

TOWARD A LIBERTARIAN THEORY OF CHARITABLE DONATIONS TO CRIMINALS, GOVERNMENTS

WALTER E. BLOCK

wblock@loyno.edu

Joseph A. Butt, S.J. College of Business
Loyola University New Orleans

ABSTRACT. Libertarianism is the political philosophy according to which it is illegitimate, and thus a punishable crime, to initiation violence against another person or his private property. But what about donating money to criminals? Is this, too, to be considered criminal behavior under libertarianism? The present paper explores this question. It also argues that donations to criminals, and even donations to certain state institutions that are deemed criminal by libertarian lights, are illegitimate.

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1. Introduction¹

The purpose of this paper is to apply libertarian theory to the vexing question of the relationship between the individual and the state; to wit, under what conditions, if any, may a person properly donate to the government. Before we do so it behooves us to identify the version of libertarianism that will be the basis of our analysis, since there are three varieties of this philosophy. The present paper is written from the perspective of anarcho-capitalism, or free market anarchism. I eschew both the limited government libertarianism and classical liberalism as fundamentally misconstruing the necessary evil of government. I look at the question of whether, and under what conditions, is it licit to support the state, only from the perspective of this anarcho-capitalist version of libertarianism.

What all three approached to libertarianism have in common, presumably, is adherence to the non aggression principle (NAP): it is illicit for anyone to threaten or initiate violence against another person or his justly owned property. Libertarians are not pacifists. Thus, violence is not per se forbidden by this

libertarian legal code. But it is only justified in defense against, or retaliation against a prior use of unjustified force. None of the three varieties of libertarianism constitute anything that might be conceived of as a philosophy of life. Rather, all of them are very narrow. They are each limited to answering one and only one question: under what conditions is the use of violence justified. And, to the extent they are all truly libertarian, they can give but one answer: defensive violence may be utilized only in response to previous offensive violence.

What are the three varieties? The first is libertarian anarchism, or anarcho-capitalism.² In this case, there is no justification for the government since it necessarily violates the NAP. How does it do so? In two ways. First, it taxes citizens. That is, it threatens innocent people that unless they pay it a certain amount of money, it will incarcerate them. Second, it will visit violence, also, against any person or group of people who compete with it, without permission, in the provision of services over which it claims monopoly power. What then is the proper relationship of the individual and the state? The same one, then, as between himself and any other criminal or robber gang with less legitimacy and poorer public relations: pragmatically, just as one hands over one's wallet to the mugger, one pays one's taxes. But, neither is deemed a licit transaction. Rothbard (1977A), for example, describes the state "as a predatory gang of robbers, enslavers, and murderers."

The second type of libertarianism is the minimal government philosophy, or minarchism. Here, there is such a thing as a legitimate state, provided that it is *extremely* limited. In this perspective, the government has one and only one licit task, and that is to protect the persons and legitimately owned property of the citizenry.³ And, to that end there are three appropriate institutions: armies to ensure that foreigners do not overrun the country, police to maintain internal order and stop criminality, and courts to determine guilt or innocence. The most prominent libertarians who espouse this version of libertarianism are Nozick (1974) and Rand (1962, 1973, 1967). This vision has been condemned, however, on the basis that it does not really adhere to the NAP.⁴ A government, per se, must necessarily violate this stricture, as it compels people to pay taxes to it, and forbids competition with itself.

The third version of libertarianism might more accurately be characterized as classical liberalism, or moderate free enterprise. In this case, free enterprise and limited government are supported, but functions in addition to those accepted by the minarchists are endorsed, such as welfare, administration of the money supply, control over so-called public goods such as health and education, etc. The most notable exponents of this viewpoint are Friedman (1962) and Hayek (1944, 1960, 1973).⁵

What is the relationship between libertarianism and rights? For this philosophy, there are only negative rights: the right to be left alone in peace, the right not to be threatened or physically attacked in one's person and

property. There is no such thing as positive rights, the right to the property of other people. This is merely a disguised justification for theft.

