

ANOTHER CARICATURE OF LIBERTARIANISM

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In a recent two-part article in *The Responsive Community* (Winter and Spring 1992), Thomas A. Spragens, Jr. offers a harsh critique of libertarianism. The purpose of this essay is to show how his critique fails.

Spragens' article, "The Limitations of Libertarianism," has its share of rhetorical flourishes and *ad hominem* attacks, but his main points are properly theoretical ones, and it is to these that I shall direct my discussion. His chief criticisms will be shown to depend on fairly typical straw-man characterizations of libertarianism, and on moral points that beg the question.

His arguments, in his words, are that libertarianism 1) "narrows and distorts liberal theory," 2) is "inadequate as a basis for a good democratic society," and 3) can be "destructive of democratic institutions." Unlike some critics of libertarianism, Spragens recognizes that individual freedom is a good thing. But he sees freedom as the sort of good thing that, like chocolate cake, one can have too much of. As we shall see, this is partly because he misconstrues the libertarian case for freedom.

Spragens begins by charging that libertarians "decontextualize freedom," that is to say, they isolate and elevate freedom above other values. This seems like an uncontroversial way to characterize liber-

tarianism, but it is inaccurate. It would be more correct to say something like libertarians elevate freedom over other *political* values. This is not nit-picking. Omissions such as this are what enable Spragens to develop the straw-man libertarian that he wants to knock down. This straw libertarian is licentious, greedy, and egocentric.

Part of Spragens' criticism regarding this decontextualizing of freedom is that it neglects other political values. For example, he says, it is moral to "mitigate the unfairness of nature." It is not clear what this means, but it is clear that this begs the question. On what grounds is it moral to mitigate the unfairness of nature? What mechanisms are morally appropriate ways to do this? In what sense is nature unfair? Spragens stays far away from such questions, and instead simply stipulates that the state has this function.

More importantly, Spragens charges that libertarians neglect the value of community. This is an important feature of the straw man, a typical criticism with no basis in libertarian theory. Libertarians do not neglect the value of community, but they do stress the disvalue of coercion. Libertarians know it is important to work together to achieve many goals, and that fellow-feeling makes social life more pleasant. But they question the value of forcing people to serve others' ends. This is another example of how just a slight misrepresentation of the libertarian view provides fodder for the straw man. Libertarians deny that it is moral to make an individual subordinate to another's control, and this becomes "libertarians neglect the value of community." This is very transparent caricaturing, but all too common.

Spragens shores up his arguments on this point with a few quotes from earlier writers of the "liberal tradition" to show that historically, liberal authors have had other concerns besides individual freedom. Of course that's true, but it doesn't speak to the libertarian claim that individual freedom has overriding value in the political realm. No one argues that every author in the liberal tradition has been a libertarian. So pointing out other concerns that, say, Madison may have had proves nothing. Having said that, however, it is worth noticing that Spragens tries to enlist John Stuart Mill in this cause, and his inability to do so convincingly shows the extent of the caricaturing that is being used here. Spragens supplies a quotation from Mill about the way in which common undertakings can promote common morality, but tactfully avoids the more famous quotation from Mill, that "the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection."

Ultimately, of course, it does not matter at all the degree to which past authors of the liberal tradition were or were not libertarian. We can dig out all the quotes we like, and Mill will look

more libertarian than Kant, but so what? I hope Spragens is not arguing that because many writers in the history of the liberal tradition were not libertarian, that therefore libertarianism is wrong. I concede that Rousseau was not a libertarian. Is that the beginning of the discussion or the end? It can only be the end with a fallacious appeal to authority.

One final point on Spragens' appeal to history: he produces a quotation from Adam Smith which he says "represents . . . a true reflection" of liberalism. The passage from Smith refers to Smith's view that one important check on individual freedom is that we must subordinate our interests to God's law, which of course Locke also thought was the case. It is telling that Spragens thinks this is exemplary liberalism. Last time I checked, it was not part of the liberal tradition to base state coercion on God's will as it is in theocratic states. Again, this is not nit-picking. Spragens might reply, don't take the God part so seriously, that's just an example of the concerns that override freedom. But we have to be more specific if we are to present a convincing case for state coercion. If it is something like God's will, who gets to be in the position of Imam, determining what this is? If not, why bring it up?

