

Does Libertarianism Imply the Welfare State?

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The USA and Libertarianism

No one can seriously doubt that the United States of America is closely associated with the political thought of classical liberalism. It is this tradition of social thought that stresses some version of individualism, popular sovereignty, self-government, limitation on state power, the congruence of public and private interests, and the rule of law. Indeed, much of Western political life has come under the distinct and pronounced influence of classical liberal thinking, even as it has been combined with ideas about politics and law from different, even opposite, traditions. We must also note that there are many inconsistencies between classical liberalism and the actual political history not only of most liberal democracies but of the United States of America as well. Still, the legal principles and ideas comprising the American polity draw very heavily on the classical liberal system, one that sees individual liberty (or the rights to life, liberty and property¹) as the greatest public good, one the sacrifice of which is never justified as public policy. Among the principles and ideas included are negative individual rights, due process of law, private property, citizenship sovereignty, free markets, bans on involuntary servitude and self-incrimination, etc. While disputes do continue about just how closely Western style liberal democracies, especially the United States of America, are aligned with the classical liberal position, it is difficult to dispute that such an alignment is *prima facie* evident.²

In more recent scholarship that has developed the classical liberal tradition, the polity of that system had evolved into its narrower and purer rendition, libertarianism.³ Whereas the prominent versions of classical liberalism had numerous elements going beyond the sphere of politics -- e.g., a conception of value and of the individual, a distinct explanation of human motivation⁴ -- libertarianism, in contrast, is minimalist. It makes only the strictly limited claim that the institution, protection and maintenance of negative individual liberty is the sole justified purpose of politics and law. This conclusion might be reached by diverse philosophical and moral routes.⁵

Some divisions can still be found within libertarianism -- e.g., as to whether government is even needed for a decent society. Nevertheless, it is generally understood that if libertarianism were a sound political stance, the various types of activist governments -- characterized by their support either of policies that help various segments of the population (e.g., the poor, sick,

disabled, previously wronged, and certain professions such as scientists, artists, educators) or of various possibly but not essentially common purposes of the people (e.g., prosperity, health, education, the fine arts, culture, industrial progress, agriculture) -- would turn out to be unjust, improper.

So in the community of political philosophers libertarianism usually is seen as one of the contenders, competing? with varieties of socialism, the welfare state, fascism, communism, theocracy, etc.? for the status of the just or good human polity. It would not be a distortion to observe that libertarianism has not been the most favored of the candidates among contemporary political theorists, even while many find it necessary to contend with its various claims. Most, however, see the position as a distinct, albeit mistaken, political viewpoint.

The Charge: Liberty is not Enough

There is one argument, however which holds that libertarianism, if true, would imply the welfare state, a polity markedly different from libertarianism and one that most libertarian theorists explicitly repudiate.⁶ It is advanced by James. P. Sterba, who holds that from the different versions of libertarianism one must reach the conclusion that justice requires not the polity of negative individual liberty but, instead, that of substantial positive liberty, that is, the welfare state.⁷

Sterba has claimed that different libertarians such as Eric Mack, Douglas B. Rasmussen, and myself, as well as others, such as Jan Narveson and, before he recanted his libertarianism, Robert Nozick, quite unbeknownst to themselves present arguments that actually support the welfare state.⁸ He has advanced his views in numerous forums -- scholarly papers, introductions to collections of essays in political philosophy, his single author text in political philosophy, and in various essays he has contributed to volumes of collected contemporary essays on justice. The gist of his claim is that if one is a libertarian, one must, logically, support the welfare state.⁹

Sterba's argument, in summary, goes as follows: Libertarians defend negative liberty because they claim only if citizens possess such liberty or the right to it, can they act as bona fide moral agents. Yet there are many cases of individuals in society who, despite the protection of their negative liberty or the right to it, would not be capable of making significant moral choices because they are too poor to flourish, to even set out on a path of self-direction, let alone self-improvement.

Sterba lays out his cases as follows:

Since it would be unreasonable to ask or require the poor to sacrifice the liberty not to be interfered with when taking from the surplus resources of

the rich what is necessary to meet their basic needs, it is not the case that the poor are morally required to make such a sacrifice. [And] Since it would not be unreasonable to ask and require the rich to sacrifice the liberty not to be interfered [with] when using their surplus resources for luxury purposes, it may be the case that the rich are morally required to make such a sacrifice. [Since] What people are morally required to do is what is either reasonable to ask everyone affected to accept, or in the case of severe conflicts of interest, reasonable to require everyone affected to accept, ... the right to life and the right to property endorsed by [libertarians] actually support a right to welfare.¹⁰

In effect, Sterba asks the well known rhetorical question: How free can someone be who has no means to exercise liberty? And if one isn't free to act, one is not a bona fide moral agent -- "Ought" implies "can," so without the ability, there can be no moral agency. Which is to say, it would be unreasonable that the poor have the moral responsibility to act in such a way as to abstain from taking the surplus wealth of the rich and unreasonable, therefore, that the rich do not have the moral responsibility to provide for the poor (resist having their surplus wealth taken from them by the poor? e.g., via the government that taxes the rich so as to provide welfare for the poor). Because of this problem, Sterba argues, the libertarian must grant that at least some people in any society have a right to welfare, a right the protection of which government is established to secure.