The only thing that violates the libertarian legal code⁶ is an uninvited border crossing: a violation of private property rights. This philosophy is a part neither of the right nor the left (Block, 2010C), although it does overlap, in part, with both. In the former case, since conservatives believe in slightly more economic liberty than do liberals, the libertarian sides more with them than their competitors on anti unionism, support for free trade, opposition to government regulations such as the minimum wage law and rent control. In the latter case, since the socialists are somewhat more in favor of personal liberties than are the fascists, the libertarians find themselves more in agreement with them on issues such as the legalization of drugs, voluntary sex (legalization of prostitution), and other capitalist acts between consenting adults such as gambling. The libertarian rejects the imperialist wars of both of these contending political philosophies, in the modern era whether undertaken by a Bush or by an Obama, and thus supports Ron Paul's call to bring all of the troops home, and forthwith. With this introduction to the libertarian philosophy, we are now ready to contemplate how it stands on donating money to the illegitimate state.

In section II we focus on libertarianism and donations in general. The burden of section III is to consider donations to public libraries and in section IV to universities. We conclude in section IV.

2. Donations

Merely giving money to someone cannot be a per se violation of libertarian law. However, aiding and abetting a criminal, conspiring with a criminal to violate rights, would certainly, in and of itself, constitute a rights violation.

But what does conspiring with a criminal to violate rights consist of? Suppose Jones donated money to Stalin/Hitler.⁷ Whereupon SH goes out and murders a few additional people. Is Jones a criminal for so doing? Certainly, assuming Jones knows who SH is. But, if SH were in disguise, or collecting charity undercover, say, as a representative of the Cancer Society, Jones' donation would not constitute a criminal act. The restaurant that feeds the criminal gang breakfast, or the store that sells them shoes, without which they would be unable to commit their nefarious deeds, likewise, is innocent of any crime. *Mens rea*, after all, is required for criminality.

Suppose now a more interesting case. Knowing full well who SH is, Jones donates money to him on the assumption that *this* contribution will be used for good purposes. We also ignore, *arguendo*, the fungibility of money; that is, SH will not be able to divert others of his funds from peaceful to criminal behavior, using Jones' money to supplement his now depleted peace-

ful budget. Instead, SH uses this donation for good purposes, and that is the *only* effect of Jones' contribution to him.⁸ Now, is Jones a criminal for donating to SH?

We argue that Jones most certainly is guilty of criminal behavior, just as if he were to give money to any other statist enterprise.

Let us pause to clarify at this point. We are making two arguments in this section. One, it is wrong, on the libertarian account, to knowingly aid those who perform rights violations. This holds true even when that aid does not/is not expected to contribute to further rights violations. Two, it is also wrong to aid those who perform rights violations if that aid will lead to more or continued rights violations. From which libertarian principle do these two claims emanate? Why, from the NAP.⁹ If it is impermissible to do X, e.g., violate rights, then, it follows logically that it would also be illicit to aid and abet those who engage in these improper acts. In order to be clear, I am not at all saying that aid to a rights violator is acceptable if it is certain that this will *not* lead to further rights violations. Rather, I am taking the position that aid to a rights violator is unacceptable *even if* it is certain that this will *not* lead to further rights violations.¹⁰ Suppose that S/H promise that in future they will behave themselves, and no longer engage in the mass murder of the past that has long been their wont. Stipulate that they are now telling the truth. Am I therefore saying that donations to the S/H fund would be acceptable? Of course not. According to libertarian punishment theory,¹¹ rather, they should be severely punished for their past misdeeds; no monies at all should be given to them. The very opposite, if anything, should be the case. Of course, I also aver that aid to a rights violator is wrong if it will certainly lead to further rights violations.¹²

