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## **The Nanny State** **by Laurence M. Vance**

Whenever some new perceived crisis comes along, Americans typically look to the state as a problem solver. Are we running out of oil? The government should increase CAFE standards so that cars are more fuel-efficient. Is gas too expensive? The government should limit the profits of oil companies. Is the planet getting warmer? The government should mandate reductions in greenhouse gas emissions. Are too many Americans without health insurance? The government should expand Medicaid and SCHIP to address the problem. Will taking drugs destroy your life? The government should ban them.

My applause is muted, however, for conservatives who rightly criticize the state's decreeing solutions to these "problems." Most conservatives never met a federal program they didn't like as long as it furthered their agenda. As we have seen regarding its support for the Iraq war and lack of support for presidential candidate Ron Paul, the conservative movement has lately exalted the state and its leaders above all else, including liberty. As Lew Rockwell of the Ludwig von Mises Institute has explained,

"The problem with American conservatism is that it hates the left more than the state, loves the past more than liberty, feels a greater attachment to nationalism than to the idea of self-determination, believes brute force is the answer to all social problems, and thinks it is better to impose truth rather than risk losing one soul to heresy. It has never understood the idea of freedom as a self-ordering principle of society. It has never seen the state as the enemy of what conservatives purport to favor. It has always looked to presidential power as the saving grace of what is right and true about America."

Thus, the same conservatives who condemn the welfare state (while typically accepting it anyway) have no trouble condoning the nanny state. Liberals, of course, generally accept both, although they can be quite selective when it comes to the extent of the nanny state's reach.

A nanny state is a government that majors in micro-managing the behavior of its citizens. From federal warning labels to state seat-belt laws to local school-district bans on dodgeball and tag, instead of "father knows best" it is government that knows best.

## **Making people criminals**

The nanny state garners the most support when it comes to criminalizing the advertising, sale, or use of what it deems to be harmful substances.

Although tobacco isn't illegal (cigarette taxes are a nice source of revenue for federal and state governments), cigarette advertising has been banned on television and radio since 1971. Ads for smokeless tobacco ceased in 1986. On the state level and local level, more than 50 percent of Americans live in an area where smoking anywhere outside their own home -- including bars and restaurants -- has basically been banned completely. A law that took effect in California earlier this year outlawed smoking in a car in the presence of a minor.

I knew that the drinking age in my state (Florida) was 21. I knew that alcohol could not be sold after a certain time at night. I knew that alcohol could not be purchased on Sunday until after a certain time. But I didn't know that many parents in Florida who probably support those laws were themselves criminals because they let their children have a beer or a glass of wine at home. I have seen posted in several convenience stores around the state of Florida the following sign:

“Notice. It is unlawful for anyone (including parents) to sell, give, or serve an alcoholic beverage to a person under 21 years of age.”

I confirmed that this is in fact the case by consulting Florida statute 562.11, which states that “it is unlawful for any person to sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age.” Those under 21 who were served alcohol would also be criminals under Florida statute 562.111, which states that “it is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of her or his employment, to have in her or his possession alcoholic beverages.” Yet, even though possessing and drinking alcoholic beverages is permitted for adults in the state of Florida, making more than 100 gallons of your own beer or wine is forbidden by state statute and federal law, as is selling any of it.

The war on drugs is another of the government's bogus wars that we are all too familiar with. It, more than anything else, is responsible for the rise of a police state in America. It has also resulted in a prison state. The United States, with less than 5 percent of the world's population, has almost a quarter of the world's prisoners. The United States has one of the highest per-capita prison populations in the world. One in 32 American adults is in prison, on probation, or on parole. Yet more than half of all U.S. prisoners are incarcerated for low-level drug offenses.

The nanny state is at its prime when it comes to monitoring consensual behavior that some people find objectionable, e.g., gambling, pornography, and prostitution. Since I live in Pensacola, Florida, I will give some examples from incidents that happened here within the last year.

Four businesses were shut down, and their computers, cash, and records were seized, following an undercover investigation of illegal gambling. The state attorney's office alleged that

special plastic credit-type cards were being used at the four establishments to go online and gamble for cash prizes. The computer games replicated the sounds of a slot machine, with the clamor of bells greeting a winning spin. Since the state of Florida has a lottery, it is obvious that gambling itself is not the problem. The problem is gambling in which the state doesn't get a cut of the action.