Spragens' second argument against libertarianism is that it involves "oversimplifying freedom," that is to say, the libertarian conception of liberty "becomes indistinguishable from mere license or capriciousness." To his credit, Spragens eschews the notion of "positive freedom," which he understands is typically brought out to defend "paternalistic and tyrannical impositions." He says that on this matter, he will agree with libertarians that liberty "always refers in some essential sense to freedom *from* outside interference and not to a so-called freedom *to* attain some specified end." This is a sensible concession, but he goes on to charge that libertarians think that liberty is "freedom to do whatever one pleases." Of course, no libertarian (over the age of sixteen) thinks this. Spragens does not cite a single libertarian on this matter. He simply asserts that libertarians say this. It is no surprise that he cannot find examples of libertarians making this claim, since none do. We can verify this with the simplest of experiments. Think of some libertarians. Nozick, Hospers, Rand, Machan, Den Uyl, Rasmussen, Lomasky, Rothbard, Hayek, Narveson, Friedman. To go beyond this century, we can add Smith and Mill. None of these authors would agree with the characterization of liberty as liberty-to-do-as-you-please that Spragens charges. Some libertarians argue that liberty is freedom to do as you please *as long as your conduct does not harm others*. Some argue that although the state can only interfere when your conduct harms others, there are other moral constraints on action that come into play. But *none* argues for the

licentious version of liberty as charged. This is fiction.

Spragens does, however, cite two authors who do conceive of liberty as license: Hobbes and Filmer. But as Hobbes and Filmer were both monarchists, this seems like an odd place to turn for textual support. Naturally Hobbes and Filmer characterize liberty in this way - it helps them argue in favor of not having liberty as a political value. So Spragens has established that monarchists and other theorists critical of liberty characterize liberty as license, but not that libertarians (or any liberals at all) do.

Spragens goes on with this for some pages, unfortunately. He explains (well) why "liberty as 'absence of impediment' is an ungeneralizable norm" because "one of us can be free of impediment only by wholly dominating another." He says that this conception of liberty is "morally unworthy," as well as "self-undermining." Of course this conception is not a workable one - which is probably why no libertarian has this conception of liberty. Spragens differentiates liberalism (which is how he wants to be identified) as being committed not to self-indulgence but to autonomy. All libertarians would agree with this, raising the question, Has Spragens read any of the libertarians he would castigate, or does he have a criticism of libertarianism that he doesn't want to be committed to publicly, and so will criticize it with caricatures?

One particularly nasty and disturbing caricature he presents is the charge that libertarians think drunk drivers have the right to be on the road. Since even a cursory reading of as straightforward a theorist as Mill reveals that this is false (by violating the harm-to-others principle), one wonders if this is a deliberate appeal to fear.

Spragens' third major point is the familiar charge that the libertarian emphasis on political freedom is either based on or promotes moral relativism. As was the case in the previous argument, this too is a straw man with no textual basis in libertarian thought. (It is an interesting strategy for a non-libertarian liberal to use against libertarianism, though, because this charge is often made against all of liberalism by socialist and communitarian theorists.) The distortion is not hard to find. A libertarian might argue that the state has no business dictating moral standards because in the real world no ruler is in a better position than a citizen to know the Form of Justice. This becomes the straw man argument that society must tolerate everything because morals are subjective. One last time: valuing political freedom is an example of demarcating the difference between right and wrong, that is, holding it wrong to coerce people into serving others' ends. It is not an example of having "no view" about right and wrong.

