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For and Against Libertarianism: A Debate, Part 2

by George C. Leef

Libertarianism: For and Against by Craig Duncan and Tibor Machan (Rowman & Littlefield, 2005); 167 pages.

In the second part of *Libertarianism: For and Against*, Duncan goes first, presenting his main case, which he calls “Democratic Liberalism: The Politics of Dignity.” Here, he fleshes out the “dignity” argument that he raised briefly in his earlier reply to Machan. “The basic rules of society,” he writes, “should be chosen so as to create a reasonable balance among the various threats to human dignity, chief among which are the threats of constraint and insult.” A system of “liberal democracy” is said to provide that “balance,” but Duncan never gives any reason to believe that the product of a liberal democracy will be a “balance” that would appeal to people who share his concerns over “dignity.” All he says about the well-known problems of democracy is that it “gives citizens an equal share of voting power, thereby recognizing in a significant way their equal status as beings capable of responsible choice.” Apparently, Duncan is unfamiliar with the critique of democracy that has been made by the Public Choice school and he is clearly under the spell of what Prof. James Buchanan calls “the romance of legislation,” the naive belief that democratic processes will produce good if not ideal results.

Regarding the actual results of democracy unrestrained by libertarian limits on governmental power, Duncan merely observes that elections these days are more and more dominated by vast spending to influence voters and then more spending to influence the elected officials. He frets that we are becoming a plutocracy, but merely posits the notion that public financing of campaigns would help to solve that problem. In my view, that is nothing other than wishful thinking. (Whether politics *can* be reformed would be a good topic for another debate book.)

The weightiest contention in Duncan’s case is his plea for government to create “opportunity for free and equal workers.” Under a libertarian system, he argues, workers would not have “equal opportunity to shape their lives.” But exactly what does “equal opportunity”

mean? Duncan gives the reader two variations. The first, the “least demanding” one, “requires that jobs be granted to people on the basis of their qualifications, regardless of how they came by these qualifications.” Under that conception of “equal opportunity,” the state must enforce laws against all sorts of employment discrimination. Duncan clearly prefers his second definition though: “Job seekers must have equal opportunity to obtain qualifications in the first place.” To accomplish that, we would need a far more interventionist state, requiring efforts to “equalize” education somehow.

Here, Duncan realizes that he is on a very slippery slope, since there are many other influences besides formal education — especially the family — that make it more or less likely that an individual will meet with success in the job market. So why shouldn’t government attempt to give all children an “equal” upbringing? We *could* have laws mandating, for example, that parents read to children for a certain number of hours per day. We could even take children away from parents at an early age and raise them in state facilities to ensure that no one has an unfair advantage in upbringing. Duncan doesn’t want the state to go so far as to invade people’s privacy, but what if a majority in his liberal democracy decided that creating *true* equal opportunity is more important than familial privacy? I guess he assumes that democracy will find the right “balance,” but there is no reason to believe that the state won’t go “too far,” even for him. The egalitarian authoritarianism of Sweden comes to mind.

It is worth noting here that Duncan doesn’t think to mention that libertarians also have a commitment to equal opportunity, one that requires the state to place no obstacles in the way of people who are trying to better themselves. Of course, that conception doesn’t provide nearly enough equality for Duncan’s taste, but “liberal democracy” is prone to creating all sorts of legal impediments to individual enterprise, such as occupational licensing laws. Again, he’s oblivious to the numerous harms done by the interventionist state.

Anti-discrimination laws

Why is it so important to have laws against discrimination? According to Duncan,

Discrimination treats another being as a nonentity whom it is fitting to confine to a “lonely island” — that is, to marginalize from society’s mainstream.

That’s rhetoric that may inspire liberal democrats, but it’s utter nonsense. When Person A discriminates against Person B in employment, all that means is that A declines to enter into a contract with B. There is no reason to ascribe horrible motives and desires to A, as Duncan does. Saying, “I choose not to contract with you,” doesn’t imply “I’d rather that you didn’t exist or were exiled from society.” Even in the rare case of outright hostility, the only effect of discrimination is to foreclose *one* contracting possibility, not to confine the rejected applicant to a “lonely island.”

Person B still has a full range of options among the many others who do not share A's judgments or prejudices.

Think, for example, about the experience of Jews in the United States. Undoubtedly, discrimination against Jews was widespread in 19th- and 20th-century America. Many opportunities were closed to them, but that did not stop them from prospering. They found employment in business and professions where there was no prejudice against them, or at least not enough prejudice to cause non-Jewish decisionmakers to pass up good talent. An ideal world where every decision was made on purely meritocratic grounds would be nice, but we don't have to have that ideal world in order for people from "marginalized" racial or religious groups to find their pathways to success.

While anti-discrimination laws are not necessary, they do have harmful side effects. People like Duncan imagine such laws to be *shields* that protect deserving people who otherwise wouldn't have a chance, but they overlook the fact that such laws can be used as *swords* to punish people for entirely innocent behavior. The federal Equal Employment Opportunity Commission has become infamous for its prosecution of companies just because they didn't have what the bureaucrats thought was the proper percentage of workers from each "protected" group. Furthermore, persons who have been turned down for reasons having nothing to do with "discrimination," (i.e., the employer discriminated on the basis of merit) can sue, claiming a violation of the law because they weren't hired. Such litigation often succeeds by extorting a settlement.

In sum, there are huge holes in Duncan's case. Those holes stem from an error endemic to people who reject libertarianism and insist we need a far more expansive state — they simultaneously underestimate the capacity of free people to solve problems and overestimate the capacity of government to do so.

