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## No Place to Be! Common Goods and Homelessness

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# NO PLACE TO BE!

## COMMON GOODS AND HOMELESSNESS

Patrick Riordan, SJ, Ph.D.

This paper brings together the abstract concept of common goods and the concrete issue of homelessness. The phenomena of homelessness will be shown to challenge the naïve assumption that our political existence is grounded in a sense of goods we hold in common. And at the same time, a clearer understanding of what is involved in having goods in common will highlight a further dimension of the scandal of homelessness in our societies. I focus first on the notion of common goods and the demands they make on us. Second, I explore the reality of homelessness to show the challenge it poses to the liberal society's confidence in its own basic premises. But before treating the conceptual material it is worth clarifying in advance what is meant by homelessness.

Homelessness names the phenomena of people having no homes to go to, nowhere to sleep, and so they sleep in the street, in doorways or subway passages. Also labelled rough-sleeping, it is the unmistakable reality encountered on the streets of most big cities. Identifying the phenomena does not commit us to explanatory accounts of the causes of homelessness. These can be many, at different levels, ranging from personal tragedy at the individual level, to housing policy at municipal or national government level. A crisis in housing provision can lead to an increase in rough-sleeping, as can budgetary cuts in welfare provision. Policy impacts on homelessness in various ways. Economic policy can lead to unemployment, housing policy can mean a lack

of suitable accommodation, welfare provision policy can result in closure of units for the care of the mentally challenged who are 'returned to the community', cuts in subventions such as housing benefit can exclude young families from the private housing market. Causes are many, and

each homeless person's story is unique. But whatever might be the immediate causes in any one person's history, the situation of the homeless, lacking a place to go, is common to all.

Tamsen Courtenay (2018) has published a collection of interviews with homeless people in London. She gives it the title *Four feet under*, because the people she presents live their lives four feet below the rest

of us, sitting or sleeping on the sidewalk. These interviews reveal the wide range of histories that can lead to the point of living on the street. For all their diversity, the one thing they have in common 'is that not one of them has a home'. A home is an address and having an address 'means you belong. Not having one creates a whole world of pain and sorrow' (2). Her interviews reveal the details of that pain and sorrow: without privacy, without shelter, having to cope with illness such as food poisoning, or fever; without security, fearing theft of everything from begged money to shoes to personal mementoes.

### COMMON GOODS

Homeless people seem to lack so many goods and to be without a share in the common goods of society. To provide the analysis for the argument that homeless people are excluded from common

"...the people she presents live their lives four feet below the rest of us, sitting or sleeping on the sidewalk."

goods in which they ought to have a share it is necessary to recall what is meant by good, and by common good. Aristotle's *Ethics* (1981) focuses on the goods, intermediate and ultimate, that people pursue. He asks what good would be worth pursuing as the ultimate purpose in life. His remarks are very general, 'the good is what all things desire', and 'whoever acts, acts for some good' (Riordan, 2008, 16-27). As action is for some good, so, Aristotle thinks, joint action is for some good in common. This insight lays the groundwork for his political philosophy, as in the early pages of *The Politics* (1972) he lists the examples of cooperation in a scale of complexity, from the basic partnership of male and female, through the more complex collaboration required in a household, then a village and a region with its various villages, until he identifies the most complex cooperative form of all, that of the *polis* or city. Again, we find Aristotle is abstract, or programmatic, in his account of the political community's collaboration for goods in common. The *polis* is the form of community in which cooperation is able to provide all that is desired for the good life. The good life is contrasted with life itself, said to be the business of the household, focused on providing what is needed for survival and for continuing existence both as individuals and as community. Daily and generational reproduction is achieved in the household, but the city provides answers to the questions about life's purpose. Citizens, Aristotle believes, are united in their comprehension of what is good and worthwhile, and what is lawful and just. At the heart of the city, the political community, is agreement on such matters. And it is the capacity for reasoned speech which marks the human as a political animal, in comparison with the social animals, who have voice to communicate. Only the human enters into a deliberation about what is worthwhile. Hence for Aristotle the importance of the public deliberation in the forum and in the assembly when convened as a court of law. Shared meaning is central to the political common good (Riordan, 2015, 83-96).