But what about the question of which conditions are appropriate in between these two extremes? For example, would it be wrong to aid those who may in the future commit rights violations if there is merely an expectation on the part of the donor that this aid will lead to further rights violations? The libertarian answer to this appears clear: there is nothing wrong with donating money to individuals who *may* in future violate rights. This stems from the fact that it is possible, in future, that *anyone*, anyone at all, *may possibly* violate rights. And this includes people such as Mother Teresa, Maimonides, Ron Paul or Jesus Christ Himself. None of these people, in the *past* have acted incompatibly with the NAP. But, no one knows for sure about the future. Suppose it is *likely* that such a person will commit a crime in future. Posit that this individual is a member of a race, or a class, or an age category, that is over represented in the crime statistics.¹³ Would it be impermissible to contribute money to him? No. Innocent until proven guilty would be the maxim emanating from the libertarian quarter. Until and unless such a person is actually *guilty* of committing a crime, there is no reason to prohibit gifts made to him. Thus, there is no need to mediate between any "end points"

regarding being certain that the recipient will commit a crime in the future or not. No one can foretell the future. If the person has committed real crimes in the past, or is in the midst of doing so, then aiding and abetting him is illicit. If not, then not. There is no compromise necessary; there is no continuum to be mediated.

Let me take yet another hack at this, since this material is radical, unconventional, and difficult to articulate. To be culpable the agent must both i) have the expectation that the donation will aid the criminal in committing a rights violation and ii) make the donation with the intention of aiding the criminal in someway (if not necessarily in contributing to a further rights violation).

A donation to a rights violator is a criminal act if, and only if,

- 1) the donor acts with the intention of aiding the rights violator
- 2) the donor is aware that the rights violator is a rights violator etc. etc.

Let us summarize this section of the paper.

If there is “merely an expectation of done criminality on the part of the donor” then the act of donation is not criminal. For example, if someone gives money to an inner city group of basketball players, and the only negative “expectation” is a statistical one (this age cohort has a higher rate of criminality than others), this is not per se a violation of the NAP. To be culpable the donor must both i) have the expectation that the donation will aid the criminal in committing a rights violation; ii) make the donation with the intention of aiding the criminal in some way (if not necessarily in contributing to a further rights violation); and iii) have a reckless disregard for the status of the rights violator.

Thus, a donation to a rights violator is a criminal act if, and only if,

- 1) the donor acts with the intention of aiding the rights violator
- 2) the donor is aware that the rights violator is a rights violator
- 3) the donor *should have been* aware that the rights violator is a rights violator.¹⁴

3. Library

Let us now consider a charitable donation to a public library. While, to be sure, placing a public library in the SH category is a bit of a reach, both do indeed violate libertarian principles, of course to vastly different degrees. *Both* are illegitimate. *Both* are criminal organizations, or run by criminals.¹⁵ The only legitimate library in the libertarian lexicon would be a private one. Public libraries, no matter how pleasant their façades¹⁶ are based on coercion;

on *forcing* people to pay for their construction, upkeep, wage bill, on an involuntary basis.

It is our claim that the same considerations apply to donating money to the public library as to SH. If compatible with rights¹⁷ then the charitable giving is justified; if not, then not. So, let us posit that if money is donated to the public library, they will use it for books promoting socialism, or fascism.¹⁸ They will stock their shelves with books by Rawls, Marx, Galbraith, and others extolling the virtues of initiation force against non aggressors, in direction contravention of the libertarian code.¹⁹

Clearly, such acts would be akin to aiding and abetting criminal enterprise. They would be no different in kind²⁰ from serving as the get-away driver for a robber gang. The chauffeur does not directly contravene the libertarian code by engaging in force or fraud against innocents, but he certainly helps others do so, and does so purposefully.

