Politics, A Normative Sphere

What I wish to discuss here is perhaps best characterized as an entry in an internal dispute? one that has ensued among friends of classical liberal capitalism, the free market, or laissez-faire economics. It has been a concern of many whether this is worthy of our support. Should we work for it, is it basically just? or, perhaps, is it a mistake and we should work for an alternative? probably collectivist? system?

For many the answer is that we ought to strive to establish a system quite different from capitalism. This alone suggests that in exploring our topic, we are engaged in a normative inquiry. That’s to say, we are concerned with the area of our lives where we judge things good or bad, right or wrong. Normative inquiries focus upon the standards that need to be used to make judgments about what is the right thing to do and political economy is, accordingly, a normative discipline. It asks, among other things, what kind of polity and economic order we ought to support.

Life, the Basis of Good v. Bad

Many contend, also, that normative judgments lack any cognitive merit? they cannot be true or false. They are not about what is the case and thus do not pertain to any facts of reality. Yet, people clearly think and live as if normative matters could be decided by argument, with attention to certain kinds of facts, and thus need not be left to mere subjective impressions or intuitions. Whether they are right is yet another question. For the moment, however, I shall take it that many people do hold such a view. Even those involved in the dispute about whether normative judgments could be true suggest that at least one such judgment is: One should not hold the view that they are!

For our purposes here the cognitive position on normative topics rests on the contention that this dimension of reality comes into existence with the emergence of life. It is life that entails possibility of something being good or bad for it. As Karl Popper put it, “values enter the world with life; and if there is life without consciousness (as I think there may well be, even in animals and man, for there appears to be such a thing as dreamless sleep) then, I suggest, there will also be objective values, even with-
out consciousness." And this is how Ayn Rand made the point: “It is only the concept of ‘Life’ that makes the concept of ‘Value’ possible. It is only to living entities that things can be good or evil.”

With life values arise in the world, just as it is with insects and birds that flying arises within living species. To further grasp this, we might compare it to a familiar part of human life, namely, medicine—only when life exists does health begin to matter. This interdependence within reality gives rise to conceptual relationships. The concepts of “value” or “goodness” are grounded in the concept of “life.” They may even fruitfully be regarded a kind of healthfulness.

With life there is the possibility of extinction versus continuation, demise versus flourishing, destruction versus improvement, failure versus success, on many fronts, not only the entity’s biophysical condition. Life, unlike inanimate matter, does not simply change its form and goes on forever, indestructibly. It comes into being and then can be extinguished or enhanced, destroyed or preserved.

This is evident enough when we consider that whatever is alive can be evaluated, even if it lacks consciousness. Gardeners, ecologists, botanists, biologists, zoologists all engage in evaluating the living things they study. They often identify certain conditions as valuable, others as dangerous for the particular life form at hand. What enables them to do this is their knowledge of what kind of life is being considered. Knowing what it is to be a redwood tree enables the botanist to evaluate how some given redwood is doing; knowing what a beaver is enables the zoologist to evaluate the condition of a given beaver. Indeed, even as we shop for vegetables, we can tell from what a bell pepper or watermelon is how good is some given instance of it. In these latter cases, of course, we often judge on the basis of our own wants or purposes, which could introduce different standards. But even apart from what we want some tree or plant for, these living entities can be evaluated as to how successful they are doing, whether they are flourishing or deteriorating.

With human life, however, another factor that constitutes its nature? free choice? raises certain complications. We not only live and may or may not flourish at living but we also, ordinarily, possess the capacity to initiate our own conduct that produces or hinders such flourishing. It is this element of human life that gives rise to what is often called individual responsibility—for us it is not only a matter of what is better, what is worse,
but also whether we should (choose to) act according to certain standards. Then, moving from ethics to politics, we can also consider, as a cognitive issues, what are those institutions that enhance life, make it flourish, rather than thwart or undermine it.

**Objectivity & Individuality Regarding Norms**

The possibility of the *objectivity* and *cognitivity* of norms signifies that they are identifiable by reference to facts? they aren’t subjective, something that depends upon what one feels, wishes or desires. They? goodness and evil? are not, to use a phrase applied to aesthetics, “in the eyes of the beholder.”

