

REVIEW OF HUEBERT'S *LIBERTARIANISM TODAY*

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LIBERTARIANISM TODAY. By Jacob Huebert. Santa Barbara, CA: Praeger, 2010.

IT HAS GOTTEN TO THE POINT, nowadays, that whenever I see a new book out with “libertarian” or “libertarianism” in the title, I cringe. It is not because I don’t think that on net balance, they are not all forces for the good. They are. Given that they at least spell the name of this philosophy correctly, they do more good than harm. The more publications of this sort the better. If we are to promote libertarianism, it cannot be done without continually keeping the concept of liberty in the public mind, and there are few better ways to do this than by publishing more and more volumes on this topic.

But, on the other hand, and, believe me, there is another hand, I still cringe when I peruse such titles. For example, consider Murray, 1997. Gordon’s 1997 title of the review of this book says it all: “Nationalize Education and Other Libertarian Ideas.” To claim that libertarianism requires public schools, let alone vast new public expenditures on education is enough to register a high value on my cringe-o-meter. Tucker, 1997 reviews Boaz, 1997 and says:

On health care, Social Security, education, and foreign policy, we don’t get principled theorizing so much as we get half-way and half-baked policy plans for vouchers, Medical Savings Accounts ..., the line-item veto, and revenue diversions of Social Security from bonds to stocks In short, Boaz presents libertarianism not as a radical and fundamental challenge to the socialist and social-democratic consensus that has dominated this century and erected the largest and most intrusive governments in human history.

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Continues Tucker:

Sometimes, Boaz's progressivism runs headlong into libertarian doctrine itself. He argues that the "progressive extension of dignity" to "women, to people of different religions and different races" is "one of the great libertarian triumphs of the Western world" (p. 16), and he quotes proto-socialist Martin Luther King on civil rights (p. 229). Yet, as anyone who has tangled with the enforcement arm of the government's anti-discrimination police knows, this "dignity" has come at the expense of two fundamental rights: that of private property and that of association

A third cringe-o-meter entry is Miron, 2010 who attacks free enterprise money (gold). He states: "Precious metals used as money are not available for jewelry, statues, and so on. This is perhaps a minor issue if a gold standard in fact improves the conduct of monetary policy, but it is a cost nevertheless. In practice, gold standards have often worked badly." Oh, give me a break. *Everything* has an alternative or opportunity cost. That is hardly a legitimate argument against *anything*. "Worked badly?" Well, yes, because they were not *allowed* to work, and, in any case, worked badly compared to what? The Fed? It is to laugh. Miron claims that taxes are compatible with libertarianism because "taxes are justified in every society," not even mentioning, let alone attempting to refute, the strong anarcho-libertarian part of the movement that would take strenuous exception to this statement. He prominently mentions Milton Friedman and Friedrich Hayek as libertarians, forsooth, while ignoring Murray Rothbard.

But, enough with the cringe-o-meter. My purpose today is to review a really excellent new libertarian book, Jacob Huebert's *Libertarianism Today* (Huebert, 2010). I first became aware of this young scholar when I read his critique (Huebert, 2002) of Mark Skousen, then president of FEE, who not only offered former New York City Mayor Rudy Giuliani its precious podium, but was even willing to pay him, big bucks as it turned out, to address one of its functions. After reading Huebert's response, I said to myself, "Wow. This kid has got what it takes." Nothing in the eight years between those two dates has in the least changed my assessment. Only, we are now looking at the work of a young but mature scholar, not a complete newcomer.

Libertarianism Today is organized around eleven different chapters, each of them a gem in its own right. In chapter 1, "What Is Libertarianism?" Huebert begins on the right foot: "Is libertarianism an idea whose time has come? Maybe not. In 2008, Americans elected a president who openly urges a bigger, more invasive government." This is obviously correct, and so different from the "rah, rah" perspective of some of the "libertarians"

mentioned above, who seem to think we have *already* achieved this goal. Our author correctly grounds this philosophy in Murray ("Murray who?" in some circles) Rothbard's non-aggression principle, and, even has the temerity to apply this vital insight to the state: "If one person cannot steal money from another, then the government (which is made up only of individual people) should not be allowed to forcibly take money from people, even if it is called taxation." If Huebert is supporting libertarianism, and he is, he is, then whatever it is that Miron favors, it must be a very different philosophy.

There is always the danger of needlessly excluding people from the libertarian tent. Huebert puts paid to that, in sharp contrast to the Randians who insist upon only one route to this basic premise: "To accept libertarianism, at least in its purest form, one has to agree with the non-aggression principle—the idea that it is wrong to defraud or use aggressive force against another person. Why would someone accept that idea? Libertarians do so for different reasons." Whereupon he welcomes religious people, natural rightists, utilitarians, and others.