What about donating a book to the public library that is neutral with regard to violating the non aggression axiom of libertarianism? One, say, concerned with flowers, or sports, or carpentry. Here, again, there would be a problem, because while the donor, Jones, would not be doing anything per se untoward, he would be guilty of doing something indirectly difficult to reconcile with libertarianism. In helping fill its shelves with even neutral books Jones is promoting the prestige of the institution; he is making it more attractive to the citizenry. But, this institution should not exist in the first place. Making it more attractive to the citizenry is certainly problematic from a libertarian point of view.²¹ But, is it a crime? My answer is that if there were a libertarian Nuremberg Court, people who donate neutral books to public libraries would at least merit a slap on the wrist; that is, they would be convicted of perpetrating a minor crime. Consider some of the many, many ways of promoting the reputation of the evil state, or of evil in general; which are crimes and which are not? For example, take writing paeans to the government; speaking out, on private property, in favor of statism; wearing a Che Guevara “t” shirt.²² My answer is that if these things are done by purely private individuals, they are examples of free speech, however foolish and immoral, and therefore not criminal. Merely extolling the virtues of the evil state, or promoting it through peaceful, non invasive means, cannot be considered criminal behavior.²³ However, if they are undertaken by people who are hand in glove with the state apparatus, work for it, receive subsidies from it, then this passes beyond the scope of mere free speech, and enters the realm of NAP violations. For example, if a professor at a state university wears a Che “t” shirt, promotes Marxism, etc., the libertarian Nuremberg Trials would find him guilty of a crime. Why? Because in the libertarian legal code, government agents are criminals, and aiding and abetting, promoting and protecting, criminals is itself a criminal act.²⁴

Now consider the donation to the public library of a decidedly non neutral book. We have in mind any of those authored by Mises, Rothbard, Nozick, Rand, Paul.²⁵ Yes, on the one hand, this would increase the prestige of the library,²⁶ which we must place on the debit side of the ledger. On the other hand²⁷ there will be some benefits for the cause of liberty when people who would otherwise be shielded from these books by public librarians are instead introduced to them. All I can say that if such a person were brought before the libertarian Nuremberg trials and pleaded in his defense that he was trying to promote liberty in this manner, I would vote for an acquittal.²⁸

Let us consider an objection to the foregoing. I claim that providing certain liberal/socialist/fascist (non-libertarian) books to public libraries would constitute a crime in so far as the consequence will be a furthering of “the evil state.” This is an empirical assertion. Many libertarians are wedded to the idea that individuals can be expected to be the best judges of their own good. If that is the case, it is not clear why presenting them with a variety of arguments, some of which may be bad, will lead to them choosing badly. This objection is strengthened by Mill (1859).

This would indeed be a powerful objection if libertarianism were a consequentialist or utilitarian philosophy. It is, however, nothing of the sort.²⁹ Rather, it is based on intrinsic considerations.³⁰ The NAP is the guiding light of this version of libertarianism, and it claims relevance regardless of consequences. Suppose that Smith murders Jones, and one millionth of a second later the entire earth is blown up and all on it perish. Then, of course, there are no lost utilities of this murder.³¹ There are no implications for future behavior, because there is no future. Nevertheless, it was still *wrong*, still a rights violation, for Smith to murder Jones. In like manner, it is wrong, period, all utilitarian considerations to the side, to donate evil books and neutral books to statist libraries, regardless of the consequences.

4. University Donations

Universities are a complicated domain for our analysis of this question. There are virtually no pure public universities. In the modern era, at least part of the budgets of the supposed “state” schools are met by private donations.³² At the other end of the spectrum, apart from Grove City and Hillsdale Colleges,³³ there are no purely private institutions of higher learning. They are all at least partially funded by the government.³⁴ Ignoring these two outliers, we focus on all other colleges and universities, which are partially private and partially public.

What then of the legality, under libertarian law, of donating funds to one of these institutions? We may assume that all such acts promote the legitimacy

of these quasi public, quasi private institutions, or public – private partnerships.³⁵

We have already established that it is legitimate to donate to criminal organizations such as governments, provided that the money is used for “good” purposes. How will this play out in the realm of higher education?

In our analysis, stocks would be ruled out of courts, while flows, some flows, might just pass muster.

An example of a stock would be an endowment. For example, Jones gives \$10 million to the XYZ University to endow a chair, let us say, in free enterprise economics, a “good” purpose if ever there was one. According to the terms of the donation agreement, Jones can play a role in the selection of the first holder of that Jones Chair, or, even, in some extreme cases, choose its occupant solely on his own cognizance. Let us assume further that the dean with whom he negotiates this charitable contribution is a staunch advocate of just this sort of initiative: righting the present imbalance of intellectual opinion on the part of the professoriate in favor of socialism and fascism, and against laissez faire capitalism.

