

**REVIEW OF JOSEPH S. FULDA**  
***EIGHT STEPS TOWARD LIBERTARIANISM***  
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by Walter Block\*

According to the nursery rhyme, “There once was a girl with a curl. When she was good she was very very good; when she was bad she was horrid.” As for the girl, so for this book.

The first two basic premises of Fulda’s concept of libertarianism are welcome ones. His spiritual case for liberty is based on our natural right to freedom, provided that the exercise of it “in no way remove[s] the free will of others.” His moral case is the familiar and profound non-aggression-against-non-aggressors axiom of libertarianism: “the use of force, except in self defense . . . is simply wrong.” Ah, if only he had stood pat with these two.

But his third premise is “the greatest happiness of the greatest number.” Now, if all this means is that the voluntary trades of the market benefit all *ex ante*—indeed, the author spends much of his book demonstrating this one point in a series of insightful vignettes—this is again all well and good. But in identifying this premise with Mill and Bentham, he opens himself up to all sorts of leftish take-from-the-rich-and-give-to-the-poor nostrums. Of course, this is totally incompatible with his first two premises.

Another difficulty arises with Fulda’s defense of limited government. One support for his position is Nozick.<sup>1</sup> But Nozick’s book, particularly the very sections cited where Nozick attempts to demonstrate how a state could come into being and continue to exist without violating the libertarian axiom of non-aggression, has

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\*Walter Block is Professor of Economics and Finance and is Department Chair at Central Arkansas University.

<sup>1</sup>Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

been subjected to withering and total refutation.<sup>2</sup> For a serious scholar to draw comfort from Nozick without confronting this extensive literature is irresponsible.

Fulda's second pillar of support for the minimal state is Levin.<sup>3</sup> Here, our author stands on better ground, at least insofar as there is no similar body of literature that has laid waste to the thesis, and thus he is not guilty of ignoring it. On substantive grounds, though, Levin offers no more defense of a government compatible with libertarianism than does Nozick.

Levin's argument is as follows: "Is there something special about surrendering one's sword [to the sovereign] that does not apply [to] surrendering one's plow?" In the former case, "this liberty need never be exercised." But in the latter, "the need [for] food—the need which up to now we have severally used our plows to meet—will persist unchanged after the surrender." Levin concludes: "The point of surrendering one's sword does not therefore apply to surrendering one's plow, or indeed to any other liberty but those whose surrender eliminates their need."<sup>4</sup>

There are problems here. That the state would not be an efficient provider of food will occasion no surprise in these quarters, but that it is a "strong and fearsome deterrent to aggression" surely will. What with foreign wars and domestic tortures, real world governments have a lot to answer for in terms of not only failing to protect citizens against coercion, but for killing people (their own citizens as well as foreigners) on a massive scale. It is no accident

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<sup>2</sup>See the symposium on this question in the *Journal of Libertarian Studies* 1, no. 1 (Winter 1997). Contributors to the symposium included Williamson Evers, "Toward A Reformulation of the Law of Contracts," pp. 3–14; Randy Barnett, "Whither Anarchy? Has Robert Nozick Justified the State?," pp. 15–22; Roy A. Childs, Jr., "The Invisible Hand Strikes Back," pp. 23–34; John T. Sanders, "The Free-Market Model versus Government: A Reply to Nozick," pp. 35–44; and Murray N. Rothbard, "Robert Nozick and the Immaculate Conception of the State," pp. 45–58. Also see Hans-Hermann Hoppe, "Introduction" to Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, 1998).

<sup>3</sup>Michael Levin, "A Hobbesian Minimal State," *Philosophy and Public Affairs* 11 (Fall 1982): 338–53.

<sup>4</sup>Levin, "A Hobbesian Minimal State," pp. 4–5

that the truly mass murders of human history (Hitler, Stalin, Mao, Pol Pot) are all associated with governments. In contrast, the Son of Sam, Charles Manson, Jeff Kozinski, the Menendez brothers, O.J. Simpson, and Jeffrey Dahmer were mere amateurs. Even the much-vaunted “war on drugs” that politicians around the world are now waging kills thousands of innocents both directly (through inept raids) and indirectly (by promoting a black market, gang warfare, and the economic need for addicts to rob and kill to satisfy their habits).<sup>5</sup>

Suppose that an individual refuses to turn in his sword to the all-benevolent state. What then? Does the sovereign (remember, we’re talking Bill Clinton, now) have the right to force him to do this? If so, what of Fulda’s second principle of libertarianism? If not, this is a mighty strange sort of government under consideration. Suppose this individual wishes to secede,<sup>6</sup> or make safety arrangements with a private defense agency, and not bow down to that “gang of robbers and thieves”<sup>7</sup> puffing themselves up by calling themselves a sovereign government and setting themselves up above him. Again, the same questions arise. Levin and Fulda argue that if we give our plows to the state, we’ll still have to sow and reap on our own accounts. Why won’t we still have to defend ourselves after we have given our swords to Bill Clinton? In this regard, the reader is directed to make inquiries of those who perished in Soviet Gulags, Nazi concentration camps, at Ruby Ridge or Waco, or, for that matter, of all who pay taxes against their will.

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<sup>5</sup>Of course, I do not contend that Fulda and Levin *favor* any such activities. Indeed, the contrary is very much the case. However, it is exceedingly difficult to reconcile such statist deeds with the supposition that this institution is or would be a “strong and fearsome deterrent to aggression.”

