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# The Conservative-Liberal Alliance Against Freedom

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JEFFERSON M. FISH

The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.

— John Stuart Mill, *On Liberty*

Political language—and with variations this is true of all political parties, from Conservatives to Anarchists—is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind.

— George Orwell, “Politics and the English Language”

Conservatives and liberals make different assumptions about the ways in which social policy affects the behavior of individuals. In their interpretations of these assumptions, however, those I shall refer to as *libertarian conservatives* and *civil liberties liberals* have a common interest in promoting individual freedom. Unfortunately for anyone interested in the preservation of individual freedoms, libertarian conservatives are a minority among conservatives, and civil liberties liberals are a minority among liberals. Concomitantly, an often overlooked convergence of action between the *social conservative* and *social liberal* majorities (as I refer to them here) results in ever-increasing limitations on personal freedom in the United States.

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Jefferson M. Fish is a professor of psychology at St. John's University.

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The culture wars have so polarized discourse between conservatives and liberals that it is difficult to step back from the fray and see a pattern in the ways supposed opponents on both sides of many issues have actually been cooperating (implicitly or explicitly) to achieve common ends. My point in this article is to draw attention to this pattern—as Gestalt psychologists would say, “to bring the ground into the figure.” I write in the hope that besides helping readers see matters in a different perspective, I might lead some conservatives to give greater weight to their libertarian inclinations and some liberals to strengthen their commitment to civil liberties.<sup>1</sup>

### Four Ideological Types

Here, in schematic form, are simplified descriptions of the four positions on individual freedom relevant to understanding the alliances:<sup>2</sup>

*Libertarian conservatives* believe that attempts to restrict individuals’ freedom are counterproductive and that we should not intervene to help those who make poor choices because such intervention only protects them from the consequences of their actions.

*Civil liberties liberals* believe that we should allow people the freedom to experiment and that we should intervene, with a social safety net, only to protect them from destitution.

*Social conservatives* believe that we should intervene systematically to punish people for poor choices so that others will not imitate them.

*Social liberals* believe that we should protect people by intervening systematically to punish those who are potentially harmful influences.

As these descriptions make clear, libertarian conservatives and civil liberties liberals agree on maximizing individual freedom (though for different reasons, including differences on economic policy). The descriptions also call attention to the less obvious agreement between the social conservative and social liberal majorities on the punitive use of governmental coercion to limit freedom (though they, too, differ on economic policy).<sup>3</sup>

### Ideological Convergence in Support of the Drug War

I first became aware of what appeared to be a political anomaly nearly a decade ago while working with a disparate group of colleagues to seek alternatives to our current

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1. Anthony Gregory (2004) expresses a similar sentiment.

2. Maddox and Lilie (1984) present a classification that is similar in many ways, though different in others. Their categories, in parallel order to mine, are libertarians, liberals, conservatives, and populists.

3. In discussing some of issues raised in this article, a blogger, self-identified as “Independent George” (2004), makes the trenchant comment that “commerce is to the left as sex is to the right.”

drug policy (Fish 1998, 2000). To my surprise, despite differing political philosophies, party affiliations, social class origins, educational backgrounds, and personal lifestyles, we all shared a common view of the counterproductive nature of the war on drugs. (In a nutshell: the great majority of ills ascribed to “drugs” are actually caused by the black market created by drug prohibition; the more *successful* the war on drugs is in making the drug trade a dangerous business, the greater are the profits because of the increased prices and hence the greater the incidence of disease, corruption, social disorder, and death.) Drug policy seemed to be an isolated island where conservatives and liberals shared common beliefs and values and could work together in harmony toward common ends.

After a while, however, I began to reconceptualize our conservative-liberal unity as existing in opposition to a broad prohibitionist social consensus. We were not simply a minority in opposition to the rest of the U.S. population; we were a minority in opposition to a majority conservative-liberal alliance on this issue. The mass media did not portray the politics of drug policy in this way. Politicians used it as a “tough on crime/soft on crime” touchstone, with Republicans accusing Democrats of being soft on crime, and the two parties competing with each other by proposing poorly thought-out and escalating penalties for an ever more broadly defined array of criminalized activity. In other words, predominantly male conservatives supported politicians who portrayed themselves as tough and as cracking down ruthlessly on immorality while portraying liberal politicians as “weak sisters” and “me-too, catch-up drug warriors.” Missing from this depiction was any sense that the liberal politicians were playing to a different, predominantly female audience with different social concerns.