All goes well for 10 years. Whereupon, the holder of the Jones Chair retires, as does the dean of the college housing this Chair. The next holder of the Jones Chair is selected. He, too, is interested in free enterprise economics, in demeaning it, undermining it, in castigating it. However, he is an eminent Marxist scholar, with many publications to his credit, all of them critical of capitalism.

What are we to say, then, in retrospect, about the initial endowment \$10 million by Jones for the XYZ University? Was this akin to the donation of a good or even neutral book to the public library.³⁶ Well, yes, at the outset; but not on a permanent basis. An endowment is a perpetuity; it goes on, at least theoretically, forever. Given the climate of opinion at modern universities, it is only to be expected that endowed chairs of free enterprise will eventually, sooner or later, fall into the hands of those who bitterly oppose economic freedom.³⁷ Thus, if we ignore the initial period, Jones is guilty of donating money to a statist institution which for most of its life will be used to undermine economic freedom, the purpose for which he made the initial donation.³⁸ We cannot say, even in retrospect, that he was a criminal, given that this was not at all his intention. He lacked a guilty mens rea. However, now that this scam is almost universally well known, what are we to say about donors who continue to contribute to universities, ostensibly for free enterprise purposes, but, with reckless disregard for the recent record? Is it too far a stretch to consider them criminals? No, not at all.

In sharp contrast, suppose that Jones had made a flow, not a stock arrangement with the university. Jones would pay for the salary, and all related expenses, of the holder of the Jones Chair, only as long as its occupant was satisfactory to Jones, or to the executor of his estate. The university might or

might not accept such terms, but, it is clear, the donor would not run afoul of libertarian law.

In like manner, suppose that someone, Jones, were to contribute, on a year to year basis, to the economics, or the libertarian club of a university, and continued to do so, as long as they invited speakers, ran programs, that were consistent with his vision. This, too, would pass muster with libertarian law, in that it would not aid and abet criminal statists in their promotion of fascism or socialism.

What is the relationship, in libertarian punishment theory, between the intention of the donor, and the consequences of his action? Four possibilities occur. One, the donor gives aid with the intention of creating further rights violations, and these rights violations do ensue. Two, the donor gives aid with the intention of creating further rights violations, and these rights violations do not ensue. Three, the donor gives aid *not* with the intention of creating further rights violations, but these rights violations do ensue. Four, the donor gives aid *not* with the intention of creating further rights violations, and these rights violations do not ensue. Four is easy. There is no crime committed here. For example, a contribution of a Rothbard book is made to a private library. Three, is more complicated, but no crime is committed here. For example, the case where the taxi unknowingly drives the robber gang to the victim's store. One is also easy: guilty. Two is a bit more complicated. Here, we have an attempt that does not succeed. Attempted murder is a crime in most legal jurisdictions. What of libertarian law? If the failed attempt constitutes a threat, or scares the victim, then, yes, the two legal systems are congruent. An unsuccessful attempt in this case constitutes a crime. But, posit that no one witnesses this failed attempt. Then, the case is moot, unless the criminal turns himself in. However, suppose a third party witnesses this event. Then, too, this would be a crime, since the attempted murder can be interpreted as a threat against the entire community. If Jones tries, but fails to murder Smith, and Green witnesses it, this constitutes a threat against Green, and anyone else who might come under the purview of Jones.³⁹

5. Conclusion

Rape, murder, theft, fraud, create no philosophical problems for the libertarian philosophy. They are incompatible with it, and the perpetrators of these evil deeds ought to be considered criminals, and punished for their reprehensible behavior. But, the legal status of charitable donations is not as immediately obvious. This paper is an attempt to bring to bear libertarian analysis on a complex set of behaviors. My conclusion is that aiding and abetting a state in its evil machinations violate the NAP. Those that undermine the illicit government are compatible with it.

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NOTES

1. This paper adds to previous libertarian work on philanthropy. See Beaulier and Hall, 2008; Beito, 2000; Bennett and DiLorenzo, 1989; Block, 2006; Gergen, 1988, Hughes, 1988, 1989, 1990, unpublished; LaBletta and Block, 1999; Olasky, 1992; Rothbard, 1973.

