liberties. Because I have the right to leave my country (and the state does not have the right to stop me), I am at liberty to roam the world. Because I have the right to protest, I am at liberty to go to such and such a place and wave a placard.

It is a very old and difficult question to know what rights are and where they come from. The big problem is to know the degree to which they are pre-existing. Are they hard-wired into our being? Would they be there in the absence of their being recognised and taken seriously? I incline to the view that we maintain a necessary fiction about rights. They are, if we are brutal about it, invented by societies, accorded by the powerful, and indeed thoroughly man-made. But we have a great need to make them as absolute as we can make anything which is human (though of course reserving the right to enhance, improve and over-ride them). And of course, much discussion of rights is about protecting them from abuse by the powerful. And this fiction is necessary to the understanding we have that people have rights even in states which do not accord them. That's to say: the modern

Westerner finds it hard to conceive, say, that any woman anywhere does not have a right to choose her own husband, even if her state and family do not accord her that right.

Christianity made rights absolute. For centuries, rights were supposed to flow, if at all, from the individual's partaking in the divine. „By Natural Right, Locke means an entitlement under Natural Law, which is God's Law.“¹³ Made in God's image, each man had value, and we could best recognise that – give it meaning – by according that person rights. In our more mechanistic age, we need a different way of enshrining the idea. It must, in the modern age, do something very difficult. It must express the idea of something inalienable, and yet manufactured. Rights are something humans conceive of and confer, and yet the idea describes something which is not negotiable or removable. The most powerful state on earth cannot remove from me my rights. At least that is the idea. In fact, it is a deeply flawed idea. Rights turn out to be relative, habitual: they shift with time and place. One expects of course that rights are fragile and motile in arbitrary societies, where the rulers make things up as they go along. The surprise is how fluid rights turn out to be in societies which place most emphasis on their being carved in stone.

In the real world, and – oddly one might think – especially in free societies, the state is very powerful. Indeed, from Plato on, political discussion is about how to preserve liberty from the incursions on it by over-mighty aristocrats and oligarchs. Early discussion, it is not perhaps widely-enough realised, was concerned with the problem of the tyranny of the populace which crude democracy might introduce. This is where Edmund Burke is so important, with his sustained discussion on the value of political settlements – especially Britain's „compound constitution“ – which understands the value of balancing the various sources of power and authority in society. (Of course he also stresses that liberty is a „social freedom. It is a state of things in which liberty is secured by the equality of restraint....“¹⁴)

Even a balanced state can produce a total sovereignty of the state which is very nearly God-like. Of course, no state could make black into white, just as God cannot. But modern representative democracies – and it is hard to imagine a wiser system of government – are extraordinarily intrusive. They confer rights and remove them on a vast scale every day. One day you can slap your child, the next you can't; one day people can smoke in a restaurant, the next you can't; one day your foetus

has a right to life, the next it doesn't; one day you will be prosecuted for helping an elderly relative die, the next you won't; one moment a divorced mother is likely to control the destiny of her child, the next the absent father is likely to share control. Rights turn out to be bewilderingly fluid. The idea which is most intended to enshrine immutability turns out to be very human and flexible. Of course, once some new development is enshrined in law and custom, we hope it will bed down as real right – part of our legal and social landscape – but we suspect that some development will upset everything all over again.

It turns out that rights are not as rooted as we suppose: they are not as dependent on their origins, as we think. They are pulled along, as it were, by our ideas of progress. We think, perhaps, that men are now developing into more rounded characters: they should be expected and allowed to play a role in childrearing. We suppose that we now know too much about smoking to allow it. We sense that people are not now prepared to put themselves in the hands of a technocratic medical profession: many of them seek to determine their own time of death.

No wonder there is plenty of work for courts of Human Rights in the modern world. It is easy enough to lay out a menu of attractive and obvious rights (liberty, life, the pursuit of happiness, for instance). What is much harder is to take this or that individual's claim to one of them and to measure it against his or her fellow's competing claim. It is obvious that rights aren't absolute, if only because they are at war with one another.

