

The Responsible Society

by

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The following essay is one of many possible scenarios that could arise in a libertarian state. It uses Canada as it's starting point, primarily because this is the country with which I am most familiar. The basic premise is a libertarian minimal state with strong anarcho-capitalist underpinnings.

The society envisioned by the Rational Anarchist is one in which the individual can take for granted his right to live and take part in any activities that he chooses to do. The right to do this would only be restricted in that his activities must not impinge on the rights of his fellow citizens and must be attainable by the individual without asking the state for aid. Of course, any activities must also be compatible with his own moral code, but that can be a given, as no rational person would take part in activities that were in conflict with his own value system.

How a society that, at first glance has no rigid structure of laws and regulations to control its citizens can function without degenerating into chaos, will be explained by first looking at what rules would exist and what they would be based on. The rules having been explained, we can then examine how the various structures of society would be changed. The structures and institutions to be examined will include the economy, the justice system, health care and military defence. Later we will examine how the changes to these institutions will effect the fabric of society and the family unit.

The Laws that would govern a Free Responsible Society

The laws of a truly free and self-responsible society should be, first of all, clearly stated, uncomplicated, and just. These laws should only entrench the principles on which a free society is based and not give or take away rights and freedoms arbitrarily. To this end any proposal for a law should look first at necessity. For example, is it necessary to have a law defining what is theft? Theft is recognizable and easily defined. The law governing theft would clearly state what theft is, and the repercussions for violators of that law.

The laws which govern a responsible society should also be clearly written and understandable by a person of average intelligence and literacy. This would cut the costs of justice enormously, by reducing the need for lawyers in all but the most complicated cases. Attorneys may still be required for contractual law and corporate business dealings but by having an "Plain Speak" provision in the constitution of a country, the need for lawyers would be eliminated for most common cases. Simple real estate transactions might become a matter of both parties meeting with a third party and signing an binding contract.

The laws of a responsible society would, besides being in "Plain Speak", also follow the ideas of common law, that is, law established through the community. The distinction between criminal and civil law would be blurred, and all transgressions would be dealt with as torts.

One of the most fundamental rights that would be protected under this system would be the Right to Autonomy. This means that the individual may do as he pleases with himself and his property with the one restriction being, that he may not interfere with the right of another.

A fundamental set of rights that would fit a responsible society might look like this:

- 1 A citizen has the right to his own self.(autonomy)
- 2 A citizen has the right to be safe from the actions of others.
- 3 The right to autonomy shall not be abridged save where it would conflict with the right of a person to be safe from the actions of another.
- 4 The right of property is recognized and protected.
- 5 The right to be safe from the actions of others gives the citizen the right to self defence, including the right to keep and bear arms.
- 6 The State shall not, by way of force or coercion, demand tribute or fees beyond what is required to protect the rights of the citizen.
- 7 The State shall endeavour to protect the citizen from attack from others by maintaining such defensive forces as necessary and that the citizenry is willing to pay for.
- 8 The citizen has the right to a legal system and laws that are understandable to the common man.(the Plain Speak clause)
- 9 The State shall protect the rights of the citizen from within as well as from without the state. This form of protection means the State shall ensure that such laws that are enacted shall not infringe upon the rights of a freeman.
- 10 The State shall only have such powers as granted to it by the voluntary wishes of free men. These powers may be revoked by the community or individual at any time.

The Federal government would have limited power in the legal system and would not create law, but would have as its primary role, to serve as a repository for all laws that have commonality between the various associations to which people would belong. The Federal government may, if requested by the communities and associations, also act as defender of certain basic principles, like those listed above.

Creation of law would be through evolution and would take place at the individual and association level. Much of this law would be through precedent, although not restricted to following precedent.

For example, if Person A and Person B entered into an agreement and that

agreement proved to be agreeable and workable over a prolonged time period, courts within that association could use that as a basis for arbitrating cases where the two sides were unable to come to an agreement.