2. For statements of this view, see Anderson and Hill, 1979; Benson, 1989, 1990; Block, 2007A, 2010D, forthcoming; DiLorenzo, 2010; Guillery & Tinsley, 2009; Hasnas, 1995; Higgs, 2009; Hoppe, 2008; King, 2010; Kinsella, 2009C; Long, 2004; Molyneux, undated; Murphy, 2005; Rothbard, 1973, 1977A, 1998; Stringham, 2007; Tannehill, 1984; Tinsley, 1998–1999.

3. Note the influence of the libertarian NAP.

4. For the anarcho-capitalist critique of Nozick's vision of the just society, see Barnett, 1977; Block, 2002; Childs, 1969, 1977; Evers, 1977; Rothbard, 1977C; Sanders, 1977; on Rand's, see Block, 2002; Childs, 1969.

5. This perspective has been subjected to withering criticism, particularly by representatives of the first school of libertarianism, anarcho-capitalism. See, for instance, Block, 2010A, 2010B, Friedman and Block, 2006; Rothbard, 2002. For an evisceration of the public goods argument, see Barnett and Block, 2007, 2009; Block, 1983, 2000, 2003; Bibliography, undated; Cowen, 1988; De Jasay, 1989; Holcombe, 1997; Hoppe, 1989; Hummel, 1990; Osterfeld, 1989; Pasour, 1981; Rothbard, 1985, 1997; Schmidtz, 1991; Sechrest, 2003, 2004A, 2004B, 2007.

6. Bergland, 1986; Hoppe, 1993; Rothbard, 1973, 1982; Woolridge, 1970.

7. SH will stand for the archetypal criminal throughout this article.

8. Hitler promoted health foods and dachshund dogs.

9. In the view of Rothbard (1973, emphasis added by present author) “For centuries, the State (or more strictly, individuals acting in their roles as ‘members of the government’) has cloaked its criminal activity in high-sounding rhetoric. For centuries the State has committed mass murder and called it ‘war’; then ennobled the mass slaughter that ‘war’ involves. For centuries the State has enslaved people into its armed battalions and called it ‘conscription’ in the ‘national service.’ For centuries the State has robbed people at bayonet point and called it ‘taxation.’ *In fact, if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all of the libertarian attitudes will logically fall into place.*”

10. Of course, if the “donation” *hurts* S/H, then all bets are off. That is, suppose that the “gift” to the evil dictator is an exploding cigar that when lit will kill him. Would this “contribution” violate libertarian law? Of course not.

11. See on this Block, 2003, 2004A, 2004B, 2006B, 2009A, 2009B; Kinsella, 1998, 1997; Olson, 1979; Rothbard, 1977B, 1998, 88; Whitehead and Block, 2003.

In the view of Rothbard (1998, p. 88, ft. 6): “It should be evident that our theory of proportional punishment – that people may be punished by losing their rights to the extent that they have invaded the rights of others – is frankly a *retributive* theory of punishment, a ‘tooth (or two teeth) for a tooth’ theory. Retribution is in bad repute among philosophers, who generally dismiss the concept quickly as ‘primitive’ or ‘barbaric’ and then race on to a discussion of the two other major theories of punishment: deterrence and rehabilitation. But simply to dismiss a concept as ‘barbaric’ can hardly suffice; after all, it is possible that in this case, the ‘barbarians’ hit on a concept that was superior to the more modern creeds.”

12. Here is a complication, or, rather, a correction of the text. Are these considerations separable? Can we not say, on the one hand, that S/H should be punished for their rights violations but also maintain, on the other hand, that any gifts that S/H receives may rightfully be claimed by S/H once the necessary deductions for past punishments have been made? Yes, indeed, this is true. In the text we ignore this point, since the rights violations of S/H are so egregious that there is not much of a chance that anything at all will remain for them once all “deductions” are made. However, for criminals who are not mass murderers, this consideration may well come into play.

13. We are now discussing *real* crimes, violence or the threat thereof against innocent people, namely, violations of the NAP, and not victimless crimes such as prostitution, pornography, gambling, drugs, between consenting adults.

