

John Attarian

Edmund Burke: Champion of Ordered Liberty

Edmund Burke (1729-1797), is rightly renowned as the father of conservatism. In this bicentennial year of his death, we do well to recall that Burke was also a champion of ordered liberty. A practical politician and statesman as well as a profound philosopher, skilled alike in writing and oratory, Burke devoted his public life to defending natural rights and liberties and battling arbitrary government, in America, Ireland, India and, most famously, France.

Burke was born in Dublin on January 12, 1729 and educated at Trinity College. After studying law in Dublin for two years, he went to the Middle Temple in London to complete preparation for the bar, but forsook law, opting to become a man of letters.¹

Besides mastering law, Burke steeped himself in the major writers on Natural Law philosophy, such as Cicero and St. Thomas Aquinas. This philosophy maintains, essentially, that God rules existence through an eternal, immutable, universal Natural Law, always binding on all people everywhere. Man-made laws are morally valid insofar as they conform to the Natural Law; otherwise they are not. Under Natural Law, people possess certain inalienable rights, namely to life, liberty and property. As leading Burke scholar Peter Stanlis has convincingly shown, Burke be-

lieved in the Natural Law, and it was the foundation of his world view.²

Burke's first few years after leaving the Middle Temple are obscure. In 1756 he published his first major philosophical work, *A Vindication of Natural Society*, satirizing Lord Bolingbroke, a famous deist and rationalist. Next year he married Jane Nugent, and ventured into aesthetics with *An Essay on the Sublime and Beautiful*. Seeking his livelihood in letters, for about six years he edited and published *The Annual Register*, a periodical covering each year's major political events, plus literature and philosophy. In 1759, Burke was introduced to William Hamilton, who became Chief Secretary for Ireland in 1761 and was later Lord Lieutenant of Ireland, and employed Burke as his secretary.³

As an Irishman, Burke sympathized keenly with his Roman Catholic countrymen, who were denied basic rights and liberties under the Penal Laws of the 1690s. Burke turned his pen to their cause. His "Tracts on the Popery Laws" (1765), an early and illuminating example of his devotion to liberty, argued that laws which transgress considerably on "common right and the ends of just government" cannot command obedience and are subject to

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repeal.⁴ Governments have no right to make unjust or generally injurious laws, because this flouts divine Natural Law.⁵ Burke asserted that “a conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society”; all forms of government “are only good as they are subservient to that purpose.”⁶ Hence the Penal Laws were wrong. As for claims that coercion is necessary for society’s improvement, improvement must be pursued through persuasion and encouragement, not compulsion:

The coercive authority of the State is limited to what is necessary for its existence. To this belongs the whole order of Criminal Law. It considers as crimes (that is, the object of punishment) trespasses against those rules for which society was instituted. The Law punishes delinquents, not because they are not good men; but because they are intolerably wicked. It does bear, and must bear, with the vices and the follies of men, until they actually strike at the root of order.⁷

In 1763 Burke parted from Hamilton. Two years later he became private secretary to Lord Rockingham, a prominent Whig politician. The Whig party, long dominant in British politics, was split into factions, some corrupt, others, like Rockingham’s, reform-minded. Through Rockingham’s patronage, Burke entered the House of Commons in 1765.⁸

He soon became involved in the worsening conflict between Britain and her American colonies. Britain’s conquest of French Canada had greatly increased her national debt. Hence King George III and Parliament sought to tax the American colonies. In 1765 Parliament passed the Stamp Act, requiring virtually all documents in the colonies to bear British revenue stamps. Bitterly resented, it was repealed the next year. Other taxes followed, but colonial opposition brought their repeal also. Retaliating for the Boston Tea Party, Parli-

ment closed the port of Boston, Massachusetts in 1774.⁹

Throughout, Burke urged conciliation. His first Parliamentary speeches argued against the Stamp Tax. While conceding that Parliament had an abstract right to tax the colonies, Burke maintained that policy must suit circumstance. Americans were not used to being taxed and had a liberty-loving spirit; people must be governed in a manner suitable to their character.¹⁰ In 1774, in a great speech, Burke condemned the imposition of taxes without representation as a departure from the colonists’ accustomed liberty under the British constitution, and as “perfect uncompensated slavery.”¹¹ He warned that if forced to choose between their freedom and Britain’s sovereignty, the colonists “will cast your sovereignty in your face. Nobody will be argued into slavery.”¹² After fighting began, he pleaded for reconciliation and peace.¹³

