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PHILOSOPHY AND POLITICS

Why I'm a liberal (in the classical sense)

Perhaps more than ever, there's a need for a clear understanding of the philosophy. Here it is, in 34 points.



Associated Press file

A statue of Alexander Hamilton, an important practitioner of liberalism, stands in Central Park in New York.

By CASS R. SUNSTEIN

More than at any time since World War II, liberalism is under siege. On the left, some people insist that liberalism is exhausted and dying, and unable to handle the problems posed by entrenched inequalities, corporate power and environmental degradation. On the right, some people think that liberalism is responsible for the collapse of traditional values, rampant criminality, disre-

spect for authority and widespread immorality.

Fascists reject liberalism. So do populists who think that freedom is overrated.

In ways large and small, antiliberalism is on the march. So is tyranny.

Many of the marchers misdescribe liberalism; they offer a caricature. Perhaps more than ever, there is an urgent need for a clear understanding of liberalism — of its core commitments, of its breadth, of its internal debates, of its evolving character, of its promise, of what it is and what it can be.

Here is one attempt at an account, in the form of 34 sets of claims about liberalism.

1 Liberals believe in six things: freedom, human rights, pluralism, security, the rule of law and democracy. They believe not only in democracy, understood to require accountability to the people, but also in deliberative democracy, an approach that combines a commitment to reason-giving in the public sphere with the commitment to accountability.

2 Understood in this way, liberalism does not mean “left” or “right.” It consists of a set of commitments in political theory and political philosophy, with concrete implications for politics and law. In North America, South America, Europe and elsewhere, those who consider themselves to be “conservatives” may or may not embrace liberal commitments. Those who consider themselves to be “leftists” may or may not qualify as liberals. You can be, at once, a liberal, as understood here, and a conservative; you can be a leftist and illiberal. There are illiberal conservatives and illiberal leftists. Historically, both Republicans and Democrats have been part of the liberal tradition. Right now, some Republicans are illiberal, and the same is true of some Democrats.

3 Abraham Lincoln was a liberal. Here is what he said in 1854:

“If the Negro is a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern himself? When the white man governs himself that is self-government, but when he governs himself and also governs another man, that is more than self-government — that is despotism. ... No man is good enough to govern another man without that other’s consent. I say this is the leading principle — the sheet anchor of American republicanism.”

We might change “American republicanism” to “liberalism.” The idea of a “sheet anchor” is a useful way of linking self-government, in people’s individual lives, with self-government as a political ideal.

4 Rejecting despotism, liberals prize the idea of personal agency. For that reason, they see John Stuart Mill’s great work “The Subjection of Women” as helping to define the essence of liberalism. Like Lincoln, Mill insists on a link between a commitment to liberty and a particular conception of equality, which can be seen as a kind of anticaste principle: If some people are subjected to the will of others, we have a violation of liberal ideals. Many liberals have invoked an anticaste principle to combat entrenched forms of inequality on the basis of race, sex, and disability. Liberals are committed to individual dignity.

5 Though liberals are able to take their own side in a quarrel, they do not like tribalism. They tend to think that tribalism is an obstacle to mutual respect and even to productive interactions. They are uncomfortable with discussions that start “I am an X and you are a Y,” and proceed accordingly. Skeptical of “identity politics,” liberals insist that each of us has many different identities, and that it is usually best to focus on the merits of issues, not on one or another “identity.”

6 The rule of law is central to liberalism. The rule of law requires clear, general, publicly accessible rules laid down in advance. It calls for law that is prospective, allowing people to plan, rather than retroactive, defeating people’s expectations. It requires conformity between law on the books and law in the world. It calls for rights to a hearing (“due process of law”). It forbids unduly rapid changes in the law. It does not tolerate contradictions or palpable inconsistency in the law. The rule of law is not the same as a commitment to freedom of speech, freedom of religion or freedom from unreasonable searches and seizures. It is a distinctive ideal, and liberals adopt it as such.

7 Liberals believe in freedom from fear. One of their principal goals is to restrict both public and private violence.

8 Liberals are aware that all over the globe, liberalism is under assault. They note that antiliberals, both old and new, reject the liberal commitments to freedom, human rights, the rule of law, pluralism, security and democracy. They regard Vladimir Putin and Viktor Orban as contemporary antiliberals. They see Hitler and Stalin as defining practitioners of antiliberalism. They see Karl Marx and the German political theorist (and Nazi party member) Carl Schmitt as defining antiliberal theorists. Now, as in the 1940s, liberals admire Franklin Delano Roosevelt’s words about those who call for “a new order”: “It is not new and it is not order.”