Duncan also favors income redistribution, contending that under the free market some are undercompensated and others are overcompensated. Some people (e.g., janitors) are not paid well enough to "shape their lives" to the extent Duncan feels they should, while others (e.g., business executives) are paid far too much. Income inequalities disturb him and he maintains that libertarian *laissez-faire* is unjust — as if we had an irrigation system in which some people don't get enough water and others are inundated by it. Government action is necessary in order "to remove the clogs and leaks that create inadequate and excessive flows."

Minimum-wage intervention

Toward that vague end, Duncan advocates, inter alia, minimum-wage legislation. "Wages below a decent minimum treat workers more like disposable instruments for others' needs than people with their own lives to lead," he writes. Precisely how much that "decent" minimum is,

Duncan doesn't tell us. Low-paid workers just need a higher hourly wage or they won't be able to live with "dignity."

Here again, we see Duncan's penchant for allowing his rhetoric to run away with him. Entering into an employment contract is completely voluntary. No matter what the level of compensation, the employee is not akin to a "disposable instrument." Employers do not "dispose" of any workers; rather, they want them to continue working for them (as long as they are competent) and frequently grant pay increases in order to keep valued workers from accepting offers from other employers. Furthermore, many of the people who earn only the minimum wage are teenagers who live with their parents and are just earning some spending money. Duncan's Dickensian portrait of minimum-wage workers is wildly inaccurate.

At least he is aware of one important and well-known objection to minimum-wage legislation — that it tends to increase unemployment among low-skilled workers. The higher the price of anything, the less of it will be demanded. That's as fundamental as any of the laws of economics. But Duncan thinks he takes out that objection by mentioning the mid-1990s study done by economists Card and Krueger in which they found no disemployment effect in the fast-food industry in New Jersey, when that state's minimum wage was increased.

Does the Card-Krueger study refute the idea that raising the minimum wage will price some workers out of jobs? Not at all. The fact that those researchers did not find an increase in unemployment in a small sliver of the labor market doesn't prove that raising the minimum wage never leads to lower employment among unskilled workers. If Duncan's conscience is salved by Card-Krueger, it shouldn't be. Increasing the minimum wage to the level where everyone would be able to live with "dignity" — whatever that means — would undoubtedly mean a decrease in job opportunities for inexperienced and unskilled people.

To sum up, Duncan believes that a society with a government bound by libertarian prohibitions against coercion would be unworthy of our support. He even goes so far as to cast libertarians in the role of aggressors, contending that in a libertarian polity judges who would strike down legislation desired by the majority of people, such as minimum-wage laws, welfare "safety nets," and many other interventionist programs, would be acting to thwart the will of the people. That's a ridiculous argument. Placing limits on the power of the state is not aggression. All it does is to inform people that to accomplish their goals, they will need to act within the sphere of voluntarism rather than having government take the property and infringe upon the liberty of others.

Machan's response

Machan gives his response to Duncan's case, calling his rebuttal essay "The Follies of Democratic 'Liberalism.'" The snicker quotes around the word "liberalism" are deliberate, of

course: Machan contends that the products of the kind of state Duncan envisions are anything but liberal in the true meaning of the word.

Democracy, Machan argues, can easily become oppressive. A law is not morally right merely because it has been approved by a majority of voters or their representatives. A lynch mob, after all, is democratic. (Here, Machan might have driven home the point more forcefully by challenging Duncan to defend eminent-domain seizures of the property of relatively poor people, which are endemic in his “liberal democracy.” If a majority wants to take someone’s property so that the government can have higher tax revenues and thereby help more people to “shape their lives,” how can Duncan complain?) Freedom can easily be lost in a democracy and can also be protected in a nondemocratic state, Machan argues.

Democracy suffers from a particular weakness when it comes to money. Machan points out that “instead of confining taxation to financing the only proper function of government, which is to secure our rights, taxation is now used to fund every project in society that the human imagination can conceive.” Government budgets are stuffed with everything from the redistribution programs Duncan loves to business subsidies, the enforcement of anti-consumer trade regulations, needless political pork-barrel projects, overseas military escapades, and a vast array of other items that consume tax dollars.

What would have been done with all that money if the people from whom it was taken had been able to spend or invest it as they would have desired? A lot of useful jobs would have been created, to be sure. Machan’s point is that to get the government they want, democratic liberals such as Duncan have to accept an enormous diversion of resources into purposes that do nothing to assist and often harm those people who supposedly can’t “shape their lives.”

Machan concludes with the observation that libertarianism is the least utopian of all political philosophies. It never promises comprehensive solutions to all of man’s problems. It doesn’t depend on human beings who act in ways that are inconsistent with their nature. Libertarianism doesn’t have a “seductive allure,” but only the attraction of being the best available solution to the intractable problem of human governance.

Conclusion

How does libertarianism fare after the debate? In my view, Duncan never lays a glove on it. His arguments that we need a far more extensive state than the minimalist libertarian one have all been heard and answered many times before. Perhaps, since “democratic liberalism” is the status quo, Duncan doesn’t feel that he needs to win over libertarians, but only to shore up the spirits of his team. I can’t imagine that anyone even vaguely familiar with the case for libertarianism would be won over by appeals to such vacuous notions as “helping people shape their lives.”

Machan, however, does land some blows that should cause a thoughtful liberal democrat to wonder whether the adverse consequences of his approach to political philosophy aren't so serious as to cause him considerable discomfort.

I would like to see this debate continued and extended. In particular, I'd like to see Duncan's constant underappreciation for the ability of free people to solve problems without the use of coercion more thoroughly debated. All forms of statism receive as much support as they do because people have been led to believe that freedom just doesn't "work" and we therefore must have lots of government programs to deal with the alleged failures of liberty. A debate over the issue of freedom versus coercion in regard to the alleviation of poverty, for example, could be a most instructive book.

A hat tip to both advocates, as well as to Rowman & Littlefield, for bringing us a book that provokes a great deal of thought.

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