In this section of the article, Spragens refers to Hobbes as a

liberal theorist. This will come as a surprise to those who thought that a monarchist who denies the right to rebel against an abusive sovereign could not qualify as a liberal, but it is telling that Spragens classifies Hobbes thus. Spragens earlier wanted to argue that libertarianism was not an heir to liberalism, but if Hobbes is a liberal, most libertarians will undoubtedly concede the point.

Spragens quotes Mill as saying that a free government can survive only if people actively cooperate with the law. But that is exactly why Mill recommends the libertarian legal principle embodied in the aforementioned famous passage. When society makes into law the wishes of the few, or even of the many, there is bound to be unrest. Mill recognized that we could all more readily agree to endorse laws prohibiting harm to others. Widely disrespected laws erodes respect for all law. Having many such laws destroys that respect. Spragens says that "functioning civil society requires some minimum of orderliness and adherence to basic norms of behavior that distinguish it from a state of war." That is true, but if there is any reason why libertarian principles of individual freedom, self-government, and personal dignity and autonomy won't satisfy that condition, I cannot see it. This is a critique of licentiousness, not of libertarianism.

When Spragens sums up this portion of his critique, he phrases it this way: "libertarian theory fails to 'see' the legitimate role that moral equality, fellow feeling, and obligation play in a good democratic society." It seems clear that libertarians "see" as much as anybody else that moral equality and fellow-feeling are important, so let's consider next the charge that libertarians aren't living up to their obligations. Libertarians are typically quick to defend the importance of contracts, so Spragens must have in mind obligations not voluntarily contracted. And indeed he says that "each participant [in society] is in debt to all sorts of fellow citizens whom he or she has never met and cannot even name." This claim is generated by the familiar argument that since he enjoys the benefits of society, he owes something to society.

He illustrates this with curious examples, for instance, that the facilities of his university were provided by friends and alumni that went before. It is not clear what sort of obligation this provides, but the more important point is the general claim, which raises a substantial philosophical question. Can one have obligations that result from unasked for benefits? We have no choice about what happened in the past. I didn't ask the early Dutch settlers to swindle the Indians out of Manhattan. What exactly do I owe, and to whom do I owe it, as a result of this? To take a more concrete example, am I obligated to fight in Kuwait now because without the revolutionary army, we would not have achieved independence? South Africa has the same infrastructure that Spragens enjoys here. What "obligations" does a black South

African have towards the regime there? A libertarian might argue that actual consent is the best way to determine obligation. Spragens might well want to challenge this and produce another account of obligation. But this hardly makes the libertarian "a fool and an ingrate," guilty of "patent unreality and moral myopia."

Spragens argues next that libertarian doctrine is "unhelpful in shaping good family policy." Is anything? Why should the state take on the role of meta-parent at all? Spragens says that children are effected by the morals in society. This is surely true, but why does he presume that rulers are better suited to protect children from harmful social forces than parents are? The critique of individualism in this section seems to suggest that the state has a legitimate role to play in regulating sexuality, and explicitly endorses laws regulating marriage and divorce. Spragens doesn't even sound like a liberal at this point.

Spragens evidently will not accept the idea that individualism fosters respect for others by recognizing them *as* individuals, and that the solidarity that arises from voluntary cooperation in an enterprise is more substantial and authentic than state-enforced fellow feeling. He seems sympathetic to some of the reasons libertarians favor political freedom, but unwilling to explain why it is moral to force people to serve others' ends. He simply stipulates that it is, and then criticizes libertarianism for denying it.

Spragens is correct when he says that freedom and democracy are not the same thing. Libertarians are aware of this when they develop theories that give individual freedom priority over majority rule. It is begging the question, though, to argue from the premise that democratic regimes require abridgments of freedom to the conclusion that democratic regimes are good and libertarian ones are bad. What Spragens calls libertarian distortions of liberalism are either products of his own mind (such as the conception of liberty as licentiousness) or moral premises he disagrees with (such as the priority of individual autonomy over the will of the majority). The "limitations of libertarianism" have not been convincingly demonstrated; to the contrary, the unexplored potential of libertarianism is obscured by Spragens' caricatures.