It is often said that one only has rights (and the liberties which flow from them) because one accepts obligations. In this view, it is the balanced reciprocation of rights and obligations which makes society work. I would be crushed if I did not have my own social space, and yet only my understanding of the rights of others to their social space both limits me and allows others their means of operating. Normally, good manners and ordinary sociability mean that we understand these things – we live together – pretty convivially. But there is, in good societies, a legal framework and a means of imposing it. If we don't play nicely together, the police and the courts know how to deal with us.

That is all well and good, but there are many circumstances in which the idea that we only have rights because we accept obligations clearly doesn't work. It is not the real underpinning of the process. Consider this. We take very seriously the rights of the weak, the young and the disabled, and we do so precisely because they cannot reciprocate. Because the disadvantaged cannot assert their „rights“, and cannot repay them, we worry that society must exert itself to make sure they

13 McClelland, J. S., A History of Western Political Thought, Routledge, 1996

14 Burke quoted in McCue, Edmund Burke and Our Present Discontents, The Claridge Press, 1997

have them. So rights are very far from depending on reciprocity, and indeed come into play most when reciprocity is at its weakest.

To take another familiar case. We are inclined to think that rights and obligations are, amongst ordinarily civilised and able people, pretty well balanced. But this is less true than we think. We are very inclined to suppose that we have to create rather a lot of room for people who are not, we think, very reasonable. We make a lot of room in society for people who simply assert that they need a lot of room. The drunk, the dissident, the unhappy, the creative: these are all people who often cause at the very least a good deal of inconvenience, and yet they are accorded more liberty than they perhaps „deserve“ (more, say, than those they inconvenience). Similarly, society treats criminals rather better than criminals treat society. Doubtless, there are sometimes reasons of expediency why this is so. We figure that making criminals resentful may make them more dangerous still. We reckon that an obscene artist may in some obscure way be doing us good. We understand that being a drunk is not an entirely voluntary affair. We understand that protest has a long and honourable tradition. Nonetheless, in their various ways, these are all people who either do not take their obligations to the rest of society very seriously, or do require a good deal of patience from the rest of us as they assert their „right“ to take an idiosyncratic view of what their obligations to society are.

This story of progress and democracy is one of increased liberty for persons, and yet it produces a very odd paradox. Societies, as they become more free, have defined more closely more rights than ever. And as we have done so, we have written greater rights for the state and put greater constraints on persons than ever before. Put simply, to enshrine the rights of the child, we have asserted the right of the state to involve itself in family life, and to police it, much more than would have seemed reasonable before. As we expand the rights of the child, we have to define more narrow limits to the rights of parents. As we increase the rights of citizens to get information, we have increased the power of regulatory authorities – the state – and reduced the freedom of the persons in corporations to act privily. I cite these two cases because both seem „progressive“, but both – like increasing the rights of non-smokers, or any other development of a „right“ – involve the curtailment of some other person’s right. Arguably, the more rights we identify, insist on, and are given, the more we are diminishing liberty.

Liberty is not about maximising freedom and rights.

We see an essential dilemma. Rights and liberties are often at loggerheads. Whilst we see that rights and obligations are not absolutely linked – they are not a logical or moral equation – they must be twinned socially and as a matter of custom.

Liberty and the modern person

Modern people have ready access to many rights, and sense that society will support them as they press these demands. They sense in a quite new way that society will put right any disadvantage that nature may have heaped on them, whether it be stupidity, disability or even a feckless nature. Health, education and welfare systems exist to provide what people cannot or will not provide for themselves. To that extent, people feel they have a right not to have to achieve well-being for themselves. They are at liberty to fail, and yet to be looked after. „It’s a free country“ means both that one is free not to exert oneself, and that the rest of society is obligated to help. That’s to say, of course, that I am free to fail, but you are not free to ignore my suffering.

That much is a commonplace anxiety of the right-leaning sort of mind: that society has created liberties for individuals and by not emphasising their obligations has deprived the wider society of liberties and heaped obligations on it.

This is a very reasonable old debate and well worth repeating for each generation as it comes along.