I will only sketch this idea here but it is necessary to make the point credible for our future reference. If we take into consideration those facts that pertain to the nature of life, in virtue of which life can be either improved or worsened, we can identify *objectively* the norms of living. The facts concerning what enhances or thwarts living are, then, objective, resting on facts of reality, grounded on *cognition*. Those facts are what can give us some common reference point for judgments of good and bad in the world. (We, of course, are also free to fail to ascertain those facts and make false or merely accidentally true normative judgments.)

Let me just defend the point briefly. It is, again, fully embedded in how we address our own topic here. The reason is that when we consider the issue at hand, we do this *critically*, in terms of certain standards or *criteria* of right and wrong. One is either right or wrong (or confused) about the matter. So even our thinking and talking about the very topic of norms exhibits the point that human life is inescapably, necessarily normative.

In examining human life, some of the facts that we can take note of will enhance, others will endanger it. Others pertain to our capacity to initiate our own behavior. These facts about us, in turn, have lead us to produce the two disciplines of normative inquiry of greatest concern, namely, ethics and politics. They concern our choices regarding the difference between right and wrong conduct in private and public contexts.

In addition, the essential individuality of human life raises still other nuances in the spheres of normative human inquiries. For example, many of the judgments regarding right and wrong conduct are unique, depending not only on the fact that *we are living human beings* but on the fact that *we are each individuals*, as well as on the continuum between these two poles? familial, professional, social, and so forth.
Our human lives can be lived successfully or badly in very different though mutually compatible ways. This is what has contributed, in part, to the widely held view that ethical judgments are subjective, merely a matter of the individual’s will, tastes, or preferences. In fact, though, the differences are due to the often unique attributes, circumstances, opportunities, and available information pertaining to different human individual.

The above is a very brief answer to some of the worries people have about whether norms can be objective. To summarize, the fact of life—not only human life, but life everywhere around us—gives rise factually to the question, “Is it good or is it bad?” Different kinds of life will require different answers to this question. It’s not just any life, it’s life of a specific type that matters. And thus, when we are considering good and bad for, say, a banana versus a human being, we will get very different answers. But there is one common element, as well. This is that the enhancing of the life of any being is good; the destruction of it is bad, very, very broadly speaking, as regards that being.

**Economics and Norms**

Is there an intimate connection between this objective normative framework for understanding human life and economic science, including conclusions regarding the system of free market economics or capitalism? To suggest that there is, let me quote from Professor James Buchanan, Nobel Laureate in economic science in 1986, well-known to many people in the classical liberal arena. This is from his *The Limits of Liberty*:

Economics, the science of markets or of exchange institutions, commences with a well-defined structure or set of individual rights. Buchanan states that the *science* of markets or of exchange institutions, commences with a normative component, namely, a system of individual rights.

Rights, however, is a normative concept. It states what ought to be the case, how people ought to act, not just what they do, how they behave. The right to private property, for example, identifies the fact that every person ought to be left free by others to seek to hold, keep and dispose of items of value.

Accordingly, following Buchanan here, the very foundation of the free market economic system involves a normative component, contrary to what some other economists appear to believe. The set of individual
rights and, more particularly, private property rights, are at the foundation of the science of economics.

This is not really difficult to appreciate. Consider that one cannot even think of exchange or trade without the concept of, for example, the individual’s rights to life, liberty or property. If one’s life doesn’t fall under one’s own authority to govern, one cannot offer part of it for employment by others on mutually agreed upon terms. The basis of the significance of people establishing terms of trade rests on their having these rights. If they lacked the right to liberty, all the actions associated with trade—manufacture, invention, research, marketing, labor, etc.—would have to be performed at the mercy of everyone else, without whose permission one would be morally paralyzed. It would abolish a free market in services. And if one has got nothing, one can't trade anything. One can't give it away. One can't lend it or sell it. One can't hold on to it for oneself. One can't invest it, use it, abuse it, bequeath it. One can't capitalize on it or save it for a rainy day. Nor can one lose it. If one hasn’t got anything, there is no market in goods.