Removing the state from the system of Justice

In keeping with the minimization of the state, private courts working under a contractual agreement with the community could be the answer. These courts, while privately run and financed, would still be bound to follow the laws agreed upon by the community or association. This has not been unheard of in the history of man. The Icelandic communities functioned for centuries under similar court system[1]. While the courts in 12th century Iceland were not private, as we would use the phrase, they did have autonomy and there was no executive branch of government above them.

Various associations may be present within a given geographic area. Associations would form by agreement. They could have their own laws and customs and membership in an association would be voluntary, with the individual retaining the right to leave.

In many cases, more than one association would occupy the same geographic area. Initially there may be conflict between various adjacent associations, but likely these conflicts would soon be resolved and a mechanism to resolve conflict between members of different associations would soon be in place. This may take the form of a private, 3rd party arbitrator or several associations with many areas of commonality may choose to contribute members to a court that would serve as a dispute resolution mechanism(DRM) for them. This last possibility would be similar to the system of tithings, hundreds and shires[2] used by the Anglo-Saxons of England. See The Institution of Justice in a Minimal State.

Under such a system, the complainant or the protection agency that was hired by the complainant, would bring forth a charge against the accused. They would also have to bring to the court such evidence as needed to prove their case. The court would set fees for hearing a case. These fees could be a schedule fee for each type of charge, eg. X number of dollars to try a case of theft, Y number of dollars for an assault charge. Each side would be responsible for the payment to the court. In the event of a verdict of guilty, the perpetrator would not only be assessed whatever penalty the court orders for his crime, but would also be responsible for the costs of the other party. In the event of acquittal, the prosecuting party would bear the cost of the trial and make restitution to the other party. This would have the result of ending the now commonplace "nuisance suits". For one could not afford to go to court purely for the sake of harassment of another.

Those that could not afford to prosecute a wealthier or more powerful individual or business, could sell or transfer their grievance to another party[3]. It would be then, up to the purchaser to prosecute the case.

What form of punishment would be used in a Free Society?

Some, in the Libertarian movement have advocated a system where violators of social order such as thieves and murderers would be removed from society, not to warehouse type prisons but to an isolated area of the country where they would have to cope without the benefits of an ordered society. This idea, similar to that advanced by R.A. Heinlein in his story Coventry, is intriguing in its premise that reform must come through the criminal's self realization of the fact that he must cooperate as an individual with the other individuals around him to be participate in society. However, I feel that it may be too optimistic to hope that those sent away would learn to cooperate together. I believe what would arise is a dictatorial state where one charismatic and strong individual would be able to rally enough support to his side and force the weaker members of these outcasts into a feudal system.

Many of those who commit acts of criminal violence are incapable of moral judgement and what do we do with those that are now labelled as sociopaths? Do we ship them off to kill or be killed by the others in this Coventry. Another problem is where would we place such a territory and how would we ensure that the exiled would remain there?

If we take the position that property rights are of paramount importance and that people are self-owning, a solution presents itself. The aggressor would be ordered to make restitution to the injured party or his representative. A description of how this would work is contained in an article of mine entitled The Institution of Justice in a Minimal State. Even crimes of murder can be handled in this fashion. Or the choice could be left up to the victim's immediate family. For crimes that cause death but are not a purposeful act, the guilty party should be financially liable for support. If a father or mother was killed and they had contributed through working or staying at home and raising the family and keeping house, the guilty party should not be imprisoned but should be forced to turn over a significant portion of their earnings to the surviving members of the family to compensate for either the loss of income or the additional expense of hiring a homemaker.

If a person refused to make such payments or proved to be a frequent aggressor, the association could banish him from their midst. This would not mean, forcing him from his home, but rather withdrawing all benefits and protection of the association. This would be similar to the practise of Outlawry that was used in 12th Century Iceland[4]. A person outside of the associations would have limited protection and would have little economic power, as members of associations would likely consider him to be a poor risk to contract with. He could join another association, but that would be unlikely as the new association would then be drawn into conflict with it's neighbours and also there would be internal friction if he continued his aggression with members of the new association[5].