But I want to try to look at some more distinctly modern issues. Here they are:

1. We are not all liberals
2. Compulsory Liberty
3. Moral squalor
4. Having Voice
5. Modern Infantilism
6. Compulsory Consumption
7. Surveillance
8. Terrorism
9. The Rights Industry
10. Bohemian Freedoms

1. We are not all liberals

Some societies favour order, and others favour freedom. This seems obvious enough, but bears some inspection. What is more, order comes in contradictory forms. It can equate with a lack of street violence (which may be compatible with a state which is very violent with transgressors). It can equate with very civilised social norms (with severe, not necessarily violent, penalties on the non-conformist).

Some examples

Singapore, it will generally be accepted, is a pleasant and modern sort of a place. It is markedly free of violence. But there is a good deal of formal censorship and much more self-censorship by citizens.¹⁵ It is an orderly place. Arguably, one is far more free in Colombia, where life is much relaxed. But there is a level of violence in Colombia which is socially crippling. To take another sort of example: in France, argument and dissent are tolerated and even prized, but the norms of social behaviour are very well-established and widely observed. French people pride themselves on a sort of obstinacy and on a sense of self-worth. Yet to outsiders, they can seem rather convention-bound, and not least with their acceptance of state power. In the US, there is at least as much dissent as in France, but there is much more freedom and variety in social norms. But in France, there is very little „political correctness“ (one is free to be rude about minorities of every sort), whilst in the US it is wise to be very careful how one expresses oneself.

Of course, not everyone in all these societies signs up to all these conventions and habits, and they haven't all been legislated for. But we have elected to discuss (albeit briefly) societies which enviably deploy the rule of law. We are identifying some of the different balances peoples seek as they balance order and freedom.

To the surprise of many in the intelligentsia – the media and academia, say – modern western societies throw up a surprising desire for order over liberty. From CCTV in public places, through the treatment of terrorist suspects or criminals, to the introduction of personal identity cards, it is order which the public favours. They probably mostly feel that scrutiny, and even the treatment of minorities they perceive to be troublesome, is not likely to be detrimental to their own interests. They also probably feel that modern society makes a fetish of the rights of minorities at the expense of the rights of the „silent majority“, „ordinary, law-abiding“ people.

¹⁵ Gan, S, Gomez, J, Johannan, U, Eds, Asian Cyberactivism: Freedom of expression and media censorship, Friedrich Naumann Stiftung, 2004

2. Compulsory Belonging

To a remarkable degree, compared with moderns, people in previous generations were very much freer but also much more bound by conventions and laws which reached into the very heart of their being. Whilst no-one much cared if they took enormous risks, and they were indeed obliged to (let's say whenever they travelled), it is also the case that they were bound by class, community, faith, attitude, place and work. One might be, say, a working-class member of a village which was universally Protestant and bigoted and have scant chance of escaping to, say, a nearby city in order to become a weaver instead of a farm labourer. Now, all that has changed. To an extraordinary degree, modern people are free to make themselves up. But it is also to a surprising degree compulsory that one do so. This is both a liberating and a challenging prospect. We need to see the degree to which living the Enlightenment dream – the promise of autonomous individuality within a supportive society – is not easy. It requires that we be more fully human than any previous generation. We are free of one sort of exigency – of pain and squalor for instance – but have instead another: identity politics.

3. Moral Squalor

Modern societies are inclined to allow a good deal of latitude in the name of freedom of speech. Thus, utterance (magazines, plays, speeches, and so on) which is offensive to some minority or another is both stoutly defended. Pornographic magazines, violent TV shows and computer games, strippers, prostitutes, lap-top dancers, atheistic propaganda all thrive, and in ways which are unavoidable even to people who find them appalling. There is also, to a remarkable degree, a reluctance to make moral assertions, at least if they have the quality of also being „judgemental“. Roughly speaking, society is determined that it is important to support people whatever happens to them and whatever they do, and a profound reluctance to shame them into different behaviour.

Arguably, this is part of the reason why some young Muslims are rejecting Western liberalism: they equate it with moral squalor. To some extent, they may be right. But it may also be the case that they have not realised that Western societies show profound strength in their reluctance to impose a „general will“ on individuals. In the case of, say, Muslim minorities, it may be useful to remind them that their right to reject Western mores is a profound part of the very freedoms they may find objectionable when used differently by others. There is urgency in this work of mutual comprehension: two prominent Dutchmen have been murdered for their criticisms of Muslim mores, and these were only the worst cases of conflict and violence the issue causes.