Aristotle makes another claim about the political

common good: as all action is for some good, and all cooperation is for a good in common, so the highest form of cooperation is for the highest common good. This assertion will be later challenged by Christian thinkers like Augustine, who are not willing to concede that the greatest good of humans is achieved through politics. While acknowledging the strength of this revision, we don't have to reject Aristotle's insights completely. Even in our twenty-first century world we recognize that the sovereignty of the state entails that it is the ultimate arbiter of which organized pursuits of which goods can be tolerated by the political community. The truth of this is not undermined by the articulation of human and civil rights, setting limits to what the state may legitimately do to its citizens and others. Those limits are typically accepted by the political authority in a liberal state. In a Bill of Rights, for instance, the state commits itself not to interfere with the freedoms of conscience, speech and association, or with the right to property of its people. But always there is the proviso that such rights are exercised peacefully, and that their exercise is conducive to public order. Determining these exceptions is done by the public authorities. Even if the modern liberal state declares itself neutral about ultimate goods and does not attempt to guide people towards a specific vision of their fulfilment, it nevertheless maintains the framework within which the pursuit of all goods is publicly regulated. In this limited sense, Aristotle's assertion of the highest good retains a validity.

Another point in Aristotle's analysis still valid in our modern context is his assertion that the basis for political community is a shared view of what is good and beneficial. While this may appear to be negated by a contemporary denial that it is the business of the state to decide on the good for people, and an espousal on the part of the liberal state of neutrality towards the good, there is nonetheless a fundamental commitment in the liberal state to some dimensions of good. Those dimensions belong not among the ultimate goods, but among the means and conditions for fulfilment. The facilitation of human freedom

is a central good of the liberal state. But more significantly, the commitment to resolving conflict about goods by negotiation and conciliation is a foundational good for the democratic state. On this at least the citizens of a modern state might be expected to agree, that conflicts should be conducted in a political manner. In this case it remains true that an agreement about some dimension of the good is at the base of the modern state. Perhaps it would be wiser not to call it an agreement, since there is no moment in time at which all people together enter an agreement, but it is a shared meaning that sustains collaboration and co-existence in a political entity. This shared meaning is itself among the goods in common enjoyed by the community. However, it is a fragile good, and it may need reinforcement through deliberate action when it is threatened by movements more disposed towards violence in their handling of conflicts. The transmission of shared meaning happens through usual processes of socialization, but educational programs also make it their aim to resource students with an understanding of the values at the heart of their inherited political institutions. At times, those values and the point of the institutions can be taken for granted, and so be forgotten or overlooked. In the face of such forgetfulness it may be appropriate to undertake some deliberate measures to recall the shared meaning that sustains the political community.

The common goods of cooperation in a modern state include the whole range that form the agenda of government, from education, social welfare, employment, housing, health care, security, justice, and international relations. They include further the institutions and practices that are put in place to achieve the concrete objectives of policy in these areas, from law-courts and hospitals to schools and universities. And sustaining all of these are the shared convictions and values, the meanings that people rely on to explain what they do and why it is worth doing.

With Aristotle we can confidently say that wherever there is cooperation people act together for some good, and that good is theirs in common.

But even though we can be confident about the fact that cooperation is for a common good, it does not follow that we can be confident in all cases in saying what exactly that good is, and what it comprises. Whenever we speak about common goods, whether as the ultimate end of human striving, or as the total set of conditions to enable individual persons and groups to attain their appropriate fulfilment, we must be honest and admit the limitations of our knowledge. When we explore and debate the appropriate conditions for human flourishing our knowledge is incomplete, and what we do know is subject to correction and revision. The term 'heuristic' can be used to express this nature of the notion of common good (Riordan, 2008, 27). It names something we are in the process of discovering (both the end of human flourishing, and the conditions to enable it), and while we don't know fully what it is, we do know enough to enable us to rule out candidates that fail to be common goods.