Would the Free be as Poor as the Unfree?

I want to take at a crucial element of Sterba's argument. I will draw upon the latest rendition of his position which includes replies he has made to respondents to his earlier statements of his case. The central contention he adds in support of his argument is that the poor would be a significant presence in any society, something libertarians deny because they attribute innocent poverty to the anti-libertarian features of political systems. Only if he is right in claiming that a system that honors the rights to life and private property? e.g., by preventing the poor from taking any part of these? engenders innocent poverty, does Sterba have even the slightest chance of driving home his conclusion. In other words, only if it is true that in a libertarian system there would typically be many innocent poor and otherwise incapacitated people would it follow that by virtue of "'ought' implies 'can,'" unless these individuals had a general state-protected right to welfare? that is, to be forcibly provided with resources, including labor and skills, by other persons? a great many people under a libertarian system (i.e., many more than in a wel-

fare state) would fail to be able to exercise their negative individual rights to attempt to flourish in their lives.

This is crucial, for the libertarian argues that it is because people must have the liberty to attempt to flourish, to have a chance to try to do what is morally right, that a system of negative individual liberty or the right to it must be established. Here is the claim that is supposed to establish that within a libertarian system many people would have no chance for self-directed flourishing:

[W]ho could deny that most of 1.2 billion people who are currently living in conditions of absolute poverty “lack the opportunities and necessities to satisfy their basic needs?” And even within our country [USA], it is estimated that some 32 million Americans live below the official poverty index [\$14,000 per annum for a family, \$7,000 per annum for an individual], and that one fifth of American children are growing up in poverty. Surely, it is impossible to deny that many of these Americans also “lack the opportunities and resources to satisfy their basic needs.”¹¹

Sterba believes, then, that poverty is typical, including, we must assume, of libertarian societies. Without that assumption the story about poverty would have no bearing on libertarian politics because if the innocent poor are, in fact, more enabled under libertarian politics and law than under a welfare state, “ought” implies “can” is not undermined, comparatively speaking, under libertarianism.

Sterba, therefore, needs to argue, as he does, that in a fully libertarian system, which respects and protects only negative individual rights (to life, liberty and property), massive poverty would ensue -- it would be the typical situation for there to be great masses of poor people.

Libertarians dispute this point. Indeed, they are not pure deontologists regarding negative individual liberty or the right to it, for they believe that respect for and protection of it would produce a better life for most people, in all relevant respects (moral, economic, intellectual, psychological, cultural, etc.), provided they make an effort to improve themselves. They argue, in the main, that the most prosperous and otherwise beneficial societies are also those that give greatest respect and protection to negative individual rights. In turn, they hold, that where poverty is widespread, negative individual liberty is, in the main, left unrespected and unprotected.

Calling on History and Economic Analysis

This part of their argument is, for most libertarians, a fairly reasonable analytical and historical stance. They would argue, analytically, that it is the protection of negative individual liberty -- the right to free association, free-

dom of trade, freedom of wealth accumulation, freedom of contract, freedom of entrepreneurship, freedom of speech, freedom of thought -- that provides the most hospitable social climate for the creation of wealth.¹² While no libertarian claims that this guarantees that no one will be destitute, those who are poor would either have failed of their own accord or would have been the few unfortunate people who are innocently incapacitated and do not enjoy the benefit of others' generosity, charity, compassion, and similar supportive conduct. According to libertarians, there is no reason to think that there would be many such persons, at least compared to the numbers one can expect in societies lacking respect and protection for negative individual rights. Thus, even the most well known opponent of capitalism (the economic system of libertarianism), Karl Marx, was aware that unless human nature itself changes and the "new man" develops, socialism can do no more than to socialize poverty, i.e., make everyone poor.

As to the historical evidence, it is hard to argue that other than substantially capitalist economic systems, which tend in the direction of libertarianism (at least as far as the legal respect for and protection of private property or the right to it are concerned) have fared much better in reducing poverty than have others, without also causing massive political and other social failures (such as abolition of civil liberties, institution for forced labor and involuntary servitude, regimentation of the bulk of social relations, arresting scientific and technological progress, censorship of the arts and other intellectual endeavors, etc.). Thus, America is still the freest of societies, with many of its legal principles giving expression to classical liberal, near-libertarian ideas, and it is, at the same time, the most generally productive (including creative, culturally rich) of all societies with its wealth aiding in the support of hundreds of other societies across the globe. Barring the impossible-to-conduct controlled socio-political-economic experiment, such historical evidence is all we can adduce to examine which political economic system produces more poverty. No one can seriously dispute that the near-libertarian systems have fared much better than those going in the opposite direction, including the welfare state.¹³

Sterba Back With Some Numbers

In a forthcoming book of his Sterba has a chapter on libertarianism and here is what he says of relevance to our discussion:

Recently, however, Machan, seeking to undercut the practical force of my argument, has contended that when we compare economic systems to determine which produce more poverty. "No one can seriously dispute that the near-libertarian systems have fared much better than those going

in the opposite direction, including the welfare state.” Here one would think that Machan has the U.S. in mind as a “near-libertarian system” because earlier in the same paragraph he claims “America is still the freest of societies, with many of its legal principles giving expression to classical liberal, near-libertarian ideas.” Yet apparently this is not what Machan thinks since in a footnote to the same text he says, “It is notable that the statistics that Sterba cites ... are drawn from societies, including the United States of America, which are far from libertarian in their legal construction and are far closer to the welfare state, if not to outright socialism.”