The concept of rights, including private property rights, is normative. It designates what people are or are not authorized to do. Professors Rasmussen and Den Uyl call rights meta-normative\textsuperscript{6}, indicating that while having basic rights does not constitute an action-guiding principle (doesn’t guide one to do this or that), it does amount to having the authority to, for example, resist certain actions by others or to employ a government or body guard to do this for oneself. A kind of society in which there are individual rights at least prohibits certain behavior because no one is authorized to engage in it. And it authorizes the resistance to that behavior—which means that when rights are threatened with violation, one is justified in and most often ought to resist.

All of this is very important for classical liberal institutions, as well as for the proper understanding and analysis of the market place. Prior to embarking upon the analysis of market forces in the way economic scientists want to, one already has to have some confidence that the market itself, as a system of human activities, has some measure of moral and political legitimacy. Indeed, today markets don't have much legitimacy in the legal sense. In most societies the right to private property is seriously compromised, indeed, grossly violated, by the legal system itself, not only by criminals. So when one proposes that markets ought to be established,
that trade should be protected among free citizens, as is done by promoters of, for example, capitalism and privatization, then we need to provide a normative justification. We need to argue that this is a good thing, that it ought to be pursued.

Only after this has been achieved, can we become positive economic scientists and address the issue of how it all works out, what laws develop from this institution. Without such a justification, it can be argued without much resistance that markets are a bad thing and students of markets are no different from students of, say, criminal activities. Indeed, that is the opinion of many among Western intellectuals, namely, that market activities are but expressions of greed, the immoral pursuit of wealth.

**Why Free Markets are Just**

So, is the market place something human beings ought to embrace, ought to establish, ought to work for? With no clear affirmative answer, there are all sorts of alternatives that we might be morally required to embrace. The market, it should be noted, is not some automatic system, as is the weather or the rotation of the planets. It is, instead, a system established and maintained by choice—maybe a long series of philosophical, moral and political choices—not something that is guaranteed to remain in place or is established apart from human determination. It is not spontaneous, determined to come about by impersonal historical forces, although arguable once markets exist, much that happens within them? e.g., the emergence of various institutions such as money, rented and leased property, labor negotiations, etc.? happens not because some leaders decide that it should but because ordinary people act on their own initiative, insight, and inadvertently produce various orderly processes. This is the insight of many classical liberals, most notably F. A. Hayek.

Free institutions such as the market are, however, very difficult to establish, maintain and protect from those who regard them morally odious, such as Marxists, fascists, democratic socialists, theocrats, or care little about whether they live or die. Legal institutions require human initiative, even if at the micro-behavioral level, in most cases. Some people in society (the more the better) need to guard against their destruction or corruption.

We can now turn to the topic of why individual human rights exist, including the right to private property. What gives these rights a valid stand-
ing as a normative concept applicable to human community life? Are they just a myth, as some critics maintain? Do they have a realistic foundation, analogous to the realistic foundation of, say, a given exercise program, fire fighting technique or health regime?

**A Set of Rights**

Individual rights are an abstract way of designating a sphere of authority for human individuals. Perhaps the best way that I can make this more concrete is to recall one of the major differences between the feudal and the liberal eras of Western culture.

In the feudal era, people who lived in a country were regarded to be subjects of the king, the royal family, the monarchy. In the liberal era, however, individual human beings who are members of a society are regarded as sovereign citizens. “Sovereignty” means ruling oneself rather than being ruled by others.

It is the concept of individual rights that spells out the standards or criteria of such sovereignty. Without individual rights, one can’t make sense of such sovereignty. But with that concept, which itself rests on the facts of human individual responsibility and standards of right and wrong, every individual has a sphere over which one must be the sole master and others who want to enter that area must ask for permission. If they have not obtained permission, not only are they doing something wrong, but those whose rights are encroached upon may resist them.

That is why one has the proper moral and political authority to hire a bodyguard or a government to protect one’s rights. One is justified in warding off thieves, thugs, rapists, or murderers, and also in using the needed force to resist them because it is true that one’s life is for one to govern, not subject to the governance of others without one’s consent.

But why is this true? That goes back to the issue of what sort of a being one is. This is the naturalist part of the natural rights theory that is associated with one wing of classical liberal thought. The naturalism comes in as a sort of clarifier of how one can show that you have these rights, namely, by reference to what human nature is.