Because of our ignorance and the fact that in our societies we are engaged in the pursuit of our wellbeing which is at the same time a process of discovery we need criteria to distinguish genuinely common goods from those that conceal sectional interest. Aristotle suggests two criteria, when he distinguishes different kinds of constitutions by the ways in which they pursue common goods and not the goods of rulers or the powerful, and when he contrasts different constitutions according to how comprehensive is their vision of the human good. The first criterion is: If the purpose of the political community is to be a *common* good, then it could only be such if it does not systematically exclude any individual or any group of persons from a fair share in the good for the sake of which the members cooperate. The second criterion focuses, not on the persons excluded, but on the aspects of human good that might be excluded: If the end pursued is to be a *common good*, then it could only be such if it does not systematically exclude or denigrate any genuine dimension of the human good. Where this second criterion will establish if autonomy is indeed a dimension of the human good, and if it is included in society's perception of

its common good, the first criterion will check if any persons or groups are systematically excluded from a share in that good (Riordan, 2008, 28-9).

While in our pluralist situation there is unlikely to be agreement as to what exactly constitutes human fulfilment, we may perhaps be able to work towards agreement on the whole range of means and conditions we need to put in place to enable persons and their communities to thrive. Pope Paul VI in his 1967 letter ‘On the Development of Peoples’ succinctly summarized the common good as the integral development of every person, and of the whole person (§42). The two criteria derived from Aristotle are reworked in this summary. The fulfilment of every person reformulates the first criterion that no one be excluded. The integral fulfilment of the whole person reformulates the second criterion, that no dimension of human wellbeing be systematically excluded from our shared concerns in social collaboration. These criteria can also be identified in the principles of solidarity and subsidiarity. Solidarity, that we commit to the cause of those excluded, and subsidiarity, that in the name of caring for them we don’t deprive people or groups of their autonomy. With these two criteria we have a way of critiquing proposals or achievements as to whether or not they serve the common good. While we may not be able to say definitively what the common good is or what might enable us to achieve it, we can at least reject those candidates that fail to meet the criteria formulated, and so are excluded from the common good.

### **LIBERTY AS A COMMON GOOD**

Autonomy, freedom, is central to our contemporary Western understanding of the human good. It is about agency: the capacity to be subject of one’s own actions, one’s own history, and not merely the passive object of social forces or of the actions of others. The freedom of each individual to identify for herself her own good and to be able to pursue it, in the sense of not being prevented or interfered with, is key to this mind set.

The correlative of this shared meaning of liberty as a foundational value is the recognized obligation

on the state not to impose restrictions on people’s liberties unnecessarily. The core meaning of liberty was expressed by Thomas Hobbes (1996) as ‘absence of restraint’, and this is what is taken up by Isaiah Berlin (1969) in the notion of ‘negative liberty’. While Hobbes sees the imposition of law by the sovereign as just such restraint as would impede liberty, John Locke (1970) formulates liberty as one of the natural rights, remarking that ‘no one ought to harm another in his life, liberty or possessions’. It is to ensure the protection of liberty along with the other rights that people would be prepared to enter into society under law and submit to the rule of government. However, their consent to submit would not be given in the absence of assurance that the government will protect their rights (including liberty) against threats, and that the government itself will not threaten liberty. Where Hobbes formulates with clarity the core meaning of liberty, Locke articulates the obligations of the state regarding the liberty of subjects. John Stuart Mill (1859) takes the discussion further in arguing that whatever exceptions might be tolerated to the injunction that the state – or society through the pressure of public opinion – should not interfere with individuals’ liberties, the reason that such interference would be for an individual’s own good may not be one of them. It may be permissible to restrict liberty for the prevention of harm to others, or to society itself, but a person’s liberty should not be interfered with merely because he puts his own wellbeing in danger. Mill’s position has generated much debate, especially on the question whether it can be meaningful to consider an individual’s good in isolation from that of their social milieu, whether family, friends, or wider society. The point of this brief survey, however, is to underline the centrality of negative liberty, the absence of restraint, among the core commitments of a liberal polity. The liberal is highly sensitized to the possibility of interference by the state or public authorities, or any other kind of authority such as ecclesiastical authority, in the scope of action of a person in pursuit of her chosen vision of the good and its concrete realizations. Insofar as the common good of a liberal polity includes the sets

of conditions created and maintained for public order and the rule of law, we can say that the value of negative liberty is a key element of our common goods in a liberal pluralist society.