14. For example, someone donates to Stalin or Hitler, long after their evil deeds were widely known.

15. In the view of Rothbard, 1977A: “...there is no sign that David Friedman in any sense hates the existing American State or the State *per se*, hates it deep in his belly as a predatory gang of robbers, enslavers, and murderers. No, there is simply the cool conviction that anarchism would be the best of all possible worlds, but that our current set-up is pretty far up with it in desirability. For there is no sense in Friedman that the State – *any* State – is a predatory gang of criminals.... The radical cannot think in such terms, because the radical regards the State as our mortal enemy, which must be hacked away at wherever and whenever we can. To the radical libertarian, we must take any and every opportunity to chop away at the State, whether it’s to reduce or abolish a tax, a budget appropriation, or a regulatory power. And the radical libertarian is insatiable in this appetite until the State has been abolished, or – for minarchists – dwindled down to a tiny, laissez-faire role.

16. Stalin could throw a good party; there would be vodka, dancing, hammer and sickle decorations, etc. It was very festive.

17. As understood by the libertarian philosophy.

18. Rawls, 1971; Marx and Engels, 1848; Galbraith, 1958. For an excellent antidote to Rawls, see Nozick, 1974; for an excellent antidote to Marx, see Bohm-Bawerk, 1884; for excellent antidotes to Galbraith, see Anderson, 2006; Hayek, 1967; Rothbard, 1993

19. Would it be a crime, under the libertarian legal code, for Jones to give Smith one of these books as a birthday present? No. We posit here that Jones and Smith are not part of the state apparatus. Such an act is not incompatible with libertarianism. Matters are only different when a public library is involved. So, there is no call for book banning from this quarter.

20. Although they might be different in degree

21. This is part of the libertarian critique of voting in political elections: “it encourages them.”

22. Poland is at the time of this writing contemplating a ban on the wearing of such apparel (<http://www.google.ca/search?hl=en&q=poland+bans+che+shirts&btnG=Google+Search&meta=&aq=f&oq=>). The law will outlaw materials that incite “fascism and totalitarian systems.” While we cannot help but applaud the sentiment behind this initiative, we cannot agree that such a prohibition is necessarily compatible with libertarian law.

23. What about voting? This was impossible for Stalin, but did indeed occur in the case of Hitler. The parallels between voting and donating are striking. In our view, a vote for one of Hitler’s more liberal opponents would not only not be problematic, it would be a positive virtue. It is even possible to reconcile a vote for Hitler with the libertarian code: if the voter pulled the lever for him not out of support for Hitler, but, merely, to stave off what was then widely seen as an even greater threat to liberty: the Communist candidate. However, a “positive” vote for Hitler, not to obviate a worse choice, but out of agreement with the policies of this Nazi thug (a redundancy), would surely be considered a criminal act. This would be akin to donating money to Hitler, not so that he could do nice things, or even neutral ones, but so that he could carry out his extremely nefarious policies. In our view, however, there is not too much to be chosen between national socialism (Nazism), and international socialism (Communism), although things did indeed look different to a plurality of the German electorate in the 1930s.

24. See the text discussion, *supra*, related to footnote 15.

25. For example, Mises, 1998; Rothbard, 1972, 1983; Nozick, 1974; Rand, 1957; Paul, 2008.

26. Such claims are not part of an exact science. On the one hand, the additions of these books, all too often absent from public libraries, would increase intellectual diversity, and would increase the prestige of the library on the part of those who appreciate this literature; on the other, it would decrease the prestige of the library on the part of those who oppose such literature. They would charge that the library is “selling out to the man.”

27. We are now assuming that the librarians will not hide these books from public view, nor sell them in order to purchase with the proceeds of these sales, books of the opposite political persuasion.