We can see evidence of this difference in polls demonstrating the gender gap and the marriage gap. Liberals cater disproportionately to a female constituency, especially never-married, separated, and divorced women, and conservatives cater disproportionately to a constituency of men and of married women who are not in the workforce. For example, in its study of the gender gap, the Center for American Women and Politics found that women, as compared to men, are “more supportive of programs to guarantee quality health care and meet basic human needs<sup>4</sup> [and are]...more supportive of affirmative action and efforts to achieve racial equality” (1997).<sup>5</sup> With regard to the marriage gap, a Zogby poll (September 29, 2004) during the recent presidential campaign found that “a *Marriage Gap* emerges among women voters—single women are backing Kerry/Edwards by a 2-to-1 margin (66% to 34%) while married women favor Bush/Cheney by 11 points (52% to 41%). Mar-

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4. For example, an August 1996 poll by the Lake Research Center for Policy Alternatives asked, “In your view, should more be done to expand the availability of good, affordable child care, or is this something better left to families and individuals?” Respondents’ support for “do more”: women, 63 percent; men, 41 percent.

5. For example, a question from a September 1996 *New York Times*/CBS poll asked, “Should affirmative action programs be continued or abolished?” Respondents’ support for “abolished”: women, 36 percent; men, 52 percent.

ried women whose husbands manage the bulk of financial decisions in their household are for Bush/Cheney over Kerry/Edwards (73% to 23%). These margins hold in other questions in the poll.” A review of the election results produced similar findings (Greenberg and Berkstol 2004).

If predominantly male social conservatives want to limit freedom in order to attack immorality and crime, predominantly female social liberals want to limit freedom in order to protect women and children. These liberals are concerned with issues related to rearing children—itsself a full-time job, requiring many hours per week. In the United States today, with an enormous number of two-career and single-parent families, the time needed for optimal, adequate, or even minimal child rearing is extremely scarce.

The liberal politicians’ response has been to assuage voters’ guilt over sacrificing child-rearing time to paid work by exaggerating, distorting, dramatizing, and attacking dangers to children (such as drugs and sexual abuse) from which parents are too busy to protect their children. Rather than the tough, masculine message, “Lock up the bad guys and throw away the key,” we have the more sensitive, feminine message, “Save our children (by locking up the bad guys and throwing away the key).”

Talk about strange bedfellows—angry reactionaries and politically correct feminists!

### **Ideological Convergence in Support of Other Punitive Policies**

The conservative-liberal alliance is also evident on issues other than drug policy. For example, in attempts to limit freedom of expression concerning sex on television, radio, and the Internet, social conservatives attack immorality, and social liberals use the protection of women and children as their justification. This odd alliance has produced laws with such noble titles as the Communications Decency Act and the Child Online Protection Act. As these titles indicate, limitations on freedom are always justified by some supposedly greater social good.

Social conservatives say, “Sex is bad. Don’t do it (except after marriage); keep it out of the media and off the Internet; don’t talk about it at work or in public; don’t teach our kids about it in school.” Social liberals say, “Sexism is bad. Don’t allow sex to be used to exploit women or children; keep sexual images out of the media and off the Internet, where children might see them; sexual jokes create hostile classroom and work environments; sexual relationships express male chauvinism. Other than that—as long as the government is present to protect women and children whenever sex is depicted, discussed, or enacted—sex is okay.”

Another example comes from the widespread support for the virtuously titled USA PATRIOT Act. Social conservatives say, “Keep out the foreigners. They steal our jobs, look strange, act differently from us, speak English poorly or not at all, have different values, and may even be terrorists.” Social liberals say, “They abuse their

women and children (with beatings, genital mutilation of girls, forced marriages, and other repugnant practices) and must be punished for their crimes. Other than that, multiculturalism is wonderful.”

This conservative-liberal alliance constitutes a “silent majority,” but not because its constituents are silent—they are quite vocal. What is silent is their covert cooperation to restrict freedom on a range of issues, despite their overt detestation of one another.

One of the main arguments they use for depriving people of their freedom involves an appeal to extraordinary circumstances—for example, freedom of the press may have to be restricted in time of war to prevent the enemy from finding out our plans or the location of our troops. The difficulty with this argument is its slippery slope: in time, a clear danger, such as placing many lives in immediate jeopardy, gets replaced by a lesser danger, such as “sending the wrong message.”

Politicians use more than the slippery slope to limit personal freedoms in our large and diverse country; they also use scapegoating. Uniting people against a common enemy is a powerful tactic. Therefore, to defend our country against the ravages of scapegoating, it is essential to protect minority rights—including the rights of the individual, a minority of one. “In time of war” may be a justification for some limited encroachments on some rights for some time-limited emergencies, but it is not an acceptable justification for government to limit more and more rights at all times because we are always in a state of war, literal or metaphorical. In my lifetime, when we have not been occupied with World War II, the Korean War, the Vietnam War, and numerous smaller “police actions,” we have been waging a war against communism, a war on drugs, and now a war on terrorism. The Cold War has been over for fifteen years. Is it too much to ask when, if ever, the assault on our freedom will end?<sup>6</sup>