Ronald Dworkin is a major exponent of the current dominant vision of political liberalism (2011). He identifies autonomy, which he calls ‘ethical independence’, as a core value. It is the capacity each one is supposed to have to choose for themselves the vision of the good and of the good life according to which they will shape their lives. But he stresses also the equal importance of this principle of everyone’s life (2000). Dworkin’s concern is that the guiding principles in each person’s life be freely chosen, and not imposed by others or by authorities. A person’s authenticity is jeopardized when others’ judgments about the goals and values of life replace her own. The dignity of persons, their self-respect in taking responsibility for their decisions is no different from one kind of life-shaping option to another. On this view, there is no distinction to be drawn between religious and other worldviews (Dworkin 2013). Liberty, including religious liberty, is to be respected because the political community owes respect (including non-interference in the scope of autonomous action) to the independence of persons who take control of their own lives.

Dworkin acknowledges the distinction between negative and positive liberty but does not wish to separate them. Responsibility has both dimensions. “A theory of positive liberty stipulates what it means for people to participate in the right way. It offers, that is, a conception of self-government. A theory of negative liberty describes which choices must be exempt from collective decisions if personal responsibility is to be preserved” (Dworkin 2011, 365). These two kinds of liberty belong among the conditions for human wellbeing in a liberal democratic polity. It is a common good for citizens in our modern liberal democracies

that the law secures a domain of action free from interference and restraint by authorities.

When applying the first criterion of the common good to an evaluation of our political regimes it will be appropriate to include the securing of liberty as a fundamental common good. If there is systematic exclusion of any individual or group from a share in the enjoyment of a good we pursue

together, then that pursuit and the structures in which it is carried out fail to be common goods. If there is systematic exclusion of anyone from enjoyment of or exercise of liberty, then the common good is not realized.

**“If there is systematic exclusion of anyone from enjoyment of or exercise of liberty, then the common good is not realized.”**

## **HOMELESSNESS AND LIBERTY**

Jeremy Waldron is an acknowledged authority on John Locke (2002) and has written extensively on rights.

Accordingly, it is surprising to find him writing about homelessness (1993). But perusal of his article reveals exactly why the situation of the homeless is relevant to his concerns. As he formulated it in an earlier article on the theoretical foundations of liberalism, “... liberals are committed to a conception of freedom and of respect for the capacities and the agency of individual men and women, and that these commitments generate a requirement that all aspects of the social [world] should either be made acceptable or be capable of being made acceptable to every last individual” (Waldron 1987, 128). The test for the adequacy of social arrangements is that everyone could support them. Homeless people could fit in the category of ‘every last individual’ and their experience could be a test of the adequacy of the respect actually shown to those particular men and women. Another motivation for addressing the topic is to counter the assumption that social concern presupposes a communitarian political philosophy and that abstract liberal premises could not motivate care for people in need. “If homelessness raises questions even in regard to basic principles of freedom, it is an issue that ought to preoccupy

liberal theorists as much as more familiar worries about torture, the suppression of dissent, and other violations of human rights” (1993, 309). He wants to illustrate how commitment to liberal values could generate a critical review of our societies which both affirm the basic good of negative liberty and accept the reality that many in society are denied that liberty.