In contrast to the naturalist position, for example, Professor Buchanan, who is a contractualist, has in mind by “a structure of well-defined rights” a set of rights agreed to or contracted into, not something that is justified by reference to human nature. His form of classical liberalism, although it touches the natural rights approach, departs from the way those
rights are supported in the tradition of Lockean liberalism. These rights for Buchanan are a matter of having reached an agreement, an agreement that serves all of our interests if we are alike enough. Yet this support is weak because if one is clever enough, one could subvert the agreement and get by without adherence to the laws. If there is no natural right requiring people to adhere to their promises, to live by their consent, no morally binding reason exists for them to live by the terms to which they have agreed. Furthermore, the advantages to be gained from such an agreement are only specified subjectively, so they are subject to change at the whim of the agents. And if one can hoodwink others and get away with it, there is nothing objectionable about it outside of other’s displeasure. The assumption of social contract theory is that most of us are not smart enough to do that, so we will probably live by the social contract.

The natural rights position, in contrast, holds that quite apart from any agreement—although agreements do come into the picture at some point, namely, when consent is given to being governed—everyone has the right to his or her life, liberty and property, since only that secure everyone the personal sphere of jurisdiction within which life choices can effectively, meaningfully be made. Basic rights themselves are not a matter of agreement. They are supposed to be an objective feature of the human social world. Thus, when we study human nature—by reference to history or whatever other intellectual tools we have at our disposal—we notice certain basic, defining facts about human beings. We notice their creativity, individuality, moral agency, etc. We notice that they can choose to be bad or good. We notice that some fail, some succeed, and many are somewhere in between as they proceed to guide their lives.

Now, as the natural rights outlook sees it, we ask: “What do all these facts tell us about the way we ought to live?” Well, they tell us clearly enough, to paraphrase John Locke, “if we but think about it,” that everyone ought to be free and be protected in his or her freedom.

Unfortunately, of course, not everybody thinks about this. John Locke recognized, as do subsequent normative classical liberal theorists, that reason has to be consulted. Its findings? including how we ought to act? aren’t handed to us on a silver platter. This is were each human individual’s most basic responsibility is found: to attend to the world and discover the ways in which to live right! However much help each individual receives from those who have thought about these matters already, even to grasp their meaning one must do some of the thinking for
to grasp their meaning one must do some of the thinking for oneself, as well.

Although Locke had no well worked out theory of human free will, his political thinking presupposes that ordinary human adults are free to attend to the issue of how they ought to live and interact with others persons. Since some will, however, fail to do this and thus fail to act properly, governments are needed to secure for everyone the basic rights of individual human beings. Those who fail to observe the law of nature—those, that is, who are immoral—pose a threat to the rest in their mode of social interaction.

Accordingly, if we but think about it, which will make it evident, we will learn that we need some place where we are in charge as individuals, where we can distinguish ourselves as the individual human beings who we are individually despite our complex social entanglements. If we don't have this area where such distinction can be achieved, there is going to be what economists refer to as dumping, although in a broader sense than they mean it.

**The Problems of Dumping**

“Dumping” is a term used in different senses. In environmental economics it means that people simply transfer burdens they incur from themselves to other people, usually without anyone noticing this—for example, when one drives down a road and one's car emits pollutants and people vulnerable to respiratory ailments nearby are assaulted. Yet nobody knows who did this to them. This dumping is possible because we do not have a clearly defined private property rights where in order to make use of another’s domain, one must ask that person for permission—"May I dump my automobile exhaust waste on you, please?" If one could do that, maybe they would say, "Yes, for $5,000 a year." Environmental degradation would contract severely if this were the legal norm or even merely used as the basic standard of environmental property law to which a community aspires. (The term “dumping” is also used to refer to the activity of a foreign government to export subsidized goods at lower than market prices.)

Thus the environmental case is difficult. We have not developed a realm of privacy in the air mass. We are not even trying. Legislators and constituents, especially lobby groups, are not even considering that option at the levels of officialdom, except here and there, because the principle
of the right to private property is not prominently embraced. One of the reasons is that those who support it tend to say, "Well, it will emerge through evolution" or "It is a matter of social contract" or "There is no objective normative case to be made for such rights outside of their possible convenience, if that how people feel or prefer things." This is a mistake. In human affairs sound ideas need to be promulgated; it isn’t enough to wait for them to evolve since bad ideas are also contending for acceptance.

