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Conservative Magazines and the Presumption of Liberty

A Content Analysis on Sex, Gambling, and Drugs

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DANIEL B. KLEIN AND JASON BRIGGEMAN

When the first issue of the *National Review* was published in 1955, William F. Buckley Jr. declared, “It is the job of centralized government (in peacetime) to protect its citizens’ life, liberty, and property. All other activities of the government tend to diminish freedom and hamper progress” (5).

Yet the leading magazines and newspapers of the conservative movement—the *National Review*, the *Weekly Standard*, the *American Spectator*, and the now-defunct *American Enterprise*—more often than not fail to oppose government intrusion into America’s bedrooms, gambling places, and drug activities. Real champions of liberty uphold a presumption of liberty: current restrictions on such activities would not be accepted docilely, but rather would be challenged with the burden of proof. Yet most of the conservative magazines either support the restrictions or omit any active criticism of them. Of the magazines examined, the *National Review* has had the

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strongest liberty record on the issues treated, whereas the others have, on the whole, preponderantly failed to be pro-liberty or have even been antiliberty.

Our investigation was conducted with the firm understanding that the liberty principle does not speak to issues concerning government rules for the use of government property. Liberty does not hold that drugs, prostitution, and gambling be tolerated in public schools, public parks, and so on. Liberty holds, rather, that such rules are for owners to decide. We scored the magazine content with such understanding. Moreover, we do not mean to suggest that classical liberalism or libertarianism insists on axiomatic adherence to the liberty principle. But classical liberalism or libertarianism does uphold a *presumption* of liberty. It holds that the burden of proof should be on coercion or intervention, even when such is the status quo.

Method

The research covers material published in the print editions of the four magazines through 2007. We conducted systematic searches using several electronic databases in order to maximize coverage. Tables in this document give the article counts generated by our searches, breaking the numbers into relevant articles (that is, articles that discuss the issue in at least some detail) and articles that should be ignored (for example, passing references, duplicates, and so forth). The relevant articles are further broken down into those that take no position on the issue versus those that stake out a clear position. Those taking a position are further classified as advocating a move either toward a more libertarian position or toward a more interventionist position, or as supporting the status quo.¹

Conservative Magazines on Sex

Many articles and editorials in the *National Review* have supported at least a limited right to pornography (table 1). In a 1961 article about pornography, Francis Russell wrote: “I think there might even be a high and inaccessible place in the library for the works of Henry Miller” (157). “Even if it were trash,” columnist D. Keith Mano added in 1975, “pornography has a crucial role in the growth of film as art” (1481).

National Review writers have also often supported political efforts to restrict pornography, particularly at the local level of government. “We have had enough experience of court-revised ideals to see the other side of the coin of legalized permissiveness,” author Malachi B. Martin wrote in 1977 as he lamented the “purging of our ideals from the laws that mark out the public ground-rules of our lives” (998).

1. An Excel file containing the data and coding is available at http://www.gmu.edu/departments/economics/klein/Assets/conservative_magazines_data.xls.

Table 1
***National Review* on Sex (Number of Articles)**

	1955–1990	1991–2000	2001–2007	Totals
Pro-liberalization	5	2	4	11
Status quo	13	5	4	22
Interventionist	16	12	18	46
Relevant but no position	30	31	11	72
Total relevant	64	50	37	151
Irrelevant/should not count	118	138	96	352
Total articles	182	188	133	503

In a 1986 editorial about the Meese Commission on Pornography, Buckley asked why, given a market for porn, “should not the willing buyer and the willing seller enter into conventional arrangements?” His answer was that “lust is an appetite that needs to be regulated,” and that “a sophisticated society acknowledges that sex is often an unruly passion” (55).

In 2001, *National Review* editor Jay Nordlinger called for states to establish “porn czars” and for the prosecution of Internet companies and cable companies that hosted porn sites and porn channels. He also urged citizens to write to companies that produce salacious ads and denounce them.

Although there is little evidence of a change over time in the attitudes of *National Review* writers on sex issues, at least one prominent writer moved in a libertarian direction. Ernest van den Haag was a Fordham University public-policy professor and a prominent law-and-order conservative. Late in his career, he changed his mind about pornography. “Providing it truly is private,” he wrote in 1993, “I now do not think any consensual sexual activity, including discreet prostitution and pornography, should be regulated by the government. . . . History demonstrates that, when tolerated, pornography and prostitution tend to be contained” (59).