Waldron invites us to consider the freedoms of the homeless, and how their scope of action is severely restricted by regulations, both concerning private property, and proscribing behavior in public places. It requires us to consider homeless people not simply as recipients (or not) of welfare, but as agents. It is not primarily about what society should do for them to meet their needs, but what society allows them to do for themselves. What do our societies allow homeless people to do on their own initiative to satisfy their basic needs, or more relevantly, what do our societies prevent homeless people from doing to satisfy basic bodily needs? He argues that the homeless people in our liberal societies are systematically denied their negative liberties. Negative freedom is the freedom to do what one chooses in pursuit of one’s own good without interference or restriction by other agents. Homeless people, who have no place of their own in which they can sleep, wash, cook and eat, and perform the excretory functions of urinating and defecating, are denied their freedom. He underlines that he is arguing in terms of negative liberty, not positive liberty. Private property rights create restrictions on freedom of movement and action – that is the nature of such rights, that they create powers for the owners of property to choose to exclude, or to admit. Where such restrictions apply, there is no liberty. Similarly, local ordinances create restrictions on certain activities in public spaces such as public parks, subway stations or passages, and sidewalks. These ordinances, too, restrict liberty. Considering the dense web of laws, both the exclusions from private property and local councils’ restrictions on what may be done in public spaces, the cumulative effect of so much restraint is that no liberty remains for affected people. Waldron formulates it powerfully: to be

free is to be free to act; but acting presupposes being someplace where the action may be performed, given the bodily nature of human beings; so if there is no place where a person may perform essential actions of personal toilet, eating and sleeping, it follows that such a person is not free, having no place to be!

The lack of accessible (i.e. free of charge) public toilets for instance means that homeless people are not free to do what it is necessary that they be able to do for reasons of hygiene and health no less than personal comfort. The activities in question here are not placed on a par with those correlated with the human rights of freedom of assembly, freedom of religion, freedom of conscience, and freedom of speech. But that does not reduce their importance. They are conditions that must be fulfilled if people are to exercise their other rights. Because these conditions are taken for granted by all who have a place of their own to sleep, eat and wash, they are rarely formulated explicitly, and never in charters of rights. But where there is systematic restriction placed on such activities the denial of the conditions is tantamount to denial of the more elevated rights for which they are conditions.

The emphasis on ‘freedom of action’ must be noted. No place to act means no freedom to act. Waldron notes the slogan frequently adopted by advocates for marginalized people: ‘what use are rights and freedoms to those who are hungry, cold, wet and sick?’ He acknowledges the benign intention, and how the urgency of immediate need might override concern for freedoms of expression or of religion. However, he draws attention to the capacities of homeless people to manage and argues that they are very much aware of being denied the freedom to act to look after themselves, in those daily struggles to cope. That they are denied their fundamental liberty, denied their right, should not be ignored, especially in a society which places such high value on negative liberty.

Waldron counters the arguments that might be made in defense of the status quo, to the effect that while property (and business) owners deny

access to their places for the doing of certain acts, they do not wish to deny people their freedom to perform those actions somewhere else. Some other place. The importance of space is underlined. Where no place is left due to the myriad exclusions, the homeless person has no freedom to do what is necessary, because he or she has no place in which to do it. Waldron concedes that the cumulative effect of many restrictions by individual property owners and local government authorities is not intended by each excluding agent but is nonetheless the effect of their actions. The generalized restriction on the liberties of homeless people might be an unintended consequence of many actions of exclusion but the effect is undeniably that which to a critical liberal observer must appear objectionable as a denial of liberty. “From any point of view that values freedom of action, it ought to be a matter of concern that the choices left open to a person are being progressively closed off, one by one, and that he is nearing a situation where there is literally nowhere he can turn” (Waldron 1993, 330). There is no place he is free to be.

Courtenay’s interviews (2018) with homeless people in London anecdotally confirm the reality described here. She describes how she herself is seen as a homeless person, and at times wears the look of homelessness, from hours spent sitting on cold and wet pavements in wind and rain listening to her interviewees. Treated inhospitably in cafes in which she tries to buy food and drink, subjected to suspicion or refused admission to toilets in shops and restaurants, she experiences at first hand what is the daily reality of the homeless (48). For those made homeless because of tragic circumstances, the hope of recovery sustaining the daily struggle is undermined by the difficulty of keeping clean, maintaining a decent appearance, avoiding the temptations of escape in alcohol or drugs, and remaining safe when sleeping rough exposed to the violence or ill will of many. As if in support of Waldron’s analysis, she remarks on how the lack of a home, a place to be and to do what is necessary, results in two conditions that undermine the capacity for action: sleep deprivation, and

malnutrition. Sleep deprivation is a common problem of homeless people, since their sleep is frequently interrupted and rarely sufficient. This affects their ability to think and speak:

Your energy tank is empty, your brain is spaghetti, but still local councils and government expect you to pull yourself together and get organised so that you can get back into mainstream society... How are you supposed to correctly fill in loads of forms for hostels/housing, account for your movements over the last x-periods or remember to take your medications...? (Courtenay, 2018, 190)

Her concluding remark ties this experience in with the protection of basic rights: “If Amnesty International classifies sleep deprivation as a form of torture and Article 22 of the Third Geneva Convention, 1949... says that a person can’t be treated like this, how can it be that what is so contentious in Guantánamo Bay is apparently quite OK on the Tottenham Court Road?” (Courtenay, 2018, 191).

Malnutrition is the other common problem of the homeless. Without hot meals and without a regular supply of vegetables and fruit, their diet is very imbalanced. Too much bread because of all the sandwiches they are given, and reliance on fast food that allows them to still hunger pangs but does not nourish, results in a steady withdrawal of resources for what is a hard and challenging existence on the street. “Cheap food is usually fast food and fast food is, well, junk food. This kind of fodder is useless at increasing long-term energy and does nothing for your immune system or your brain function” (Courtenay, 2018, 219). The lack of a home with a place to cook and eat results in malnutrition, and the consequent lack of energy and capacity to function. This is obvious once mentioned, but it illustrates the point at the heart of Waldron’s argument. Homelessness results in the loss of fundamental conditions for basic liberty, the possibility of acting to pursue one’s own good. And the irony is that our societies expect homeless people to act in their

own interests. Courtenay makes the point: "...the homeless are expected to get off their backsides, pull up their socks (if they've got any), get a job and get their lives together – and do it all against the backdrop of their almost uniformly appalling histories, mental illnesses, exhaustion and, to cap it all off, their malnutrition" (220).

She records those painful histories: a young man, John, who could not cope with losing his wife and child in a car crash, and his life fell apart (Courtenay, 2018, 76); Beth, a victim of rape as a child, and a history of running away from care homes, for whom drugs offered some escape (63); Scott, evicted from his apartment because the landlord objected to the behavior of his girlfriend and without an address, an essential requirement to regain his driver's license and resume his work as a coach driver, he became unemployed (53); Brad ended on the street, losing his business and his home, because of the coincidence of misfortune, divorce coming at a time of serious illness and inability to work (86). A disproportionate number of those on the streets are former soldiers and war veterans, more represented than any other profession (153).

## CONCLUSION

The argument relies on the fundamental premise that in our liberal democratic societies the securing of liberty is a common good. The shared meaning constitutive of our societies values autonomy and understands negative liberty as an essential condition for agency. These shared convictions illustrate Aristotle's notion that the sharing of a view on what is good and lawful makes a political community. Institutions of law are created and operated to protect that liberty, and so they also are common goods understood as among the conditions for the flourishing of individuals and groups. The first criterion to test if a claimed good in common is indeed functioning as a common good, investigates if any person or group of persons is systematically excluded from enjoyment of the good that is pursued collaboratively. Homeless people in our societies are systematically excluded from the enjoyment

of negative liberty, an important good in common institutionally secured in liberal democratic states. They are denied their negative liberty, because they are denied the physical space in which they might perform activities essential for personal and social wellbeing: 'they have no place to be'. Applying the first common good criterion: the securing of liberty as an attribute of agency is central among the goods we pursue together and protect in our legal and political institutions; and it is evident that there is a significant group of people who are systematically excluded from enjoyment of this good that we pursue together; it follows that our legal and political institutions are failing to be common goods. The realization that this is the case should come as a shock to people committed to the value of liberty and to the defense of liberal institutions of law and government. That we are failing to deliver on this central claim at the heart of the shared meanings constituting our political communities is cause for shame and a call for action.

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