It would make matters simpler if people used their freedom in only positive ways, but both libertarian conservatives and civil liberties liberals recognize that this outcome is impossible. To begin with, freedom includes the right to learn by trial and error—to make mistakes, sometimes mistakes that are very costly or irreversible—and to gain wisdom from experience. Because all must have equal rights, your allowing me the freedom to succeed entails my allowing you the freedom to fail, and vice versa. Similarly, my freedom to express myself requires me to grant you freedom to express yourself—even if I find your religion, politics, sexual preferences, art, or choice of intoxicating substances odious—and vice versa.<sup>7</sup> Thus, although racist speech or violent films may disgust me, I choose not to criminalize them because I know that they are the price I must pay for my freedom of expression. Furthermore, freedom of expression does not mean just the freedom of the majority to express its dominant

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6. Perhaps never (see Higgs 2003).

7. This argument is not novel; its classic statement a century and a half ago, as alluded to in the first epigraph, appears in John Stuart Mill’s *On Liberty*. Even at that time, Mill commented, “Though this doctrine is anything but new, and, to some persons, may have the air of a truism, there is no doctrine which stands more directly opposed to the general tendency of existing opinion and practice” ([1859] 2003, 83).

views. It means the freedom of all groups and individuals—including minority cultures or subcultures or the counterculture, agnostics and atheists, minority religions, nonconformists and eccentrics—to express all views, including those that are deeply offensive to the majority.

The alliance of the majority of conservatives with the majority of liberals in their willingness—and even eagerness—to sacrifice freedom has led to the passage of ever more intrusive and punitive laws, as well as to the imprisoning of ever-larger numbers of Americans for an ever-wider range of offenses. We now have the greatest prison population rate in the world. More than 2.2 million Americans are incarcerated (Harrison and Beck 2004), and some 4.85 million more are on probation or on parole (Glaze and Palla 2004)—well more than 3 percent of our adult population. One-quarter of those incarcerated, including a majority of those in federal prisons, are there for drug offenses (James 2004).

### **Repression Has Become Pervasive**

The larger social context for these numbers presents an astounding catalog of ordinary day-to-day activities that have been criminalized, of the loss of privacy in an ever-growing number of social settings, and of ever-increasing governmental monitoring of the citizenry. The following partial list of infringements on freedom and privacy gives a sense of the scope of the intrusion.

Your bank accounts are monitored (to prevent the laundering of drug money or support for terrorism).

You cannot receive candid medical advice, medications, or surgical procedures from your doctor or pharmacist in a large and growing number of prohibited areas (in order to avoid sending a bad message about drugs or using stigmatized but effective substances; to save the life of the unborn).

You cannot expect confidentiality from your therapist (in order to detect child abuse, to prevent harm to others, to prevent fraud, or to give the courts information they want—for example, in divorce proceedings or criminal cases).

You cannot expect your medical records to be confidential (for the same reasons that therapist-client confidentiality can be breached; as well as in order to protect the unborn).

You cannot expect your student records or library records to be confidential (in order to prevent terrorism, to catch pedophiles).

You cannot take a plane or enter many public places without being treated like a criminal (in order to prevent terrorism).

You cannot find out much of what your government is doing or has done in the past because of excessive secrecy and politically self-protective classification of information (for the smooth functioning of government and national security); as your privacy decreases, the government's privacy increases.

You cannot rear your children using non-Western disciplinary practices of corporal punishment (in order to prevent child abuse).

Your access to candid information from your university professors about gender relations, humor, or cultural practices in other cultures or large segments of our own, either now or in the past, is severely restricted (to avoid creating a hostile classroom environment).

Your ability to surf the Internet in private is severely restricted (to protect against child pornography, hate speech, organized crime, and potential terrorism).

You cannot benefit from research that the government has prevented from being done (because of the “yuck factor,” and in order to avoid sending the wrong message about drugs, to protect the life of the unborn, to protect human subjects, to respect Native Americans).

You cannot legally choose to use less dangerous psychoactive substances (for example, marijuana, which has caused virtually no deaths [Joy, Watson, and Benson 1999], instead of the more dangerous alcohol and tobacco, which are associated with huge numbers of deaths [Mokdad et al. 2004]).

Politicians use fear to mobilize support and keep people in line. Over time, as we accept less and less freedom and kowtow to official explanations, we become docile. If the price of freedom is eternal vigilance, we have been asleep at the wheel.

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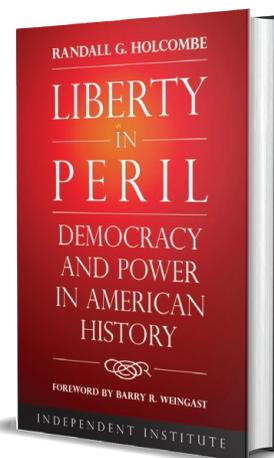
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