Obviously, then, Machan is surprisingly unclear as to whether he wants to call the U.S. a near-libertarian state, a welfare state or a socialist state. Yet, whichever of these designations is most appropriate, what is clear is that the poor do less well in the U.S. than they do in the welfare liberal or socialist states of Western Europe such as Germany, Sweden, and Switzerland. For example, 22.4% of children live below the poverty line in the U.S. as compared to 4.9% in Germany, 5% in Sweden, and 7.8% in Switzerland, and the U.S. shares with Italy the highest infant mortality rate of the major industrialized nations. The U.S. also ranks 67 among all nations in the percentage of national income received by the poorest 20% of its population, ranking the absolute lowest among industrialized nations. Accordingly, the success that welfare liberal and socialist states have had, especially in Western Europe, in coming close to truly meeting the basic needs of their deserving poor should give us good reason to doubt what Machan proclaims is the superior practical effectiveness of “near-libertarian states” in dealing with poverty.¹⁴

Some Libertarian Reflections on Sterba's Numbers

Let me take Sterba's various points in turn. I will do so by calling upon the work of some scholars, ranging from economists and literary critics to medical researchers who have read Sterba's comments and offered their reflections about them. (At the end of their remarks I shall give the scholar's name in parenthesis.)

To start with, from what I understand, Western European unemployment is terrible, which pretty much suggests that there are greater troubles there than here, except perhaps in some special areas. To evaluate the relationship between the protection of negative liberty -- e.g., property rights, religious freedom, freedom of expression -- and the condition of the poor one would need, I believe, some analysis of what have the poor done to avoid poverty and could not do because of negative liberty, how many would be

poor were it not for (a) protection of negative liberty or (b) protection of positive freedom (e.g., taking from the rich in taxes and providing for the poor). In international affairs there are other matters to consider: Sweden, for example, had a fairly robust welfare state until recently but now is suffering from very serious economic shortfalls. Why? And when it did have a robust welfare state, did it not benefit from American military defense provisions against the USSR which it would have had to fund from taxes that were available for welfare given that the costs of defense was born by the USA. Furthermore, the explanation of the malaise you document in the USA is certainly quite possibly something other than the somewhat libertarian attributes of the US economy. (By the way, although Sweden has been a robust welfare state, it has no anti-trust laws curtailing big business, which gives it certain libertarian -- unfettered competitive -- conditions lacking in the USA and may have its economic consequences that could amount to making it better off for that reason.) I am not very confident, by the way, that there are decisive consequentialist arguments to establish the superiority of one system over another. Indeed, because human beings are free to choose, they may not do their best in a free society all of the time, while coercive systems may scare them badly enough so that they may work harder now and then -- the Nazi's and Fascists of Germany and Italy proved that under a tyranny one can achieve some economic benefits. But it is doubtful that those suffice to make them better systems than free societies in which perhaps the roads aren't so good and the trains aren't so punctual. (Tibor Machan)

Now to the claim that “the US shares with Italy the highest infant mortality rate of the major industrialized nations.” The story goes like this: infant mortality = kids who die/kids who are born. Because of superior medical care, many of the kids who would die at or before birth make it through alive in the US. Thus, the denominator in “infant mortality” in the US includes a lot of kids who aren't in that denominator elsewhere. This is, one presumes, A Good Thing. However, since these kids are, almost by definition, high risk babies, a lot of them end up dying soon after birth. Voila: higher infant mortality! (Indeed, the infant mortality rate will be higher as long as a greater proportion of the “extra” kids die than of the “ordinary” kids. Given the problems facing these kids, this seems almost inevitable.) Put another way, it's dangerous to compare these statistics across countries because they really aren't measuring the same things: there are people in the US statistics who just don't make it into the statistics in other countries. Moreover, it's hard to “correct” the data so that they do measure the same things. For instance, you don't want to compare births per pregnancy across countries,

since that also reflects the number of pregnancies that are aborted. And, since abortion are often in response to fears about the health of the infant, you can't just take them out of the mix, since they include some potentially sick infants. (A. R. Rutten)

Furthermore, among Sterba's contentions that is the idea that the poorest segment of the US population receives less of the "national income" than the poorest segment of the population in other countries. I don't know if this is true. If it is, part of the explanation may lie in the inability that many people in other countries encounter in attempting to rise very far above poverty.