Other conservative journals have also tended to favor government intervention to restrict access to pornography (tables 2, 3, 4). Boston College professor David Lowenthal wrote in the *Weekly Standard* in 1999: “The mass media—the movies, television, and recordings—need to be regulated, and not only because of appeals to irresponsible lust. They have immersed us in violence as well, habituated us to the most extreme brutality, held it up as a model and surrounded us by images of hateful human types so memorable as to cause a psychological insecurity that is dangerous. The only answer is governmental regulation, if necessary prior to publication—that is, censorship” (21). In 2003, Jonah Goldberg, then a *National Review* editor as well as an *American Enterprise* columnist, wrote in the latter

Table 2
American Spectator on Sex (Number of Articles)

	1988–2000	2001–2007	Totals
Pro-liberalization	1	0	1
Status quo	0	1	1
Interventionist	2	4	6
Relevant but no position	27	8	35
Total relevant	30	13	43
Irrelevant/should not count	98	42	140
Total articles	128	55	183

Table 3
American Enterprise on Sex (Number of Articles)

	1990–2000	2001–2006	Totals
Pro-liberalization	0	0	0
Status quo	1	0	1
Interventionist	0	1	1
Relevant but no position	10	7	17
Total relevant	11	8	19
Irrelevant/should not count	35	30	65
Total articles	46	38	84

Table 4
Weekly Standard on Sex (Number of Articles)

	1994–2000	2001–2007	Totals
Pro-liberalization	2	1	3
Status quo	0	0	0
Interventionist	5	0	5
Relevant but no position	37	8	45
Total relevant	44	9	53
Irrelevant/should not count	116	114	230
Total articles	160	123	283

periodical that “the entire culture, particularly the media, has been brainwashed to believe that censorship is always and everywhere a threat to our freedom” (52). Although Goldberg’s core point contains good sense, he did not draw lines based on the domains of government properties.

Conservative Magazines on Gambling

When *National Review* has made relevant comments, it has been largely tolerant of gambling (table 5). In 1965, Buckley suggested that conservative candidates for mayoral positions would do well to advocate the legalization of gambling. Goldberg (2002) more recently advocated eliminating legal restrictions on poker games. But support for liberalization has been tepid.

All of the pro-liberalization articles on gambling in the other three magazines involve calls for an end to state-sponsored gambling; none calls for the liberalization of laws that restrict private gambling (tables 6, 7, 8). *American Spectator* editor-in-chief R. Emmett Tyrrell Jr. wrote in 1996: “Gambling is a breeding swamp for crime. Sure, some can enjoy it in moderation just as many enjoy booze in moderation. That is why we allow Las Vegas and the neighborhood pub. But the state ought not to champion gambling any more than it champions alcohol” (15). That same year Blake Hurst wrote in the *American Enterprise*: “Governments may not be able to control

Table 5
National Review on Gambling (Number of Articles)

	1955–1990	1991–2000	2001–2007	Totals
Pro-liberalization	3	1	1	5
Status quo	0	1	2	3
Interventionist	0	1	1	2
Relevant but no position	17	15	15	47
Total relevant	20	18	19	57
Irrelevant/should not count	59	133	89	281
Total articles	79	151	108	338

Table 6
American Spectator on Gambling (Number of Articles)

	1988–2000	2001–2007	Totals
Pro-liberalization	2	1	3
Status quo	0	0	0
Interventionist	0	0	0
Relevant but no position	13	2	15
Total relevant	15	3	18
Irrelevant/should not count	127	38	165
Total articles	142	41	183

Table 7
American Enterprise on Gambling (Number of Articles)

	1990–2000	2001–2006	Totals
Pro-liberalization	3	0	3
Status quo	0	0	0
Interventionist	0	3	3
Relevant but no position	3	8	11
Total relevant	6	11	17
Irrelevant/should not count	45	48	93
Total articles	51	59	110

Table 8
Weekly Standard on Gambling (Number of Articles)

	1994–2000	2001–2007	Totals
Pro-liberalization	1	0	1
Status quo	0	0	0
Interventionist	3	1	4
Relevant but no position	23	31	54
Total relevant	27	32	59
Irrelevant/should not count	118	122	240
Total articles	145	154	299

vice, but surely they ought not encourage it” (62). These calls to “not encourage” seem to imply “not liberalize.”

In the past decade, three articles in the *American Enterprise*, including one titled “The Festering Problem of Indian ‘Sovereignty,’” criticized legal and business arrangements involving Indian casinos (Golab 2004b; see also Carolan 2002, Golab 2004a). David Tell of the *Weekly Standard* took a more broadly antigambling position in three late-1990s editorials, complaining in 1999 that “America’s real sweepstakes problem, the giant industry of private and state-sponsored gambling, continues to metastasize. And no more than a handful of our politicians seem to care” (1999b, 9; see also Tell 1997, 1999a).