Before the illegal-gambling crackdown, five men were arrested for illegally producing and distributing pornographic videos. The films were made by adults in their homes or at local hotels and then posted on the Internet where subscribers paid \$30 a month to watch them. The state attorney's office charged the men with racketeering, which means that they face up to 60 years in prison, despite the fact that hardcore pornographic magazines can be purchased at newsstands and convenience stores throughout Pensacola and the state of Florida.

More than a dozen men from Pensacola were recently arrested across the border in Alabama following a two-week, undercover sex sting. They are all being charged with soliciting prostitution, a misdemeanor. Yet, picking up the tab for dinner and a movie for the same purpose does not violate the law. What makes this case even more egregious is that it was undercover female officers posing as prostitutes who ensnared the men.

The world's oldest profession is, of course, not limited to Pensacola, Florida. Down in Orlando three employees of the Orlando Weekly newspaper were charged with aiding in the commission of prostitution because they helped prostitutes design ads masked as escort services. Once again, female undercover officers were the ones who placed the ads in the newspaper.

Examples like these in Florida could be multiplied many times over if we looked at what goes on in the other 49 states and the District of Columbia. Yet, the nature of crime, the nature of government, and the nature of liberty are contrary to what we call "law enforcement."

### **Vices and crimes**

The problem with the moral crusades of the nanny state is that vices are not true crimes. As the 19th-century classical-liberal political philosopher Lysander Spooner explained it,

"Vices are those acts by which a man harms himself or his property. Crimes are those acts by which one man harms the person or property of another."

Every crime needs a victim. Victimless crimes such as drug use, purchasing beer on Sunday morning, giving your teenager a glass of wine, making a pornographic video, gambling without the state's permission, or using the services of a prostitute have no victim. They are consensual acts between two or more parties that harm only the sensibilities of puritanism, which, as H.L. Mencken once said, is "the haunting fear that someone, somewhere, may be happy." There should be no vice agents, no undercover sting operations, and no jail time for growing a plant.

## **Coercing morality**

There are two reasons that no one should look to the government as a nanny to enforce morality. First, the purpose of government is supposed to be the protection of life, liberty, and property from the violence or fraud of others. It is simply not the business of government to prohibit the advertising, sale, and use of what it deems to be harmful substances. Likewise, the government should not be concerned with regulating any activity that takes place between consenting adults. A government with the power to outlaw harmful substances and immoral practices is a government with the power to ban any substance or practice. A nanny state is a perversion of government. Second, all governments, including the U.S. government, eventually degenerate into the greatest violators of the life, liberty, and property they are supposed to protect. As former Foundation for Economic Education president Richard Ebeling has said,

“There has been no greater threat to life, liberty, and property throughout the ages than government. Even the most violent and brutal private individuals have been able to inflict only a mere fraction of the harm and destruction that have been caused by the use of power by political authorities.”

The state is some nanny. It is the only nanny that forces you to hire her. It is the only nanny that employs coercion, compulsion, threats, fines, and imprisonment. The state is the last entity that should be entrusted with enforcing morality.

Not only are questionable substances and practices none of the state’s business, they are none of anyone else’s business either. The problem is that since the beginning of time there has been no shortage of busybodies who thought it was their business to mind everyone else’s business. A busybody who becomes a government bureaucrat merely exacerbates the problem. Liberty means liberty for everyone, even those who use substances and engage in practices that others in society don’t use or find offensive. Our liberty is compromised and society is made worse off when we deprive a select few of liberty who are not themselves violating anyone’s liberty.

The libertarian position is the only consistent position. But, it should be emphasized, libertarianism is not libertinism. Libertarianism is a political philosophy, not a lifestyle. The essence of libertarianism is that it is wrong to threaten or initiate violence against a person or his property. As explained by Murray Rothbard, one of the 20th century’s greatest proponents of liberty, libertarianism

“holds that the only proper role of violence is to defend person and property against violence, that any use of violence that goes beyond such just defense is itself aggressive, unjust, and criminal. Libertarianism, therefore, is a theory which states that everyone should be free of violent invasion, should be free to do as he sees fit except invade the person or property of another.”

A nanny state is hostile to liberty. Any attempt to institute or continue it should be opposed, root and branch. Government intervention is never the solution; it is always part of the problem.

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