Consider two countries, each containing a million people. In country A, the average income is \$1000 a year. The top 20% of the population earns an average of \$2000 a year, for a total of \$400 million. The middle 60% of the population earns an average of \$833 a year, for a total of \$500 million. The lowest 20% earns an average of \$500 a year, for a total of \$100 million. So the lowest 20% of the population earns 10% of the national income, which is \$1 billion.

In country B, the average income is \$30,000 a year. The top 20% of the population earns an average of \$50,000 a year, for a total of \$10 billion. The middle 60% of the population earns an average of \$30,000 a year, for a total of \$18 billion. The lowest 20% earns an average of \$10,000 a year, for a total of \$2 billion. So the lowest 20% of the population earns 6.67% of the national income, which is \$30 billion.

Country A is sort of like Haiti. Country B is sort of like the US. Which country would you rather live in? Which country would you rather live in, even if you were among the poorest 20% of the population? (Stephen Cox, UCSD, Literature)

Furthermore, here are a few points to remember about Sterba's statistics. Most importantly, statistics about how many people live "below the poverty line" are meaningless until we know what the country in question decrees to be the 'poverty line'. European countries draw these lines at more reasonable levels than we do. "Poor" doesn't mean poor in North America; it means, rather, than the official, reported family income of the individual in question falls below some percentage of the average. By such a criterion it is logically necessary that any country with any income distribution other than absolute equality would have to have a lot (whatever the official percentage is decreed to be) of "poor" people. This is nonsense, of course. Sterba is interested in substance -- in a family's ability to meet "basic needs" -- things like VCR's, multiple TV sets, air conditioners, and the other things that are obviously necessary for modern life, right? As the points made below make

clear, the American poor do very well on all those fronts, and better, by far, than anybody else. Note too that, as pointed out below, the American poor have the interesting property that they spend almost twice as much as their reported incomes!

The American “poor” (hereinafter this term means that their family income is below the officially decreed poverty line) have the highest incidence of car ownership in the world -- by comparison with the whole other country, not just the “poor” in that country (this holds for all the other measure noted: always, we are comparing the American poor with other whole countries), except Germany. They have a higher incidence of two-car ownership than any other country, including Germany. They have by far a higher incidence of indoor plumbing, water, refrigerator, and range than any other country in the world. Their nutritional figures don't differ significantly from those of any other “class” in the U.S., including the rich. “Officially poor US households, with .56 persons per room, are less crowded “today” [1987 was the date of the figures used in that report] than the *average* West European household in 1980. By contrast, the average Japanese household has .8, the average Uruguayan 2.1, the average Indian 2.8 persons per room. (Remember, again: these are comparisons between US poor and average other persons overall, not other-country “poor”.) Nearly a third of U.S. “poor” had microwaves in 1987 (it's undoubtedly far more today); almost a third had two or more color TV sets. The average American poor person is more likely to own a color TV than the average person in France, West Germany, or Italy. 81% had telephones. American poor in 1987 spent an average of 80% as much on food as the median American household, and 32 percent of that was spent in restaurants (!). The average American poor person consumes more meat per person than the average citizen of any other country (a third more than West Germany, which was the next highest in the world -- I assume that Canada was not counted for this purpose; I would think that this figure is similar in Canada to what it is in the U.S.).

Chris Sarlo, at the end of a very careful, fair, and exhaustive study, concludes that “It is almost certain that less than 2% of Canada's population lives in poverty.” This is taking into account the costs of balanced nutrition, housing, sanitation, transportation needs, and so on. He notes that a senior couple who own their own home outright and have a family income of \$14,000 are accounted “poor” by the Canadian statistical profile. This is simply absurd. There is no reasonable substantive criterion by which such a couple can be accounted “poor”; by world criteria, such a couple would have to be accounted comfortably off; its real income is far, far, far above the

the median for the world, for example.]). For the situation in Canada, see Chris Sarlo's book, *Poverty in Canada* (Fraser Institute, 1992. A new edition of this is coming out with updated figures soon.) It's the same general story as in the U.S..

When first established in the early 1960's, the US poverty income threshold for a family of four was nearly 30 times greater than the median per capita income in the entire world. The American Census Bureau's survey of consumer expenditures shows that low-income households spent \$1.94 for every \$1.00 in income reported to the Census. Further, the Census ignores the entire US welfare system when calculating incomes of poor Americans. Since most of those "poor" get Food Stamps, Medicaid, and so on, this makes a huge difference. In 1987, the unreported income of the "poor" per family ran to about \$9,000; adding that to their average reported incomes doubles the figures, roughly -- leaving the American poor with a median income almost equal to the average income in all of Canada in that year, I believe. This is far higher than any other country in the world. (See "How "Poor" are America's Poor?" by Robert Rector, in Julian Simon's new anthology, *The State of Humanity* [Blackwell, 1995].)