28. But isn’t this kind of donation equivalent to the one where one helps S/H in a way that does not contribute to a per se rights violation? That is, isn’t it just like the non-fungible money case and therefore not permissible? Otherwise libertarianism moves toward consequentialism. Not so, not so. Rather, this is part and parcel of a whole host of libertarian conundrums. For example, if addictive drugs are legalized, we reduce NAP violations, but, conundrum, government tax revenues will rise, a negative for libertarians. Similarly, if rent control is eliminated, housing values will rise, and, along with them, real estate taxes for the state. If tax rates are lowered, say from 91% to 90%, given that we are on the upper part of the Laffer curve, statist tax takes will rise, contrary to what libertarians would desire. Voting for Ron Paul demonstrates support for the government, but Ron Paul is the most pro liberty politician to have ever held elective office. But, all of these initiatives have been

supported by the libertarian philosophy. In like manner, placing a libertarian book in a public library enhances the latter, but also promotes liberty. *Mens rea* plays an important role here. If someone advocated legalizing drugs, ending rent control, lowering tax rates, voting for Ron Paul – and placing Rothbard’s books in public libraries – in order to enhance state coffers and reputation, this would be anti-libertarian. But this is also rather unlikely. A Rothbard book in a public library is on the order of the exploding cigar mentioned, *supra*, in footnote 10.

29. This at least, is true for the Rothbardian version of anarcho capitalism which is deontological. However, it must be conceded to this objection that the classical liberalism of Friedman and Hayek is indeed consequentialist and utilitarian.

30. States Gordon (2011): “... rights have moral weight that appeals to consequences do not override.”

31. Jones would have perished at about the same time whether or not the murder occurred.

32. We posit this to be true. We eschew the possibility, *arguendo*, and, also, for reasons to be stated below, that when the first private donation was made to a completely public institution of higher learning, it ceased to be a “private” donation at that precise time. Rather, since it was a criminal donation, it would have changed from the one category to the other; that is, this ostensibly private donation would have to be considered a public one. Thus, the public university could not logically be converted to semi private or private status through such a process.

33. Of course, these two institutions of higher learning accept government largesse, insofar as they accept deliveries to them made on public roads, avail themselves of the post office, utilize U.S. fiat currency for transactions, etc., just like the rest of us. However, unlike any other university in the country, neither of them accepts a dime in student scholarships, Pell Grants, etc., and, thus, need not comply with a whole host of government regulations concerning such matters as affirmative action. GCC not only forbids students to accept government scholarships and grants and but also, guaranteed student loans, and makes up for these shortfalls out of its own pocket. For more information on the Grove City policy, see this url: http://www.gcc.edu/Faith_and_Freedom.php. I thank Grove City professors Jeff Herbener and Shawn Ritenour for providing me with this cite.

34. For a discussion of why it is sometimes legitimate for a libertarian to accept public money, see Block 2004C, 2006B, 2007B, 2009C.

35. Under pure socialism, there is complete public ownership of the entire means of production. (The Obama Administration’s recent decision to take an ownership position in the bailed out banks is thus a move toward socialism.) Under pure fascism, there is no public ownership of any factors of production, but, there is complete central control over the entire economy on the part of the government. (The Obama Administration’s recent foray into regulation of CEO salaries is thus a move toward fascism.) There is no need for a hammer and sickle to portray socialism, nor for goose stepping, swastikas, virulent racism, or any of the other well known accoutrements of fascism to accompany that form of economic organization. Both “socialism” and “fascism” as used herein apply strictly to the means of economic organization and control. Public-private partnerships are thus part and parcel of socialism; they constitute a partial state ownership of the means of production.

Regulations of the sort promulgated by the Department of Education thus lie in the realm of fascism.

36. “Public” libraries, too, often attract ostensibly “private” donations.

37. The experiences of some major foundations follow this pattern. Those who initially endowed the Ford, Rockefeller and Carnegie Foundations would have been sorely disappointed in the paths they have taken, a few years after being set up.

38. According to Hechinger, 2009, Brandeis University is selling off valuable paintings, originally donated for the purpose of maintaining an art gallery, in order to pay faculty salaries, and for other purposes. Trinity University, a case in point regarding the present essay, is trying to pervert monies donated to it by Shelby Cullom Davis for the purpose of studying and promoting free enterprise, to be spent in very different directions.

39. For more on libertarian theory on attempted (but unsuccessful) crime, see Kinsella, 1996, 68–69; 2006; 2009A, 2009B.

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