The New Economics

The market should be free of restrictions and false quotas and allowed to seek its own level. The elimination of props such as the various marketing boards, tariffs and subsidies would free the market to respond to true conditions such as supply and demand and allow for real competition. Certainly some companies would fail and some industries may become uneconomic, but if that is the case, they are most likely already uneconomic and only surviving because of intervention. Intervention that costs the economy millions of dollars a year in wasted expenditures.

Along with the removal of restrictions and marketing boards should be the elimination of State-owned corporations. These financial losers are often created for political purposes with no valid economic reasons for their existence.

The privatization of existing State-owned corporations should be made with the aim of maximizing the selling price without building into the deal conditions that leave the govt on the hook for the cost of displaced workers and buybacks if the corporation goes belly up. The purchaser must assume the risks of the purchase and the employees must be prepared for the possibility that their jobs will not be guaranteed. Most State-owned corporations are notorious for having bloated payrolls and would almost certainly be downsized if privatized. Monopolies that exist by government fiat should be broken up and the free market principle should be allowed to work, allowing the consumer more choice and the benefit of a competitive market.

Reducing restrictions between the provinces of not just the movement of resources and manufactured goods is not enough, ending the restriction on the movement of labour must also be a priority. The closed shop mentality of the provinces, where diplomas and trade certificates are not exchangeable from one province to another hurts the economy by forcing many workers out of their professions and into state run retraining programs, in most cases unnecessarily. Only when jobs and goods can move freely about the country in response to economic change and not for political gain will the economy improve.

The free man shall be able to engage in a contractual relationship with his employer and act as his own representative if he so chooses. The joining of a labour union should not be a condition of employment. Conversely, labour unions should have the right to represent those who voluntarily join a union and assign their right to engage in a contractual relationship to the union.

The Health Care System

The sacred cow of the Canadian Social-Welfare system is our Health program. Unfortunately, the health care system is on the critical list with a poor chance of recovery. What ails it is the same conditions that have dragged down our economy. Over-regulation and political interference have been a drag on the system from day one and as problems have become worse, the intervention has increased thus compounding the problem. There are solutions to the problem, whether Canadians have the will to make or allow these changes to be made is the question. Some possible answers would be to allow the consumer a choice of private services... this would mean a multi-tiered health system, but anyone who doesn't think that we don't have one already is dreaming. If a cabinet minister

gets sick... he doesn't sit around on a waiting list of a year like most of us do, he is bumped to the head of the line.

In a private health care system, everyone could have that option if they wished to pay for it. Those who couldn't pay for it would receive basic service. Right now the system dictates what services each hospital may provide and what equipment is to be allocated to what services. Should the government provide these basic level services or should the private sector be entrusted with this? If you ask the statist, you would find that they have little faith in the private physician being willing to provide service to the poor.

I believe that physicians, as a whole, would be as willing to provide for the poor as earlier generations of doctors did. Humanity and compassion are not exclusive properties of the socialist. I would trust the motives of the private physician more than those of the power-enthralled statist.

A method of providing health care for the less fortunate may be found in the ways of the benevolent societies of yesteryear. People could voluntarily join a benevolent society that would charge a fee for membership. As part of that membership, the society would provide a physician, paid for with the funds gathered from the membership. This physician or physicians may work in a contractual agreement solely for the benevolent society or more likely, would work for a fee while maintaining an independent practices. Associations could even provide their own health care program, if the members so chose. This might appeal to some associations, particularly those composed of people who are health conscious. By combining their resources, in a group program, they may be able to reduce their health care costs to a minimum. On the other hand, associations with a wide range of health consciousness, may prefer that each member be responsible for their own health care protection, so as to avoid having some subsidize the rest. For most people, an efficient private insurance plan would protect most people, and the cost per year of catastrophic medical insurance is low enough that virtually everyone can afford it. Several possible arrangements are mentioned in An Interim Plan for the reform of Health Care in Canada based on Libertarian Principles.