Thomas Sowell also points out that the American "poor" in year x tends to contain an almost entirely different class of actual individuals than in year $x + 10$, or $x - 10$. (See *The Vision of the Anointed*, which is not in front of me at the moment, but I recall one pertinent figure: that 78% of the individuals in the lowest 20% in some year were in the middle or even upper classes 10 years later. Sowell pointed out that by the criteria being employed, Stanford, California was a "poor" area, much worse off than East San Jose (I forget the exact name of the town -- you can check it in the book), a predominantly working-class town with a lot of people whom one might suppose to qualify as "poor"....(Jan Narveson, U of Waterloo, Philosophy)

Jan Narvason makes the following observations that is worth considering in this discussion:

Jim Sterba, like most writers trying to make an issue about the condition of the 'poor,' has been taken in by the official figures, and not even by any means all of those. He does not take seriously the political interest that officials have in exaggerating reports of poverty and any other evil that politicians think they can use to sell political programs for 'rectifying' those evils to the people whose votes they seek.

It can still be plausibly be argued, by the way, that if there had been no American welfare system at all, the American 'poor' would still be even better off today, even in purely material terms, than they are, taking their

government benefits into account. [In terms of “spiritual” welfare, that is, real psychic well-being in other respects, there is no comparison. In the hard-core cases which are built entirely on the American welfare system, which reinforces the destruction of the family, production of illegitimates, use of hard drugs, violent crimes, and so forth, genuinely poor people in most of the world are probably much better off. But that's another matter.] The point is that there is no substance to the claim that America is a country with a vast “poor” population.¹⁵

Allowing that the official statistics on poverty cited by Mr. Sterba are accurate given the definitions used, one has to consider the underlying definitions before drawing any policy conclusions. For example, it is well known that official U.S. poverty statistics define poverty in terms of monetary earnings: a family that earns less than X dollars per year is said to be below the “poverty line.” Such a definition (which is contrary to both economic theory and common sense notions viewing poverty as a stock concept, referring to a low level of “wealth”) is problematic in two respects. First, many individuals (retired persons especially) live on very modest annual money earnings, yet have substantial wealth, e.g., they own their decent houses outright. Quite a few such persons are very misleadingly included among the “poor” in official statistics.

“Income” measures of wealth also do not include real or in-kind transfer payments, e.g., the value of subsidized housing, foodstamps, and so on.

This last fact points to an irony in conventional “anti-poverty” measures: because the state defines poverty in terms of low *monetary* earnings, but addresses the poverty problem mainly through in-kind transfers, it logically follows that the “war on poverty” can never succeed! No matter how much you subsidize housing and consumption via real transfers, the beneficiaries remain just as “poor” according to official statistics. Moreover, any increase in the welfare roles represents an increase in poverty even if the persons affected consume just as much as before!

Could it be that welfare bureaucrats like this arrangement, which assures that there will always be a poverty problem to keep them gainfully employed? Perhaps. But even if this cynical view isn't justified, the fact remains that official poverty statistics have to be taken with a grain of salt. (George Selgin, U of Georgia, Economics)

Another way to pose a serious objections is to note that the numbers are basically true but the key question is do they actually mean anything. The SINGLE greatest predictor for children living in poverty is children living in a single parent household headed by a female (which is > 90 % of all single

parent households. The U.S. has a significantly higher rate of single parent households (9%) compared to Denmark (4%), Sweden (3%), Germany (7%). There are two significant contributors to the higher rate of single parent households. One is divorce, the divorce rate per 1,000 married women is 21 in the US, compared two 11 in Canada, 13 in Denmark, 2 in Italy, 12 in the UK. The second is the incidence of teenage motherhood which is much higher in the U.S. compared to any other European country, Canada etc. [Unfortunately I can't find the numbers for Europe but the rates in the US are 0.5 live births per 1000 women under 15 for white women, 4.9 live births for black women and 2.4 for Hispanic women. For women in the 15-19 year old age the numbers are 43.4 for whites, 216.7 for blacks and 106 for Hispanics. As I recall the rates for European countries are generally lower than the rates for the white teenage population in the US.] As to infant mortality -- when you compare rates in industrialized countries it's a pretty useless statistic. The infant mortality rates in Europe, the US, Australia, Canada, cluster between 6-8 per 1000. The rate in the US was 7.9 in 1995. It was 7.1 in Australia, 6.9 in Austria, 8.4 in Israel, 7.0 in the UK. This needs to be compared to Africa where most rates are over 100, South America (Argentina = 28.8, Brazil=57.2).

So the rates in “Western” countries are actually quite low. Add to this the high rate of teenage pregnancy in the US (teenage pregnancies have higher infant mortality than 20-29 year old pregnancies) and the US rate looks quite good. Then add another fact -- in this country a baby born at 26 weeks will be treated as a “live-born” infant. Most countries don't even attempt to treat infants with that degree of prematurity. So infant mortality, which seems like a simple statistic, is in fact rather complex. Unless one compares similar populations -- age, income, prematurity, one is comparing apples to oranges.