A consistent non-compromising libertarianism is defended throughout this book. In chapter 2 Huebert engages in a bit of product differentiation, thoroughly distinguishing us from both liberals and conservatives, while taking a well-justified swipe at the Nolan Chart (for ignoring foreign policy). In his chapter 3, "The Fight for the Economy," he demonstrates that, contrary to some who really ought to know better, libertarians are not at all responsible for our present economic crisis. No, what I just wrote is true enough, but not really what I wanted to say about this splendid bit of economic analysis. So, let me try again: While reading Huebert's utter evisceration of Richard Posner's attack on Austro-libertarian analysis, I found it difficult to keep myself from jumping up and down screaming with glee to my friend Jacob and saying, "You go, boy; kick him in the crotch, again!" If ever there was an economist-legal philosopher who deserved to be taken down a peg or two or three, it is Posner; Huebert's treatment of him is alone worth the price of admission to this entire book. Our author devotes his chapters 4 and 5 to "The Fight for Marijuana" and "Health Freedom." One might say "no big deal" to this material, as all libertarians would certainly agree to legalization and a free market in health care. But, as usual, Huebert pushes the envelope: he includes *all* drugs, and the prescription system as well as the FDA. I have in my day read and written more than just a little bit about these two subjects, yet I learned a great deal from reading what he has to say about them. I especially enjoyed his section "Libertarian Heroes of the Medical Marijuana Movement" where he names the names, and tells their tales, as is his wont. You simply *must* read his description of the LifeSharers program.

In chapter 6, *The Fight for Educational Freedom*, unlike some “libertarians,” Huebert gives the back of his hand to school vouchers and all such other statist policies. As well, bless him, he documents the anti-Catholic bias of our public schooling system.

Chapter 7, “*The Fight for Gun Rights*,” is a rather special chapter for me personally. So many times I have invited to libertarian events non-libertarians who I thought had potential in this direction. Often, they enjoyed the formal presentations but were utterly turned off by the meal and break-time discussions. Their comment to me: “Don’t libertarians talk about anything else besides guns?” Here is what our author has to say on this topic: “Why are libertarians so interested in gun rights in particular? On the theoretical level, there is the obvious reason: Libertarians think one should be allowed to own just about anything, as long as it is not stolen and one is not using it to aggress against anyone. In addition, gun rights are under constant attack by politicians from both political parties, so it makes sense for libertarians to vehemently defend these rights. But why the special emphasis? Why do libertarians seem to be disproportionately represented among gun enthusiasts, and vice versa?” Oh, no, I am not going to give away the punch line(s) here. Let me confine myself to saying that no matter how well immersed you are in this subject, you will be glad you perused Huebert’s take on it.

It is his chapter 8, “*Fighting in the Courts*,” that our author comes into his own as an exemplar of his own legal profession. He demurs from Ron Paul’s constitutional position. His treatment of Scalia (not so good) and Thomas (better) is not to be missed. If ever you wanted a guided tour from a master craftsman of U.S. and libertarian law, including the Necessary and Proper Clause, the Commerce Clause, the Due Process Clause, the Takings Clause, the Ninth and Fourteenth Amendments, FDR’s Supreme Court packing scheme, and fascinating side comments on the ideas of Randy Barnett, David Boaz, Clint Bolick, Robert Bork, Tom DiLorenzo, Richard Epstein (Huebert’s teacher at the University of Chicago Law School), John Hasnas, Gene Healy, Alex Kozinski, Robert Levy, William Mellor, Roger Pilon, Sheldon Richman, Murray Rothbard, Bernard Siegan, Lysander Spooner and Tom Woods, this is the place for you. One of my personal thrills in reading this entire book is that Huebert mentions, and comments on, so many, many libertarian theorists, far from only in this chapter. These, after all, are the important people in political economy, not those who appear in the ABC, NBC, CBS, Fox, *The New York Times* or *Newsweek*.

I regard Huebert’s chapter 9 on “*The Fight for Peace*” as his most important one. Why? For one thing, I was at the edge of my seat, at the *very* edge of it, cheering wildly for him as I read it. This author is a highly

competent professional lawyer, and his economics is impeccable, but when it comes to the writing of history (and not only in this chapter), he really outdoes himself. For another, it is a rare *libertarian* book (see above) that will even *touch* this subject with the proverbial ten foot pole. Huebert is to be congratulated not only for taking on this topic, but for hewing directly to plumb line libertarianism. As Ron Paul has often characterized blowback: They were here because we were there, *first*.

I don't have too much to say about chapter 10, "The Fight Against Intellectual Property." Our author does an excellent job of contrasting the correct view on this matter with those of Rand, Mises and Rothbard; he relies on the path-breaking work of Stephan Kinsella, to whom he gives full credit.