With the British surrender at Yorktown in 1782, Lord North’s government fell and King George III picked Burke’s patron, Lord Rockingham, to be Prime Minister. Burke became Paymaster to the Forces. Refusing to abuse his office to enrich himself, he reduced corruption and established Parliament’s control over the civil bureaucracy. He left office in 1784 when William Pitt II became Prime Minister.¹⁴

Burke’s concern for natural rights and liberties also prompted his prosecution of Warren Hastings (1732-1818), Governor-General of Bengal for the East India Company. He suspected Hastings of responsibility for the Company’s arbitrary and rapacious conduct in Bengal and wanted the Company reformed. In 1783 Charles James Fox introduced his East India Bill to bring the Company under government control. In a speech supporting Fox, Burke declared that “the natural rights of mankind, are indeed sacred things,” that political power must ultimately be used for its subjects’

benefit, and that this power is a trust, with those who hold it accountable for how they use it.¹⁵ Reflecting his conviction that all people, Hindus no less than Englishmen, are endowed with equal natural rights, Burke lauded Fox's bill as furnishing "a real chartered security for the rights of men."¹⁶

Though Parliament rejected Fox's bill for another incorporating some of its points,¹⁷ Burke decided to impeach Hastings on charges of levying exorbitant tributes on native princes, confiscations, and other abuses. In a four-day impeachment speech to the House of Lords in February, 1788, Burke vigorously rejected moral relativism and arbitrary power. Arbitrary, despotic rule is not excused simply because another country has arbitrary practices.¹⁸ Natural Law applies to all people, "all power is of God," therefore "Law and arbitrary power are at eternal enmity.... It is a contradiction in terms, it is blasphemy in religion, it is wickedness in politics to say that any man can have arbitrary power." Rather, "eternal laws of justice" are binding on all.¹⁹ After an eight-year trial, Hastings was finally acquitted.²⁰

But it was the French Revolution which provoked Burke to serious, sustained political philosophizing, yielding his greatest work, *Reflections on the Revolution in France* (1790), which explored the Revolution's causes, exposed its unsoundness, and condemned its tyrannies. In the *Reflections* and his subsequent writings on the French Revolution—*A Letter to a Member of the National Assembly* (1791); *An Appeal from the New to the Old Whigs* (1791); *Thoughts on French Affairs* (1791); *Thoughts on a Regicide Peace* (1796-1797); and *A Letter to a Noble Lord* (1796)—Burke's Natural Law philosophy of ordered liberty, natural rights, and prudent, conserving reform received its fullest expression.

Enlightenment *philosophes* and revolutionaries posited a "state of nature" with-

out laws, government or society, and argued from this to abstract "rights of man" which supposedly obtain in this situation. Burke denied that a "state of nature" ever existed. Rather, civil society is our true state of nature, not "a savage and incoherent mode of life." Man is "by nature reasonable," hence our natural state is "where reason may be best cultivated, and most predominates. Art is man's nature."²¹

These abstract rights are also extreme and unrealistic.²² "As to the right of men to act anywhere according to their pleasure, without any moral tie, no such right exists. Men are never in a state of *total* independence of each other." Our actions affect others, and we are responsible for our conduct.²³

And having propounded abstract rights, the revolutionaries inflicted tyranny to coerce Frenchmen into the republic of virtue. "You lay down metaphysical propositions which infer universal consequences, and then you attempt to limit logic by despotism."²⁴

We do indeed have rights, Burke affirmed—but not as the French radicals understood them:

In denying their false claims of right, I do not mean to injure those which are real, and are such as their pretended rights would totally destroy. If civil society be made for the advantage of man, all the advantages for which it is made become his right. It is an institution of beneficence; and law itself is only beneficence acting by a rule. Men have a right to live by that rule; they have a right to justice.... They have a right to the fruits of their industry; and to the means of making their industry fruitful. They have a right to the acquisitions of their parents; to the nourishment and improvement of their offspring; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favour...all men have equal rights; but not to equal things. He that has

but five shillings...has as good a right to it, as he that has five hundred pounds has to his larger proportion. But he has not a right to an equal dividend in the product of the joint stock.²⁵

Where do these rights come from? Not *a priori* reasoning; an individual's reason is inadequate to wisely invent rights out of whole cloth, disregarding human nature, history and circumstance.²⁶ Rights derive from Natural Law and were established historically by "prescription"—by prolonged exercise of their powers, and long-standing custom and practice.²⁷ Worked out by actual people in a real world, prescriptive rights can accommodate the give-and-take of life, hence endure better than abstract rights.²⁸

Liberty derives from Natural Law; it is our birthright, forfeited only through irrationality or violence.²⁹ But liberty is not license to act from sheer self-will. Rather, it is "*social* freedom [Burke's italics]. It is that state of things in which liberty is secured by the equality of restraint," with no individual or group able to violate the liberty of any other.³⁰ Moreover, liberty must comport with order—in both the society and the individual soul. A believing Christian, Burke knew man's capacity for evil. Liberty without wisdom and virtue, he warned, "is the greatest of all evils; for it is folly, vice, and madness, without tuition and restraint."³¹ Liberty can only flourish and be beneficial in an orderly society of moral, religious people. To be fit for freedom, people need self-control and morality:

Men are qualified for civil liberty, in exact proportion to their disposition to put moral chains upon their own appetites; in proportion as their love of justice is above their rapacity; in proportion as their soundness and sobriety of understanding is above their vanity and presumption; in proportion as they are more disposed to listen to the counsels of the wise and good, in preference to the flattery of knaves. Society cannot exist unless a controlling power upon will and appetite be placed somewhere,

and the less of it there is within, the more there must be without. . . men of intemperate minds cannot be free. Their passions forge their fetters.³²

Burke's "practical liberty" also requires such social and institutional prerequisites as a government powerful enough to protect it; equitable taxation; an independent judiciary; and "a perfect state of legal security" for the individual in life, person, and property.³³

What Burke wanted, then, was "a *free government* [his italics]," which would combine "those opposite elements of liberty and restraint in one consistent work." This, he warned, is a task requiring great wisdom and reflection.³⁴ In words that ring uncannily true today, he argued that when leadership becomes a popularity contest, politicians will become mere flatterers of the people. "If any of them should happen to propose a scheme of liberty, soberly limited, and defined with proper qualifications, he will be immediately outbid by his competitors, who will produce something more splendidly popular."³⁵

If creating a free government is a difficult undertaking, so is reform. Burke recognized that a state which cannot change cannot preserve itself.³⁶ But reform should be done very prudently.³⁷ Not only does sinful human nature enjoin caution, but respect for both our forebears and our unborn descendants dictates refraining from radical innovation. Hence it is terribly presumptuous of a politician "to consider his country as nothing but *carte blanche*, upon which he may scribble whatever he pleases."³⁸ Moreover, constitutions and social orders develop from many minds over many years by a process only dimly understood, and Burke cautioned against the ignorant innovator, "who is not fool enough to meddle with his clock," but thinks himself clever enough to dismantle and rebuild a whole society. Good intentions

don't redeem the immorality of such rashness.³⁹

While he wrote no major work on economics, Burke consistently upheld a free economy with a very limited government role. His "Tracts on the Popery Laws" condemned the Penal Laws for infringing the right to acquire, keep and dispose of property. "Every Law, which obstructs it...is in proportion to the force and extent of the obstruction a discouragement to industry. For a Law against property, is a Law against industry, the latter having always the former, and nothing else, for its object."⁴⁰ Burke repeatedly called for removing restrictions on Irish trade, permitting Ireland "to enjoy that to which she had a natural right."⁴¹ His "Thoughts and Details on Scarcity," (1795) a

paper sent to Prime Minister William Pitt on food prices and other economic topics, elaborated. Statesmen cannot, Burke argued, provide for our needs. "The people maintain them, and not they the people. It is in the power of Government to prevent much evil; it can do very little positive good in this, or in any thing else."⁴² Redistribution would be both useless, as each poor person would receive little, and foolish, as destroying accumulated wealth would devour society's seed corn.⁴³ The magistrate's effort to dispense charity "is a violation of the property which it is his office to protect." Charity to the poor is a Christian duty, but it is a private one, done more cheerfully if done freely.⁴⁴ Dubious about meddling in transactions by unskilled third parties without an interest in the outcome,