I don't have the data on the relative rates of income for the different rates of the population, but again even if the US is 67th, what's this mean? In most European countries the “basics” cost a lot more than they do in the US. This means things like food and clothing are more expensive and require a greater fraction of income to buy. The US is lowest, worldwide, for the percent of total private income spent on food -- 8.3 % compared to 15 % in Denmark or 16.3 % in France or 19 % spent in Switzerland. Along these lines the amount of time it takes to buy a “standard meal” is 2:35 in Washington DC, compared to 5:20 in Paris, 3:52 in London or 4:42 in Rome. So maybe these countries re-distribute income better. But if it takes more income

to by necessities the redistribution may not be all that helpful. (Eleftheria Maratos-Flier, Harvard Medical)

Yet another thing to consider is that the US is a large and heterogeneous country that is being compared to smaller and more homogeneous countries. Income inequality is greater in Europe, for example, than it is in Germany, or Switzerland, or Italy, or any other individual nation. Conversely, there is less income inequality in California, or Ohio, or Mississippi, or Arkansas, than there is in the US as a whole. When the poverty line is drawn by comparing those at the bottom end of the income distribution to the rest of the distribution, larger and more heterogeneous populations will have more apparent poverty simply because of the way the statistics are compiled. (Randy Holcombe, FSU, Economics)

It does not appear, then, that Sterba has used his statistics very wisely, certainly not sufficiently so as to make a convincing case for the position that Western European countries with greater government welfare services than the United States of America have attained a better standard of living, especially for those Sterba calls their poor. Indeed, this seems to confirm common sense: the number of people attempting to gain entry into the USA continues to be considerably higher than those aiming to emigrate to other societies.

Do Libertarians Lack Compassion?

There is another point to be stressed, though, which Sterba has not taken into consideration. This is that there can be people in a libertarian society -- indeed, in any society -- for whom lacking wealth, even being very poor relative to the mean, may not be a great liability. No everyone wants to, or even ought to, live prosperously. For some individuals a life of ostensible poverty could be of substantial benefit. Contenders would be monks, hobos, "starving artists," and the like, who despite the protection of their negative liberty or the right to it, do not elect to seek economic prosperity, at least in preference to other important objectives. Among the citizens of a libertarian society, then, we could find some who are poor but who are not, therefore, worse off than the rich, provided we do not confine ourselves to counting economic prosperity as the prime source of well-being.

At one point Sterba suggests that libertarians, because they do not see the need to affirm as a principle of justice the right to welfare, may not care sufficiently for the poor. As he puts the point: Machan seems reluctant to take the steps required to secure the basic needs of the poor. Why then does he balk at taking any further steps? Could it be that he does not see the oppression of the poor as truly oppressive after all?¹⁶ And there is perhaps

something to this, although not in the way Sterba's rhetorical question suggests, namely, that libertarians are callous or uncaring where the cultivation of care is warranted. But it is true enough that just being poor does not necessarily warrant being cared for, just as simply being sick does not place upon another the obligation to help, if the sickness is the result of self-abuse, gross negligence, or that of an thoroughly evil person.

Furthermore, some artists who are poor are happier than some merchants who are rich. And there is no justification for feeling compassion for such artists, despite their poverty. In short, being poor in and of itself does not justify special consideration.¹⁷ Being in need of what it takes to attain one's well-being warrants, if the need is a matter of natural misfortune or injury from others, feelings and conduct amounting to care, generosity and charity. Poverty does not always constitutes such neediness.

Nevertheless, Sterba may also underestimate what Marxists might call the objective generosity or charity of libertarians. If one considers just how much greater the long range prospects for economic well being are for everyone within a libertarian political economy, how benevolent for people it is not to be cuddled and treated as if they were inept in attaining prosperity, thus fostering institutional conditions within which they will probably be much better off than they would be in any welfare state -- which seems clearly to encourage long-range economic ineptitude and dependence -- the libertarian could well be regarded as the political theories with the greatest concern for the poor.¹⁸

Libertarianism Does not Imply the Welfare State

It seems, therefore, that James Sterba hasn't made his case for his main contention, namely, that libertarianism implies the welfare state. And the reason is that he has failed to appreciate the analytical and historical context within which libertarianism is argued. But there is more. Sterba has also failed to appreciate that although in some cases a person might not be required to respect the negative individual rights all citizens have -- e.g., in some rare case of helpless destitution -- nothing follow from this regarding the rights that everyone in society has by virtue of being a human individual living in a community of other human individuals. As Rasmussen and Den Uyl so carefully argue, the polity of negative individual rights is a meta-normative system or, in other words, a political *framework* within which human beings normally would and should pursue their highly varied flourishing. It does not function as a solver of all human problems, nor even moral ones. There are many problems we face, vis-à-vis our health, economic solvency, educational development, artistic fulfillment, scientific progress, recreation

and so forth, that cannot and should not be attempted to be addressed via law and public policy, however urgent these problems may seem and however tempting it may appear to be to use the force of the state to solve them. The law has the concept of “unnecessary force” to indicate when police officers sacrifice due process out of urgency or over-enthusiasm. Political theory, too, needs to heed this temptation. The few instances in which we do not find the conditions, to quote Locke, “where peace is possible”¹⁹? and wherein, thus, there may be a moral requirement to disregard others’ negative rights? do not justify abrogation of the system of justice that does, in fact, best suite human beings in their communities.