Conservative Magazines on Drugs

The *National Review* has moved from a centrist position on drugs in its early decades to an overtly pro-liberalization position in the past two decades, mirroring Buckley’s personal shift (table 9). He openly grappled with the issue during the late 1960s,

supporting the status quo with regard to marijuana prohibition, while occasionally mentioning a desire for more information (such as suggesting that experiments with marijuana be carried out with volunteer prisoners [Buckley 1970]). In 1972, however, the *National Review* ran a piece by Richard Cowan with the strident title “American Conservatives Should Revise Their Position on Marijuana,” on which several *National Review* writers, including Buckley (1972), commented favorably. Since then, the review has been generally hostile to drug prohibition, publishing titles such as “A Lost Cause Is a Lost Cause” (Buckley 1989), “The War on Drugs Is Lost” (Nadelmann et al. 1996), and “War No More: The Folly and Futility of Drug Prohibition” (Lynch 2001). Even during the George W. Bush administration, Buckley (2002, 2005), Ethan Nadelmann (2004a, 2004b), and Jacob Sullum (2005, 2006) wrote multiple *National Review* pieces criticizing prohibition, including a Buckley mockery of “drug warriors” who remained focused on pot even as meth had gained popularity.

Although the *American Spectator* (table 10) had a rather evenly mixed record on drugs during the 1990s, it has published only one judgment piece on the subject since 9/11, a 2004 article by Bob Barr, who wrote: “If the Colombian president had

Table 9
National Review on Drugs (Number of Articles)

	1955–1990	1991–2000	2001–2007	Totals
Pro-liberalization	20	22	18	60
Status quo	10	1	2	13
Interventionist	8	1	3	12
Relevant but no position	55	35	8	98
Total relevant	93	59	31	183
Irrelevant/should not count	100	99	45	244
Total articles	193	158	76	427

Table 10
American Spectator on Drugs (Number of Articles)

	1988–2000	2001–2007	Totals
Pro-liberalization	6	1	7
Status quo	1	0	1
Interventionist	5	1	6
Relevant but no position	28	6	34
Total relevant	40	8	48
Irrelevant/should not count	83	18	101
Total articles	123	26	149

Table 11
American Enterprise on Drugs (Number of Articles)

	1990–2000	2001–2006	Totals
Pro-liberalization	0	0	0
Status quo	0	2	2
Interventionist	5	1	6
Relevant but no position	12	6	18
Total relevant	17	9	26
Irrelevant/should not count	46	20	66
Total articles	63	29	92

the same type of support and understanding from Washington as we give unquestioningly to civilian leaders in Afghanistan and Iraq who simply mouth pro-American sound-bites and are then invited to the State of the Union address, perhaps we'd finally start seeing the success of our efforts in Colombia that our children and our brave anti-drug warriors deserve" (29).

The *American Enterprise* (table 11) has supported drug prohibition; for an example, consider a 1996 offering of "two views" as to why drug use was rising. John J. DiIulio Jr. complained that "[t]he drug legalization movement and its anti-incarceration allies have . . . promoted the utterly false view that the 'war on drugs' is rabidly racist and horribly expensive" (23). Ostensibly opposing him, Ed Koch wrote: "Some drug laws need to be reformed. We should reduce prison sentences for low-level offenders and increase sentences for more serious drug crimes. For minor offenders convicted under state law, why not add flogging to the available punishments?" (23).

The *Weekly Standard* (table 12) has also been a platform for drug prohibitionists, though perhaps with some signs of moderation in recent years. Its stridency during the 1990s is clear in article titles such as "General Clinton, Losing the Drug War" (Tell 1996) and "He Didn't Inhale, but Americans Are" (1996). David Tell in 2001 went after libertarians in furtherance of the cause of the future director of the Office of National Drug Control Policy: "It might profit certain 'free market conservatives' we know, before next they sneer at John Walters's resistance to drug legalization, to have another peek at their *Wealth of Nations*—where they will discover that the unregulated production and consumption of deadly poison isn't quite what Adam Smith had in mind" (9).² But Charlotte Allen did write in 2007 that "[s]ome mandatory-sentencing schemes for drug violations are undoubtedly too harsh on first-time offenders" (41).

2. Tell's allusion to Adam Smith is unsound; hardly anything in Smith's writings smacks of such paternalism.

Table 12
***Weekly Standard* on Drugs (Number of Articles)**

	1994–2000	2001–2007	Totals
Pro-liberalization	1	2	3
Status quo	1	5	6
Interventionist	8	1	9
Relevant but no position	21	13	34
Total relevant	31	21	52
Irrelevant/should not count	98	82	180
Total articles	129	103	232

Three Major Public Philosophies

If a movement claims to be pro-liberty, an evaluation of the integrity of that claim must consider both what the movement says and what it fails to say. With regard to what the conservative magazines say on the issues of sex, gambling, and drugs, their record is checkered. *National Review* has been the most pro-liberalization, with the *Weekly Standard* and the *American Enterprise* probably the least pro-liberalization. On the second score, what they fail to say, the magazines can be faulted almost across the board for not staking out clear pro-liberty positions on the issues—again with the *National Review*'s being something of an exception, particularly on the drug issue. On the whole, the conservative magazines reveal that conservatives fail to uphold the presumption of liberty.

This investigation underscores that nowadays the menu of major public philosophies offers three options: conservatism, social democracy, and classical liberalism or libertarianism. Only the third upholds the presumption of liberty.

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