Burke argued that the interests of parties in economic contracts are harmonious, that markets are too complex for coarse regulation, and that price control is harmful.⁴⁵ In short, "the State ought to confine itself to what regards the State"—the judiciary; revenue; the armed forces; and so on—to what is "*truly and properly* [Burke's italics] public, to the public peace, to the public

safety, to the public order, to the public prosperity."⁴⁶ In the last year of his life, Burke summed up his political economy: "Let Government protect and encourage industry, secure property, repress violence, and discountenance fraud, it is all that they have to do. In other respects, the less they meddle in these affairs the better."⁴⁷

Underlying Burke's struggles against arbitrary rule overseas was

an anxiety to protect the British people's rights and liberty against encroachment. All his life, Burke grasped the threat to freedom from pernicious example and tyrannical precedent. Arbitrary rule of the colonies, he feared, could bring tyranny at home, as when, in 1777, Parliament partially suspended *Habeas Corpus*, so as to treat rebel seamen as pirates. This provoked his *Letter to the Sheriffs of the City of Bristol*, which warned that the true danger to freedom "is when liberty is nibbled away, for expedients, and by parts.... Now a line is drawn, which may be advanced further and further at pleasure, on the same arguments of mere expedience on which it was first described."⁴⁸ And his fear that the French Revolution's atrocities and tyrannies would be emulated in Britain made



Edmund Burke

him a relentless foe of Jacobinism.

Difficulties dogged Burke's last years. He left Parliament in June 1794, sixty-five years old, exhausted, £30,000 in debt, with an annual income of only about £500, and in danger of losing his country home. The King and Prime Minister succored Burke with a modest pension, much criticized by his enemies; he skirted financial ruin. Shortly after Burke's retirement, his beloved only son, Richard, died of tuberculosis. Devastated, Burke nevertheless threw himself into writing, condemning the Jacobin regime's horrors and urging on the British government to war against France. Burke struggled on in worsening health, working until the day he died, July 8, 1797.⁴⁹

Edmund Burke's impact has been enormous. Widely read after his death, Burke influenced such statesmen as George Canning and the Duke of Wellington. Men of letters and philosophers who drew on Burke's philosophy include Samuel Taylor Coleridge, Alexis de Tocqueville, and Irving Babbitt.⁵⁰ Dr. Russell Kirk, whose *The Conservative Mind* (1953) gave postwar conservatism intellectual respectability and coherence, was a disciple of Burke. Through Kirk's energy and voluminous writings, Burke's thought has reached multitudes in the present day.

All his life, Edmund Burke resisted tyranny. But his greatest service to liberty was to remind the world that freedom is anchored in a transcendent moral order and that for liberty to flourish, social and personal order and morality must exist, and radical innovations must be shunned. Two centuries after Burke's passing, as America grapples with the chaos and criminality of a liberty without order—itsself promoted by the sort of reckless innovators he opposed and outlasted—the wisdom of this great insight is ever more painfully clear. Hence Burke's writings, and the growing scholarly literature on Burke, continue to

merit our attention. Insofar as the cause of freedom evades both the Scylla of license and the Charybdis of a tyrannical Utopia of abstract rights, the ship's pilots owe much to Edmund Burke.

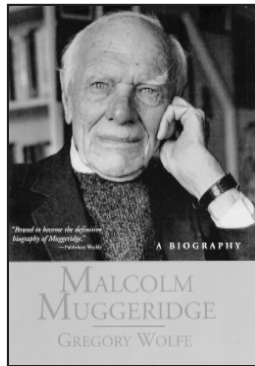
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