Endnotes:

¹ I will be speaking about both of these formulations throughout this paper, although I consider the one drawn from the Lockean tradition the more successful one based, as it is, on considerations of rights not on the supposedly neutral or descriptive state of negative liberty.

² Bernard Bailyn's work makes the case for this most comprehensively. Charles Beard and C. B. Macpherson do not so much deny America's classical liberal legacy as proclaim its disingenuousness.

³ Those who have helped with this include Ayn Rand, Murray N. Rothbard, John Hospers, Robert Nozick, Jan Narveson, Douglas B. Rasmussen & Douglas J. Den Uyl, Eric Mack, Roger Pilon, and myself.

⁴ Although there are different foundations supplied to the polity of liberty among classical liberals? e.g., natural law, utilitarian, neo-Hobbesian (*homo economicus*), etc.? the most prominent of these tends to be invoked in the political-economic version of the position. It involves a utility maximizing view of human behavior, subjectivism in ethics, and the night-watchman state.

⁵ As a political position, libertarianism could be approached from varied philosophical paths; those who do reach it from some given position do, of course, hold that theirs is *the* sound argument for this political system. But in this respect libertarianism is akin to other non-totalist political positions: as a democrat or republican one does not always commit oneself to the most successful philosophical defense that might be advanced in support of the political stance one takes. This is true even if in fact there is a sound case to be made *via* just one coherent philosophical route. And in certain regions of jurisprudence and public policy it may well make a significant difference just what are the philosophical origins of one's politics. For a brief statement of several of the arguments for the crucial elements of the polity of libertarianism, see Chapter 1, "Varieties of the Freedom Philosophy," of Tibor R. Machan, *The Virtue of Liberty* (New York, Irvington-on-Hudson: The Foundation for Economic Education, 1994).

⁶ The one exception might be Jeffrey Friedman, editor of *Critical Review* and someone who appears to embrace what he calls "post-libertarianism," what I take to be an uneasy hybrid of libertarianism and the welfare state based on the view that political ideas need to be defended on purely consequentialist grounds and that sometimes the protection of the right to individual liberty may not yield the best possible consequences for society.

⁷ Sterba has advanced his views in many forums, including his introduction to a book he edited, *Justice: Alternative Perspectives* (Belmont, CA: Wadsworth Publ. Co., 1991), several papers for scholarly journals such as *The Journal of Social Philosophy*, *Social Theory and Practice* and *Ethics*, his contribution to the volume he organized, *Morality and Social Justice* (Lanham, MD: Rowman & Littlefield, 1995), another volume he edited, *Social and Political Philosophy* (Belmont, CA: Wadsworth Publ. Co., 1995), and his single author volume on political philosophy, *Contemporary Political and Social Philosophy* (Belmont, CA: Wadsworth Publishing Co., Inc., 1995). Some of these discussions are repeated nearly verbatim, although when others respond Sterba attempts to address the new or reiterated twists in their arguments.

⁸ Mack has presented his views in various papers and collections of essays (e.g., in Tibor R. Machan, ed., *The Libertarian Alternative* [Chicago: Nelson-Hall Co., 1973], *The Libertarian Reader* [Lanham, MD: Rowman & Littlefield, 1982], and Tibor R. Machan and Douglas B. Rasmussen, eds., *Liberty for the 21st Century, New Essays in Libertarian Thought* [Lanham, MD: Rowman & Littlefield, 1995]); Rasmussen and Den Uyl present their position in *Liberty and Nature, An Aristotelian Defense of Liberal Order* (LaSalle, IL: Open Court Publ., 1991); Machan's case is to be found in *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), *Individuals and Their Rights* (LaSalle, IL: Open Court Publ., 1989), *Capitalism and Individualism* (New York: St. Martin's Press, 1990) and *Private Rights, Public Illusions* (New Brunswick, NJ: Transaction Books, 1995); Jan Narveson lays out his arguments in *The Libertarian Idea* (Philadelphia, PA: Temple University Press, 1991). And Robert Nozick explains his (by now repudiated) reasons for libertarianism in *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

⁹ In many of his essays, some of which included responses to my criticism of his earlier rendition of his thesis, Sterba makes ambiguous use of the concern of "liberty." For example, he says in one of these essays, "My contention is that in such situations [where negative rights cannot be secured because, to quote H. L. A. Hart's paraphrasing of John Locke, it is not a situation "where peace is possible"] the liberty of the poor has moral priority over the liberty of the rich despite the fact that the rich usually have the power

to enforce a resolution favoring themselves.” James P. Sterba, “A Brief reply to Three Commentators,” in Christopher Gray, ed., *Philosophical Reflections on the United States Constitution* (Lewiston, NY: The Edwin Mellen Press, 1989), p. 197. Is this negative or positive liberty? It seems to be positive liberty in the case of the poor, negative liberty in the case of the rich. The poor have negative liberty in that no one is preventing them from pursuing their ends? this is done through their unfortunate circumstances (poverty, illness, ignorance, etc.). What they lack is positive liberty? i.e., being enabled to do what they want or ought to. Yet Sterba seems oblivious to this ambiguity, making it appear that the liberty the poor lack is the sort that he favors violating when it comes to the rich. Indeed, Sterba’s focus should be on whether the rich really own what they are said to have property rights to, not on liberty at all. He seems to believe that when some lack what they (seriously) need, they come to own what others have but do not (seriously) need.