The Defence of the Nation

Many Libertarians seem to have problems when it comes to the military. Some take the Utopian view that the military would be unnecessary in a Libertarian world. Some advocate that the military be privatized.

I believe that the role of the military should be redefined and restrictions on its uses put into the new constitution. The military's role should be assessed to determine the size required to be effective. Using Canada as an example, I could see a shift in the role of the Armed forces to the following. A small standing army... a cadre of trained officers and NCO's that would form the backbone of any military force required... the bulk of the army could come from a true militia. That is, a nation in arms, private citizens who voluntarily practise and keep their firearm at ready to be used in the defence of the country. The Air Force would be a different matter, as the majority of the positions in that area require specialized skills and training. Therefore one would expect to have a larger cadre of permanent officers and NCO's than in the army. However the role of the airforce would be redefined to fit the

requirements of the post-cold war reality. The number of interceptors could be lessened and the number of transport and air support craft increased. The role of the Air Force would change from primarily air defence and strike capability to a role of ground support and air/sea rescue. The role of the Navy would also change from being an almost dedicated Anti-submarine fleet to a general purpose role that would include sovereignty patrols, Air/Sea rescue as well as defence of the coastal waters.

This, of course, would depend on the contributions from the members of society. If a society can not generate sufficient voluntary contributions to defend itself, then I would put it that those members care little about who governs them. If liberty is a valid concept, it should be supported by voluntary contributions and should not require the state to use coercion to demand payment for the preservation of that liberty.

The Family in the Rational Society

With all these changes to the institutions that form the framework of our society, the family structure will be effected as well. With less support from the state, families will have to bear a greater responsibility for their own financial and social status. The extended family will become a viable option once again. This will have the benefit of allowing the elder members of society to become integral components of the family. The extended family with its inherent checks and balances will serve to lower the problems of the youth by providing feedback and responsible role models. The burden of child care will be lifted from the parents and distributed among grandparents and other members of the family. Social ills will be lessened as the feedback and self-correcting influence of the family becomes re-established.

As the state will have less influence in the lives of the family, another more realistic and useful influence will grow. This influence is the community. Strength will be gathered from the neighbours and the solidity of the community. Instead of relying upon the faceless, depowering influence of the state, the family who experiences misfortune will be strengthened and nurtured by the communal spirit of his neighbours. The symbiotic strengths of the closely intertwined community provides far more strength and resources than does the inertia bound bureaucracy.

The roles of the members of the family will be changed. The parents will again resume their proper roles as the providers and the rule makers. The grandparents will regain their role as advisers and lore masters, handing down the wisdom of dealing with other people and everyday life, that years of experience has given them. Children will find their role changed as well. No more will they be considered free of responsibilities until adulthood as they are now. They will, instead, slowly take on responsibilities of the household as they grow older and will learn by adulthood the role of the citizen.

However children are not objects but are sentient beings. This gives parents a special ownership although limited(some may prefer to call

this a trust in that the parents cannot dispose of the issue as they see fit and that the child is not an inanimate object). They do control the infant through it's development with the amount of control lessening as the child's own cognitive ability develops and he slowly develops self-responsibility. Eventually, he becomes independent of his parents (trustees) and in his own right becomes a self-owned person. What is Social Responsibility

The Community

For some, the community that they will draw their strength from and find their roots in will be the church. Not the faceless, parasitic church of irrelevance that exists today, but one that is an integral part of the family life. One that is composed of like minded families that work together to ameliorate any suffering or pain within the community. Others who are not of religious bent will find their community among like-minded individuals bound together in a common interest.

The advantages of closer knit communities are many. They are less stressful, more likely to be free of crime and violence and more responsive to accommodation of the needs of the individual.