In chapter 11, "The Fight for Votes," our author has some very interesting things to say about Ron Paul's Campaign for Liberty, the Libertarian Party and the Free State Project. I do wish he would have distanced himself from those libertarians who think it is incompatible with their philosophy to vote at all. He also tackles books by Hoppe and Caplan on the subject of democracy, and does his usual superb job on them.

Full disclosure here. I am a good friend, mighty admirer of this author and several times co-author with him on libertarian articles. As such, I felt *compelled* to at least try to say something negative about this book. After perusing strenuously, I found several issues with which I might quarrel.

Our author states, without any modification whatsoever, "Libertarianism and war are not compatible." The context quickly enough seems to modify this so as to apply modern wars of mass destruction, mainly to the innocent. Even so, can there be no proper wars, even in the modern era, of secession, for example? Suppose, say, Vermont wishes to secede from the Union, as it has every right to do, not only under the U.S. Constitution, but, more importantly, under libertarian law. The federal government takes great umbrage at this insolence and launches a preemptive war against this ex-New England state, now new country. Must Vermont acquiesce? If they insist on separating, and fight back against the initiation of war by Washington D.C., can we not support them, and thus say that "Libertarianism and war *are* compatible." Huebert does say this, in mitigation: "The American Revolution is the probably the least objectionable war because it involved casting off an oppressive government and was targeted at that government, not at civilians back in England." I would go further, and claim that the American side of this war was justified; not, of course, the British. Ditto for the Southern side of the War Between the States, or the War of Northern Aggression, or the War of Southern Secession (no Civil War took place in 1861).

No, wait, I found something else to question in this book: Huebert appears to take the federalist vis a vis the centralist side in the debate over federal versus states “rights.” In contrast, I reject both positions. My own view is as follows: I favor liberty. When the federal government is more libertarian than a state, I approve of the former, relatively. When the state is more liberty-oriented than the central apparatus, I am partial to the state. For example, President Reagan once threatened to not send money to New York State, to which it would otherwise have been entitled, unless New York City rescinded its rent control. Since rent control is anti libertarian, I supported Washington D.C. vis-à-vis New York on that one. On the other hand, several states, such as California now allow medical marijuana. The Federales shut them down. Here, I defend the state versus the federal government, since the state’s action is more libertarian, in that people should have the right to use this drug. Yes, yes, if I *had* to, I would go along with Huebert and urge the decentralist position: when Louisiana violates my rights, it is a lot easier to move to Mississippi, than to locate to an entirely different country when the U.S. government does so. But, the point is, I do not *have* to make any such choice as a libertarian. Instead, I can have my cake and eat it too: I can root for Washington D.C., on the rare occasions when it acts in a more freedom-oriented manner than a given state, and invert my position in the face of the far more likely opposite situation.

Here is a third critique. I think that our author is a bit too soft on the 1969 Nixon Commission to end the draft, with Milton Friedman, W. Allen Wallis, Alan Greenspan as prominent members. Yes, yes, of course, no libertarian can support the draft. Period. But, no libertarian can support U.S. foreign imperialist wars such as the one in Vietnam at the time and thus cannot acquiesce in any institution that gives aid and comfort to that effort *either*. And, the voluntary military does *precisely* that. After all, when kids from Harvard and Yale get drafted, all bets are off; so much the worse for the war effort, which is exactly the desiderata of the libertarian. The proper libertarian position in this case is: a pox on both your houses (Block, 1969, 2010). We reject *both* the draft, of course, and *also* the voluntary military, when it is used for improper imperialist purposes.

I find the author’s use of inclusive language (“he or she” “his or her”) offensive. Apart from this, Huebert’s verbal presentation deserves to rank right up there with the scintillating writing of a Rothbard or a Hazlitt, and by saying this I can think of no better praise; this young man really has a *gift* for writing clearly and even beautifully. But with this stab in the direction of political correctness, our author shoots himself in the foot with regard to sheer readability. A shame, a pity. But, this might not be Huebert’s fault: the publisher may have insisted upon such language desecration, as many do.

Would I have told the publisher to take a hike? Maybe now, toward the end of my career, but certainly not when I was first starting out, as is Huebert. There is nothing anti-libertarian, after all, in purposefully ruining language.

But enough with the criticisms. They are directed at less than one basis point of this entire publication. In the nature of things, I regard them as mere oversights, not to say typos. Words fail me in my attempt to say how much I *welcome* this book. I tell you, for Huebert's sake, I am even willing to give up my long held stance of anarcho-capitalism. If the state would limit itself to *forcing* Huebert to write one book every year or so for the rest of his career, my qualms with it would be at an end (well, almost). This is a brilliant, magnificent book. It is the work of a libertarian genius, one who, happily, has many years, no, many decades, in which to make that signal contribution to libertarianism I have grown to expect from this young man. I am privileged and honored to be a member of the same libertarian movement as he. If the future of liberty is in the hands of young men such as this, I cannot help but be optimistic.

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