¹⁰ James P. Sterba, “Reconciling Conceptions of Justice,” in op. cit., Sterba, *Morality and Social Justice*, pp. 7-10.

¹¹ Op. cit., Sterba, *Morality and Social Justice*, p. 15. There is little discussion in Sterba’s work of why people are poor or otherwise experience circumstances that afford them little or no opportunities for flourishing. Among libertarians, however, there is considerable agreement on the position that many who face such circumstances make significant contribution to their plight. Certainly, libertarians draw a sharp distinction between those who are in dire straits because they are unfortunate, through no fault of their own, and those who fail to act in ways that would probably extricate them from their adverse living conditions. In the philosophical literature which draws on the legacy of Marx and Engels and their followers, this distinction is not easy to make, since in this tradition human behavior is taken to be determined by a person’s economic circumstances. So one is bound by one’s situation and cannot make choices that would overcome them. More generally, in modern political philosophy there has been a strong tendency to view human beings as passive, unable to initiate their own conduct, moved by innate drives or environmental stimuli. Thus those who are well off could not have achieved this of their own initiative, nor could those who are badly off failed in significant ways. Accordingly, all of the poor or badly off, be they victims of others’ oppression, casualties of misfortune or products of their own misconduct are regarded alike. It is not clear how much Sterba’s reasoning may be under the influence of these considerations. In the absence of significant discussion of the matter, it is understandable why Sterba appears to view life as largely a zero sum game.

¹² Here most libertarians would invoke views drawn from philosophies of human nature, action theory, motivational psychology, etc. In the main, libertarians embrace the position that when human beings are not kept in subjugation, they will tend to work toward their improvement, regardless of where they are on the continuum between destitution and abundance. Libertarians differ on the details, of course, with some subscribing to a neo-Hobbesian idea about what leads people to act, while others to an agency view drawing from Ayn Rand and others. Some embrace the Hayekian notion of natural evolution. None accept what seems to underlie many statist positions, namely, that most people are congenitally passive, even when they are not actively kept in subjugation. On this view, of course, neither the poor (and some among them who are lazy) nor the rich (and some among them who are greedy) are personally responsible for their economic position in life. Nor, of course, can those who resist Sterba’s analysis be blamed for possible moral blindness (a charge implicit in some of what Sterba has said about libertarians), since they, too, presumably are the way they are because for circumstances beyond their control.

¹³ It is notable that the statistics Sterba cites are drawn from societies, including the United States of America, which are far from libertarian in their legal construction and are far closer to the welfare state, if not to outright socialism. It is surprising why Sterba does not consider that perhaps what accounts for those statistics is the absence of libertarianism, given that there is ample historical evidence for the impact of socialism on the economic conditions of the members of various societies around the globe. Seeing, then, that socialism does not improve the general welfare and the welfare state leaves a great many people badly off, a not unreasonable alternative would be that greater stress on the protection of negative individual liberty would promise the results Sterba desires.

¹⁴ Sterba’s last comments were sent to me by him via e-mail in June, 1996.

¹⁵ These were posted on the “libprof” list on the Internet. The other comments, too, came from a discussion conducted on that list during the month of June, 1996.

¹⁶ Op. cit., Sterba, “Liberty and Welfare,” *Ethics*, October 1994, note 34. Of course, Sterba begs the question when he asserts that the steps he recommends are the ones “required to secure the basic needs of the poor.” When one considers that the positive right to welfare Sterba advocates comes to nothing less than the legal institution of forcibly taking from people what they have obtained through their own work and/or voluntary exchange? that is, coercion? it is clear that Sterba claims that theft ought to be legalized for certain cases. The libertarian disputes that this is sound jurisprudence or public policy. A national policy of subjecting all those who do reasonably well in their lives to involuntary servitude seems the farthest thing from what is required to secure the basic needs of the poor. Instead structural reform, encouraging work and occasional charity, would appear to be more productive all around.

¹⁷ This may account, in part, for the indignation felt by some poor when they are offered help. Their dignity has been offended, for they know that their poverty follows from their conscious or implicit choices, ones they find and which may indeed be fully justified.

¹⁸ Sterba seems to me to fail to appreciate the difference between meaning (or intending) and doing good. Sterba’s implied charge gains its moral force from what seems to me a misunderstanding of morality along certain Kantian lines where what counts is how intensely one cares or wants things to turn out well, never mind whether they will actually do so. So called tough love, for example, which is concerned with consequences, often in opposition to *showing* care and considerateness, has no place in such a moral framework.

¹⁹ See not #9, above. Quoted in H. L. A. Hart, “Are There Any Natural Rights?” in A. I. Melden, *Human Rights* (Belmont, CA: Wadsworth Publishing Company, Inc., 1970), p. 61, n.2.