4. Having Voice

Modern people do not merely expect to live in societies governed by the rule of law, with laws established by representative democracy. They increasingly expect that individually or in small groups, their passionately-held views will be heard by those who govern them and that their views will have an impact. This is to say that people do not merely expect to be free and safe; they expect to be influential. Expressed in terms of liberty: they expect to be able to exert their will and to curtail other people's liberties as they do so. Currently in the UK, for instance, there are many campaigns run by or on behalf of victims. Those, whose children have been abused, shot, stabbed or run over by drunks; those whose family members have been wounded or killed in train crashes; those whose family members suffer from any of a number of diseases, all claim a right to have their concerns prioritised, usually by curtailing someone else's freedoms or by state expenditure (which amounts to the same thing).

It matters here to say that these new pressures all look highly democratic, but they are often little more than populist. It might seem melodramatic to assert that they threaten democracy, and it is certainly true that democratic governments have always had to face pressure from vested interests of one form or another. Populist campaigns are just another such pressure. The difficulty is that populist pressure often seems irresistible: there is an element of special pleading in the cases it makes. Their arguments are hard to refute, not because they are necessarily amazingly strong, but because rebutting them or refuting them is a very hard – a politically unattractive option – for governments.

These groups generally assume that they are arguing for the unrecognised rights and liberties of their members. It is often noted that they are mutually exclusive or at least competitive. What is less often noted is that rights-seeking may not be as psychologically healing or valuable as is often supposed, and in any case the upshot of the Rights Industry is a society with more and more restrictive rules and state intrusion.

5. Modern infantilism

Modern people are demanding and petulant in a particular way. The most peculiar feature of this is modern bad manners. People demand the rights that we are more used to seeing demanded by badly-behaved children. The sort of behaviour we see, and which seems to be well-explained by a quite new infantilism, is familiar to everyone. It is seen in road rage and in tail-gaiting by motorists. But we see it also in a new impatience in many other milieux, from supermarkets to offices. It is

prevalent on trains and in cinemas, as we find modern adults who behave as badly as children. They seem less able than previous generations to curb their impulses or their trivial selfishness. They expect rapid gratification for their whims.

Like children, we seek to blame others for circumstances which may be our own fault, or no-one's. Adults have historically developed a certain patience, forbearance and tolerance, and it could look like passivity and quiescence. Historically, there was an understanding that acts of God, or of Nature, or accident, lay behind many of our misfortunes. In the modern world, we are more likely to look for a person or a profession to sue, prosecute or campaign against. Our default position is not that we are at the whim or mercy of circumstance, but that we are central to the universe and are its main point. We become surprised and aggrieved when someone or some group of people don't take us as seriously as we take ourselves.

This picture is very like a picture of childhood and childishness. Carried into adulthood, it produces the effect that we assert our own rights very forcefully and to that extent put at a discount the liberties of others. Each of us is claiming more social space and does so at the expense of others.

6. Compulsory Consumption

It has been a familiar cry for centuries that people are too involved in the world of material as opposed to spiritual matters. At its simplest, this was framed as a preoccupation with the World instead as a realisation that Heaven mattered more. In the materialist centuries (perhaps the 17th C onwards, in Europe) the argument shifted a little, and was expressed in terms of materialist as opposed to ascetic or aesthetic matters. The 19th C produced a new sort of argument which suggested that industrial society could blind one to the value of the non-material world. It produced what would come to be called a „false consciousness“. In effect, the left believed, the „cash nexus“ held out the false promise of turning one's working time into all the goods and services one could desire. But actually, capitalism robbed one of nearly everything and in exchange implanted a limitless demand for its products. It had robbed one of aspiration as well as one's working life. This analysis went beyond saying that capitalism owned one as a producer (that was readily assumed on the left): it owned one as a consumer too. What's more, by reducing life to production and consumption, and co-opting both of those, capitalism had taken over the whole of life.