9 Liberal authoritarianism is an oxymoron. Illiberal democracy is illiberal, and liberals oppose it for that reason. Liberals reject illiberal populism.

10 Liberals believe that freedom of speech is essential to self-government. They understand freedom of speech to encompass not only political speech, but also literature, music and the arts (including cinema). Liberals embrace the words of the Supreme Court justice Robert Jackson, prosecutor at the Nuremberg trials: “Compulsory unification of opinion achieves only the unanimity of the graveyard.”

11 Liberals connect their opposition to censorship to their commitment to free and fair elections, which cannot exist if people are unable to speak as they wish. They cherish the right to vote. They work to defend freedom of conscience, the right of privacy, economic opportunity for all and the right to be different. They agree with Justice Oliver Wendell Holmes Jr., who championed “the principle of free thought — not free thought for those who agree with us but freedom for the thought that we hate.” Liberals who insist on that proposition do not claim that people must declare their fidelity to liberal principles, including that one.

12 Liberals are committed to freedom of religion. They believe that people should be allowed to worship in their own way, or not at all. Many liberals have deep religious convictions. They are acutely aware that all over the world, some people of faith abhor the idea of separating church and state, and think that the government should embrace and even enforce a large number of religious commitments. But liberals want to make the state free from domination by any particular religion, and they seek to ensure that the state guarantees safety for religion.

13 If postliberals or antiliberalists insist on an official religious orthodoxy, liberals will respond: Who do you think you are?

14 Some liberals follow Immanuel Kant, who argued that people should be treated with respect and as ends, not as mere means to the ends of others. Emphasizing individual dignity, those who follow Kant are liberals because they are Kantians. Some liberals are utilitarians, seeking to maximize social welfare; they are liberals because they are utilitarians. Some liberals, known as “contractarians,” find it useful to emphasize the idea of a “social contract” between free and equal persons; they are liberals because they are contractarians. Many people believe that their religious tradition compels, or is compatible with, liberalism.

15 Liberals prize free markets, insisting that they provide an important means by which people exercise their agency. Liberals abhor monopolies, public or private, on the ground that they are highly likely to compromise freedom and reduce economic growth. At the same time, liberals know that unregulated markets can fail, as, for example, when workers or consumers lack information, or when consumption of energy produces environmental harm.

16 Liberals believe in the right to private property. But nothing in liberalism forbids a progressive income

tax, or is inconsistent with large-scale redistribution from rich to poor. Liberals can and do disagree about the progressive income tax and on whether and when redistribution is a good idea. Many liberals admire Lyndon Johnson's Great Society; many liberals do not.

17 Many liberals are enthusiastic about the contemporary administrative state; many liberals reject it. Within liberalism, there are vigorous debates on that question. Some liberals like laws that require people to get vaccinated or to buckle their seat belts; some liberals do not. Liberals have different views about climate change, immigration, the minimum wage and free trade.

18 Liberals abhor the idea that life, or politics, is a conflict between "friends" and "enemies." They associate that idea with fascism, and with Dachau and Auschwitz.

19 Liberals believe that people with diverse backgrounds and views can embrace liberalism, or at least certain forms of liberalism. Many liberals enthusiastically support John Rawls's idea of an "overlapping consensus." With that idea, Rawls called for "political liberalism," which is meant to accommodate people with very different views about fundamental matters, and which can easily be supported by people on the left, the right and the center.

20 Liberals think that on both left and right, many antiliberals and postliberals have manufactured an opponent and called it "liberalism" without sufficiently engaging with the liberal tradition or actual liberal thinkers. They think that some antiliberals wrongly conflate liberalism with enthusiasm for greed, for the pursuit of self-interest and for rejection of norms of self-restraint. They think that some antiliberals describe liberalism in a way that no liberal could endorse. Liberals agree with the Nobel economics laureate Daniel Kahneman and his collaborator Amos Tversky, who complained of those who try to refute a position by mischaracterizing it: "The refutation of a caricature can be no more than a caricature of refutation."

21 Liberalism is a wide tent. John Locke thought differently from Adam Smith, and Rawls fundamentally disagreed with Mill. Kant, Benjamin Constant, Jeremy Bentham, Mary Wollstonecraft, John Dewey, Friedrich Hayek, Isaiah Berlin, Rawls, Joseph Raz, Edna Ullmann-Margalit, Jeremy Waldron, Frederick Douglass, Milton Friedman, Amartya Sen, Ronald Dworkin, Robert Nozick, Susan Moller Okin, Christine Korsgaard, Martin Luther King Jr., R. Douglas Bernheim and Martha Nussbaum are liberals, but they differ on fundamental matters. Some liberals, like Hayek and Friedman, emphasize the problems with centralized planning; other liberals, like Rawls and Raz, are not focused on that question at all. Liberals argue fiercely with

one another. Many of the important practitioners of liberalism — from James Madison and Alexander Hamilton to Abraham Lincoln to Franklin Delano Roosevelt to Ronald Reagan — did not commit themselves to foundational philosophical commitments of any kind (such as Kantianism or utilitarianism). This is so even if some of them were, in an important sense, political thinkers.