These communities would be voluntary associations or consist of several voluntary associations. These associations would be formed by contractual agreement between members, establishing what obligations and benefits would be involved for the members.

This would allow, not just for libertarian communities, but virtually every ideology or religion could form a community, with the proviso, that they do not aggress against other communities. Since membership in these associations would be voluntary, a person could renounce his membership in one association and join another. Similarly, a person who repeatedly transgresses against others in the community may find that the association he belongs to, no longer wishes to have him as a member.

The associations need not necessarily be restricted to a geographic locality. For instance, a Jehovah Witness may live in a secular community while adhering to the rules of his own association, while respecting the rights of the associations that the other members of the community belong to.

The various communities will not necessarily compete for resources because their various strengths and weaknesses will make their demands so varied, that two neighbouring communities are more likely to be dependent upon each other for supplying each other with resources in a mutually beneficial way.

Education in the Community

The education of our children will be removed from the state and placed where it belongs, with the family and in a greater sense, with the community. The state with its moral and social engineering will be replaced by either community education or family run education or a combination of the two. Community education may be secular or church-based depending on the wishes of the community and the family. In either case the values and the norms established in the school will be

more compatible with the norms of the community than those provided by the present day system. Discipline in the school will become less of an issue, thus freeing the teacher from the role of care-provider and allowing the teacher to dedicate time to his or her proper role.

The exact methods that schools will be run by and financed by can be found in other works by myself such as Private Schools are growing in numbers, The State and Public Education according to Jan Narveson and Separation of School and Politics and will not be repeated here. Suffice it to say that the community will fund the school either through a form of voluntary taxation or through a fee for service arrangement as well as set the standards for the school. This will return power to the parents and remove it from the hands of the social engineers. Teachers would be hired directly by schools or school boards and curriculum would be decided by the community. This curriculum would, of necessity, take into consideration the standards expected by the schools of higher education.

Conclusion

About now I can hear the screams of anguish coming from the statist and collectivists .."what about rights"? Rights only protect from aggression[6]. The individual in the responsible society will have all the rights that he has now. He would have the right to not work if he chose. He would have the right to refuse education. However society would have the right to refuse to support him.

The responsible society can thus be seen as growing out of the ashes of statism like the mythical phoenix. It is responsible to itself and to its individual members. This is true individualism for the reason that with individual freedom and rights comes responsibility for oneself and by extension for the community. The individual will be responsible for doing his or her best to not become a burden on the community. The community will be responsible for ensuring that individual members are not allowed to fall into destitution through circumstances beyond their control. The question "why should the community take that responsibility?" arises. Why indeed? Simply put, it is in the best interests of the community to care for each other, without imposing on each other. A community with low levels of conflict is more productive in the long run. It is economically beneficial for insurance companies to sell insurance that is affordable to lower income citizens that protect against loss of income due to disability or health. They have a larger market and for the most part, they will receive more in premiums than they pay out in benefits. Community charity will take care of those who "fall through the cracks", although a community that has many members refusing to insure themselves will find that charity won't support them all. This is self-correcting through negative feedback.

This is but one scenario of a libertarian principled community and is not to be taken as a definitive example, but for what it is.. simply a speculative view of one possibility.

Sources

- # [1] The Machinery of Freedom 2nd Edition, pages 202-206, David Friedman, Open Court Publishing(1978)
- # [2] The Enterprise of Law, pages 22-23, Bruce L. Benson, Pacific Research Institute(1990)
- # [3] The Machinery of Freedom 2nd Edition, pages 203-204, David Friedman, Open Court Publishing(1978)
- # [4] The Machinery of Freedom 2nd Edition, page 204, David Friedman, Open Court Publishing(1978) and The Enterprise of Law, pages 24-26, Bruce L. Benson, Pacific Research Institute(1990)
- # [5] The Enterprise of Law, page 23, Bruce L. Benson, Pacific Research Institute(1990)
- # [6] The Libertarian Idea, pages 57-61, Jan Narveson, Temple University Press(1988)

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