This is nonsense, but it is seductive nonsense. Many people believe it. Those young and not-so-young people who go to see the documentary, *The Corporation*

(2003), and read Naomi Klein's *No Logo*¹⁶ and many other books, or enjoy the movies of the Texan film-maker Richard Linklater, do believe, with the French thinkers Albert Camus, Sartre and Michel Foucault, that modern people are imprisoned in lives of slavery to production and consumption. A friend of Linklater's characterises the modern condition as „being trapped in someone else's dream“.

Now here is a paradox. Each side of this argument is rather inclined to think the other is in denial. It is as though each side believes the other to have fallen into the hands of a cult. The right is inclined to think that the left has been possessed by Weber and Marx and their heirs. The left is inclined to think that the right is trapped in a sort of Cargo Cult¹⁷.

7. Surveillance

To a degree unimaginable in previous generations, everything we do and say is watched and is capable of being stored and noted. Our movements in public are often recorded. A note of our DNA is already often stored, and this could easily be systematised. Our financial, education, health, employment and leisure details are already all tracked to some degree, and this could easily be systematised. We readily assume that anything we write, or publish, and often any image we handle, will be computerised and thus capable of being tracked and stored.

It's interesting the degree to which these facts are already in place: we know the degree to which these things have already happened. And most of us seem hardly to mind at all. Presumably, if the systems are enhanced and made more intrusive, permanent and obligatory, there will be a debate. There may come a point at which there is a sudden revolt. But what seems more remarkable is the degree to which the majority of people - for good or ill - seem not merely unconcerned about, but positively to welcome, the degree to which the authorities can know about their lives.

Their reasoning seems to be that they are completely innocent and the more surveillance there is the more their innocence will be obvious. And they seem to believe a corollary: that surveillance will make it more likely that one can separate the criminal and the terrorist from the innocent. Several problems may arise of course. One is that the state or someone else may put the data to mischievous use. Or the state or someone else may identify the deviant and the dissident as criminal.

16 Klein, Naomi, *No Logo*, Flamingo, 2000

17 http://en.wikipedia.org/wiki/Cargo_cult

Or the state or someone else may come to regard the criminal or the terrorist as being unworthy of the sort of civil respect accorded to the innocent.

These problems make it clear how important it will be that the state is highly accountable, and that - since we seem to be increasing its power - we are doubly alert to its potential to do harm. Oddly, society does have a weapon against the accumulation of information in the state's hands. This is to assert its indifference to much of the information. That's to say: being poor, or a bankrupt, or homosexual, or a vociferous dissident, or disabled, or many of the other things which have been a matter of shame or risk in previous generations have already become, and can increasingly be, seen as perfectly normal.

This is a little like the matter of blackmail. One way of getting rid of blackmail is to catch and punish blackmailers. The other is to make the information they possess worthless by making it clear that they know nothing which can harm their intended victim's reputation.

8. Terrorism

It may seem odd that I say rather little about this large threat to our liberties. Or would you prefer that I apologise for saying rather little about the threat to our liberties posed by the state's response to terrorism?

It is clear that states rather enjoy emergencies: these are periods when the authorities come into their own. They use the full range of their powers, and can extend them. The so-called „war“ against global terrorism has indeed produced legislation around the world, and most of it increases authority and reduces the civil rights of minorities and even majorities in many countries. Obviously, we need to be vigilant that these new powers are proportionate to the present risk, and that they are dismantled when the risk diminishes.

But all that is obvious and is well-discussed and contested. Still, it may be worth repeating that modern society does face the problem of extreme and violent „Islamism“ (for want of a better word). Societies have to judge the degree to which reducing the civil rights of suspected terrorists is valuable in combating them, and balance that against the increase in terrorism that any abuse may also engender. I put it that way because it may be that consideration of the expediency of anti-terrorist measures is a better lever against excess than moral considerations alone would be. And in the meantime, it is also worth stressing that democratic governments could face a very severe - and even a morally justified - backlash if their scruples over civil rights did indeed lead to terrorist outrages.

In short, the terrorists have a great power to trample on the liberties of their target societies, and it may be worth sacrificing some of our liberty – and some of the suspected or actual terrorists' – liberties to reduce the risk.