The kind of dumping that pertains to environmental issues can be more widely applied. A broader form of it involves forcibly imposing the consequences of one’s immoral or even simply unlucky conduct on others within society. This is what the welfare state makes so easy: sharing one’s burdens and achievements, not because one chooses to do so but because lawmakers require it.

When this happens in a society, the likelihood of taking care to avoid destruction and to embark upon achievements diminishes. Aristotle noted this fact some 2500 years ago:

That all persons call the same thing mine in the sense in which each does so may be a fine thing, but it is impracticable; or if the words are taken in the other sense, such a unity in no way conduces to harmony. And there is another objection to the proposal. For that which is common to the greatest number has the least care bestowed upon it. Every one thinks chiefly of his own, hardly at all of the common interest; and only when he is himself concerned as an individual. For besides other considerations, everybody is more inclined to neglect the duty which he expects another to fulfill; as in families many attendants are often less useful than a few.⁸

Borrowing a term from Professor Garrett Hardin, the UC Santa Barbara environmental biologist, this point spells out the tragedy of the commons.⁹ And it can be extrapolated without much trouble to refer, also, to what happens when we are forced by law to share our burdens and achievements as, for example, under socialism and the welfare state. What is produce in such a cases is a moral tragedy of the commons.

Thus far we have mostly indicated the flaws with systems that fail to recognize private property rights. The question remains, "Ought we to have these private property rights established in the society, and do we have good arguments of the sort that any person who is not brain dam-
aged can understand and thus *ought to* listen to and attend to and em-
brace?"

The fact of our nature as moral agents clearly demonstrates that this realm of individual rights, including the more concrete manifestation of it in private property rights, is absolutely indispensable for a form of community fitting for human life? a genuinely human form of community life. There are other forms of community life, evident, for example, in how bees or ants or dogs or cats live together. But fully developed human beings require that a sphere of private property rights is conscientiously, consistently and vigilantly protected.

There is yet something else to be considered. We now have seen an indication of what justifies the *system* of private property rights. To assign property, to determine who actually owns what, that's a distinct problem. In other words, once one can grasp the general need for the system, one is still left with the problem of how do we know, especially in cases of conflict, who ought to have what.

Clearly, there is a lot of material in the world, stuff that can be turned into valuable products that we want and need, products for which others will be willing to exchange other valuables or media of exchange such as money. How do we determine whose these valuables products are supposed to be? The private property rights system, when it operates and when it is given legal, official protection, needs some way of establishing what belongs to whom, as well as why some property belongs to some person and not to another, to some company or corporation but not to another.

**Sort of Lockean Property**

Here is where we are reminded of John Locke’s famous labor theory of property acquisition, whereby mixing one’s labor with something is supposed to be the way to tell who owns what. Such mixing, of course, includes buying a thing in the market, with honestly obtained income. It’s a very broad concept. It’s quite sophisticated. But is it really sound?

I don’t think it’s enough. But here I can only hint at the kind of improvement the Lockean theory needs to improve on it.

Professor James Sadowsky seems to me to have spelled out the principle of property assignment most clearly. His view is also implicit in a more general position on the nature of virtue, one spelled out by Ayn Rand. In line with this view the primary moral virtue is rationality, concep-
tual attention or clear thinking? the use of human reason in a consistent and sustained fashion. This position implies Sadowsky’s (as well as Israel Kirzner’s) entrepreneurial view of property acquisition which is that something becomes someone’s private property when he or she first assesses it as valuable and, accordingly, places borders around it in more or less complex ways.

Another way to put this is that when someone has made a prudent judgment and acted on it in the wild or the market place, and has thus insightfully engaged with that part of reality that can have value, that person then appropriates the thing in question. Among contemporary members of communities that kind of acquisition arises via voluntary exchange. It includes even harmful exchange, exchange that ultimately is mistaken, because the connecting act is the choice to treat or regard something as valuable, never mind whether this choice is correct.

The fundamental principle is that when someone has made and acted on the judgment that something is of value, before anyone else, whether this amounted to buying 1,050 stocks in IBM or buying a toilet seat for your house, it’s the judgment that leads to private ownership, the judgment that this item will matter, that it has value for people. When one makes the judgment and does what is necessary to act on that judgment, that’s how we tell that something is that person’s.