22 A liberal might think that Ronald Reagan was a great president and that Franklin Delano Roosevelt was an abomination; a liberal might think that Roosevelt was a great president and that Reagan was an abomination. Liberals have divergent views about

"negative liberty" (the right to be free from government intrusion) and "positive liberty" (the right to receive government help), and

about whether there is a meaningful difference between them.

23 Liberals think that those on the left are illiberal if they are not (for example) committed to freedom of speech and viewpoint diversity. They do not like the idea of orthodoxy, including on university campuses or social media platforms.

24 Liberals favor, and recognize the need for, a robust civil society, including a wide range of private associations that may include people who do not embrace liberalism. They believe in the importance of social norms, including norms of civility, considerateness, charity and self-restraint. They do not want to censor any antiliberals or postliberals, even though some antiliberals or postliberals would not return the favor. On this count, they turn the other cheek. Liberals have antiliberal and postliberal friends.

25 If postliberals object that free markets have serious limits, and that a great deal of regulation might be justified on grounds of efficiency, redistribution or fairness, liberals are likely to say: Very possibly so. If the objection is that "neoliberalism" is a terrible idea, liberals are likely to say: We are not sure what neoliberalism is, because the term is mostly used by people who hate it. But if it is identified with deregulation and an insistence on the ceaseless wonders of free markets, then liberals need not embrace neoliberalism.

26 It is true, of course, that if people want the government to act in illiberal ways — by, for example, censoring speech, violating the rights of religious believers, preventing certain people from voting, entrenching racial inequality, taking private property without just compensation, mandating a particular kind of prayer in schools, or endorsing a particular set of religious convictions — liberals will stand in opposition.

27 Some people (mostly on the left) think that because liberals believe in private property, they cannot accept redistribution, or cannot prevent economic inequality from leading to political inequality. Different liberals have different views on these questions. Some liberals insist on both the importance of private property and the need for large-scale redistribution. Nothing in liberalism is incompatible with redistribution to those who need help, and indeed, many liberals believe that the best forms of liberalism require such redistribution. Liberals insist on opportunities for all. Because liberals believe in self-government, they are strongly committed to political equality, and seek to ensure it. They are aware that doing so raises serious challenges.

28 Some people (mostly on the right) think that liberals oppose traditions, or treat traditions cavalierly, and that liberalism should be rejected for that reason. In their view, liberals are disrespectful of traditions and want to destroy them. Nothing could be further from the truth. Consider just a few inherited ideals, norms and concepts that liberals have defended, often successfully, in the face of focused attack for decades: republican self-government; checks and balances; freedom of speech; freedom of religion; freedom from unreasonable searches and seizures; due process of law; equal protection; private property.

29 Liberals do not think it adequate to say that an ideal has been in place for a long time. As Oliver Wendell Holmes Jr. put it: "It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past." Still, liberals agree that if an ideal has been with us for a long time, there might be a lot to say in its favor.

30 Liberals like laughter. They are anti-anti-laughter.

31 Some antiliberals (again mostly on the right) argue that societies need not only freedom but also constraints. They emphasize the value of community and the need for norms of self-restraint. Most liberals agree with them — mostly. They believe in the public interest and the common good.

32 Liberals insist on the difference between liberty and license. Some liberals vigorously defend certain constraints on freedom — consider restrictions on smoking or bans on the use of dangerous drugs. But they believe that constraints on freedom must be justified, and that some justifications, pointing vaguely and abstractly to (say) the will of the sovereign or the public interest, are not enough.

33 Liberals insist on reason-giving in the public domain. They see reason-giving as a check on authoritarianism, because authoritarians feel free to exercise power and to use force without justifying their choices. Liberals insist that public power cannot be legitimately exercised solely on the ground that “the king says so,” “the president says so,” or “God says so” — or even, “the people say so.”

34 Liberals look forward as well as backward. They like to think that the arc of history bends toward justice. William F. Buckley Jr. said that his preferred form of conservatism “stands athwart history, yelling, Stop.” Liberals ask history to explain its plans, and they are prepared to whisper, “Go.”

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