9. The Rights Industry

Much more than has ever been the case, there is now a professional „rights industry“. The rights of criminals, prisoners, pensioners, drug addicts, victims of accidents, children, the old, patients, divorced fathers, rape victims, victims of crime are all vociferously and vigorously pursued by quite well-funded professional campaigners (who are often seeking „voice“ having been victims themselves). Some of these campaigns cast as „villains“ the very people other campaigns cast as victims. (Women's groups argue that absentee fathers do not deserve the rights that fathers' groups claim.)

The professionalism of many of these groups panders to a modern, false sense that political activity is a poor way to balance the competing claims of people seeking rights. The merit of politics is that it is conducted by people who represent large constituencies and wide interests. Within each representative are the sorts of conflicts which make decent balances of rights more likely to be understood; within the democratic process they are all but guaranteed. Indeed, the modern problem is that the shrillness or glamorousness of this or that professional campaign will dominate and overwhelm the making of laws within democracies.

10. Bohemian Freedoms

Bohemianism has been a recognisable feature of Western societies for hundreds of years (and is a feature in various forms of other societies, perhaps most obviously in Japan¹⁸). It is a way of life which at its heart asserts the rights of some people to live with greater freedom than their neighbours.¹⁹ It is a way of life which explicitly rejects the norms of conventional life. Bohemians claim the right not to be providential about money: they do not seek to accumulate it, even though the rest of society recognises that being able to look after one self financially is a core social obligation. Bohemians claim the right to sexual and child-rearing habits which conventional society regards as immoral and irresponsible. Bohemians claim that artistic endeavour is the highest form of activity. Bohemians generally claim that conventional authority, militarism and justice systems are all deeply flawed. The general Bohemian assumption is that conventional society is materialist, and

that its mores are skewed to satisfy the orderly production of soulless, industrialised and institutionalised goods and services. One might say that Bohemianism is essentially libertarian.

What is interesting is that Bohemianism is becoming a quaint matter for historical study. But at the same time, it is arguably becoming the default value of Western society. True, most of us do continue to pay our taxes and worry about saving money. And it is often said that modern Westerners are too materialist. But it also seems fair to argue that in many of our habits – our attitude to authority, to sexual and familial norms, to creativity, even to medicine – more and more people claim the freedoms common in that other-worldly place, Bohemia.


The trend is identifiable perhaps from the 1960s, when for the first time a mass movement of young people identified itself as, well, Bohemian. What is interesting to note is that Bohemia was deeply dysfunctional. It produced chaotic families, alcoholism, indifferent art and bankruptcy. To fetishise Bohemia is to understate the value of representative democracy, deference, order and solvency.

Conclusion

The Big Idea of this paper is to remind ourselves that liberty – right and freedoms – flows from good government and order; oddly, it flows from disciplined citizens. It flows from responsible, thoughtful adults who understand that life is not best modelled on a child's playroom or a hippy commune. Modern people have more freedom than any in history, but perhaps understand it rather less. They may even not value liberty as they should: as something shared and created by people and institutions. One does not create more liberty in society always by claiming more freedom for oneself. We have perhaps come to the end of a particular period in the ceaseless flux of fashion in human affairs. We have trivially celebrated selfishness and bad manners as though there were an expression of freedom. It may be time now to take a more traditional view of liberty: one which values very highly the freedom of others.

18 Carey, Peter, *Wrong About Japan*, Faber and Faber, 2005

19 Wilson, Elizabeth, *Bohemians: The glamorous outcasts*, Taurisparke, 2003



Richard D North, media fellow of the Institute of Economic Affairs, London, is a British writer, broadcaster and commentator. He defends globalization, capitalism, Empire, consumerism and the Western project in general. He is especially interested in aesthetic and spiritual issues and has written as much on art and monasticism as on commercialism. He promotes formal, old-fashioned democracy and attacks the Anti-Establishment bias in the media. He believes too much modern debate confuses opinion and evidence. He argues that much modern debate confuses public and private responsibility.

RDN has written for most UK broadsheets and for the Wall Street Journal, Europe and has appeared on most UK and some US current affairs programmes. He edits www.livingissues.com, a family of websites devoted to presenting robustly impartial accounts of difficult issues. His latest book, *Rich Is Beautiful: A very personal defence of mass affluence*, is published by the Social Affairs Unit, London, in 2005

For more information see
www.richarddnorth.com