The institution of private property rights, then, which is the fundamental basis of market transactions, lies in the ethically significant (if not always successful) act of judging what is best for someone to do. It is also this that explain the close linkage between free markets and individual human responsibility, sovereignty or human dignity. Without the concrete stuff private property rights can secure for us, there would be no determinate sphere of personal jurisdiction. Only with the aid of such jurisdiction is the a clear enough opportunity to establish wherein a person’s responsibility lies and what falls outside it. We might call this avoiding the moral tragedy of the commons.

In any case, this normative base grounds the “well-defined structure or set of individual rights” with which, according to James Buchanan, economics commences. It is here that normativity infuses the market, even if in the course of their scientific work that fact may be entirely ignored. It is significant only when the system itself requires justification.

Property Rights *a la* Economics
One final point. Some economists and political theorists in the classical liberal arena seem to be at odds with each other when they speak about property rights. Many economists, for example, advance what they refer to as the economic theory of property rights. When they use the word “property rights” in this sense—and everybody who is familiar with the law and economics or the public choice schools of economic analysis will run across a good deal of such usage, what is being said from the point of view of political theory is not that you are buying and selling property rights. Notice, in order to commence buying or selling, you are assumed to have the right to private property. You can't buy and sell anything prior to having property rights.

So, what is really meant by “property rights” in this economic context? It is having legal title to things, the legally protected power to decide about the disposition of something.

Accordingly, in this discussion the term “property rights” was not used the way the economist understand the concept, namely, as legally protected powers. What we need, apart from considering the technical subject of how the market functions through the existence of such powers, is a justification of the broader set of individual rights that Professor James Buchanan says is at the foundation of the science of economics, including the natural right of every individual to own property. This is what I tried to sketch out in these few pages.11
Endnotes:

1 Within the realm of normative matters we find matters pertaining to the well being of plants and animals, the quality of human conduct and institutions, and the aesthetic attributes of objects.


4 There is nothing original about this? ancient Greek philosophers such as Socrates, Plato and Aristotle all held to a view akin to this, namely, that goodness is a kind of health.


7 What this means is debatable but the wording Locke uses suggests that whether one makes use of one’s reasoning capacity is in one’s own power. Elsewhere in his writings Locke discusses free will extensively, although it is not clear that he is able to reconcile its existence with his own scientism.

8 Aristotle, *Politics*, 1262a30-37


11 For over a century Marxists and others have claimed that scientific economics, so called, is, in fact, a kind of ideology, a not very well disguised means for the promotion of certain arbitrary class interests which are by no means universally valid. Neo-classical economists have fought against this vigorously? consider Milton Friedman’s book *Essays in Positive Economics* (Chicago: University of Chicago Press, 1953), wherein he states and proceeds to argue that “Positive economics is in principle independent of any particular ethical position or normative judgment” (p. 4)? but in vain, for the reasons advanced herein.

Friedman and others seem to me to shy away from any normative component in economics because they embrace the notion? made prominent by David Hume in the 18th century but then reinforced by 20th century logical positivists, such as A. J. Ayer (via his very popular *Language, Truth, and Logic* [New York: Dover, 1936])? that judgments as to what is good or bad, right and wrong are simply incapable of being shown true or false. This view itself rested on the widely champi-
oned epistemology of empiricism, in terms of which only facts that could be apprehended via the senses had credible status.

The Marxist charge, of course, is telling only against those who reject the factual nature of normative judgments. Since positivist economics necessarily embodies certain values? e.g., that of prosperity and, via the exchange system, private property rights? denying this will appear to be disingenuous.

If, however, value judgments can be shown to be true, then whatever is infused with them, including economics, could well be given (or denied) objective support instead of simply resting on arbitrary human interest. Moreover, economics could well be the instrumental science or technology of human prosperity, just as medicine is the instrumental science or technology of health, which is a human value. Prosperity, as health, could, in turn, be shown to be an entirely justified objective for us to pursue, perhaps even as a priority when compared to other alternatives such as order, acculturation, health, environmental fitness (especially if the latter presuppose it for their flourishing).