<sup>6</sup>See on this Robert McGee, “A Theory of Secession for Emerging Democracies,” *Asian Economic Review* 33, no. 2 (August 1991): 245–65; Robert McGee, “The Theory of Secession and Emerging Democracies: A Constitutional Solution,” *Stanford Journal of International Law* 28, no. 2 (1992): 451–76; Robert McGee and Danny Lam, “Hong Kong’s Option to Secede,” *Harvard International Law Journal* 33, no. 2 (1992): 427–40; and Robert W. McGee, “A Third Liberal Theory of Secession,” *Liverpool Law Review* 14, no. 1 (1992): 45–66, n. 7; and David Gordon, ed., *Secession, State, and Liberty* (Auburn, Ala.: Ludwig von Mises Institute, 1997).

<sup>7</sup>See Lysander Spooner, *No Treason* (Larkspur, Colo.: Ralph Myles, 1966).

Fulda speaks in terms of the “dread taxing power” of the state, and opines, reasonably enough, that “the power to tax is indeed the power to destroy” (p. 26). But how else does he think his “minimalist government” will raise the funds necessary to perform its “limited” functions? To say that taxes would be lower than at present were the state to stick to this one task, while obviously true, is no answer at all, since such a scenario would still be in violation of his own second premise (non-aggression). Nor is it clear, when one side imposes taxes on the other, why it would stay “minimal” for any length of time.<sup>8</sup>

When criticizing people that he calls “social libertarians”<sup>9</sup> (p. 15), Fulda maintains, quite correctly, that “initial acceptance [of contracts] is also a requisite.” Our author goes so far as to characterize as desirable “a person affixing his signature to a document” (p. 19). But if so, why doesn’t this also hold true when considering something of considerably far more importance than any one contract—the so-called legitimate creation of this state monopoly of violence within a given geographical area through an unsigned constitution?

Puzzling, too, is Fulda’s attribution to the Friedmans “that government programs are *necessarily* wasteful (p. 6).”<sup>10</sup> Staunch empiricists, these authors have never used the word “necessary” in their lives, apart from geometry, mathematics, definitions and other (for them) tautological systems.<sup>11</sup> They certainly do not say any such thing in the pages cited by Fulda. Were they to have done so,

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<sup>8</sup>On the other hand, our author seems a bit ambivalent about the state, quoting with approval Thoreau’s judgment “that government is best which governs not at all” (p. 68). This boosts his credentials as a libertarian, to be sure, but not as a logician.

<sup>9</sup>They sound more like liberals than libertarians.

<sup>10</sup>Milton and Rose Friedman, *Free To Choose: A Personal Statement* (New York: Harcourt, Brace, Jovanovich, 1980).

<sup>11</sup>For an antidote to this philosophical view, see Ludwig von Mises, *Human Action* (Chicago: Regnery, 1966); see also Hans-Hermann Hoppe, *Praxeology and Economic Science* (Auburn, Ala.: Ludwig von Mises Institute, 1988); Hoppe, “On Praxeology and the Praxeological Foundation of Epistemology and Ethics,” in Jeffrey Herbener, ed., *The Meaning of Ludwig von Mises* (Boston: Dordrecht, 1992).

they would have contradicted their life-long rejection of the synthetic *a priori* in this one case.<sup>12</sup>

These are the main flaws in the book from a libertarian point of view. Unfortunately, they do not exhaust the litany of errors. Consider the following. Fulda:

- buys into the notion that we can have property rights in our reputations (p. 24). On the contrary, our reputations consist of nothing apart from *other's* thoughts about us, and, since we cannot own their thoughts, we cannot own our own reputations, paradoxical as this might sound to the non-libertarian.<sup>13</sup>
- conflates libertarianism with conservatism (pp. 23, 25, 60).<sup>14</sup> While conservatives, some of them, sometimes favor the free-enterprise system, most of them do so only sporadically, or not at all.<sup>15</sup>
- confuses normative and positive economics with his misconception of the Austrian School as a promoter of “economic freedom” (p. 27). It is no such thing; it is, rather, a perspective that seeks to understand and explain economic reality. Of course it cannot be denied that Austrians are among the strongest supporters of capitalism; but this is not, it cannot be, *qua* Austrians.
- places altogether too much weight on privacy, giving it equal billing with property as a support of liberty (pp. 16, 47). He specifically rejects the libertarian notion that privacy properly *stems* from private property rights, without coming to grips with adherents of this view.<sup>16</sup> But if privacy is a right at all (never mind one

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<sup>12</sup>Fulda's continual citation of Friedman and Hayek as exemplars of libertarianism is also somewhat off-putting. For an alternative view, see Walter Block, “Hayek's Road to Serfdom,” *Journal of Libertarian Studies* 12, no. 2 (Fall 1996): 327–50; Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, 1998), pp. 219–30.

<sup>13</sup>On this see Rothbard, *The Ethics of Liberty*, pp. 126–28; Walter Block, *Defending the Undefendable* (New York: Fox and Wilkes, 1991), pp. 59–62.

<sup>14</sup>Can any greater error be imagined?

<sup>15</sup>My first personal experience of this was at the Young Americans for Freedom convention in St. Louis in the 1970s. Two groups were there; the conservatives were the larger, and the libertarians the smaller. And the reaction of the former to the latter? They called us “lazy fairies,” to indicate their aversion for the system of *laissez-faire* capitalism.

<sup>16</sup>See Rothbard, *The Ethics of Liberty*, pp. 121–22.

that is co-equal with property) then several unwarranted conclusions follow: gossip would have to be outlawed, as would the activities of detectives, investigative reporters, and photographers with long-range cameras, since all of these occupations specialize in denigrating privacy. With all of these professions illegal, it would be a strange world, but not a libertarian one.

- maintains that “social sanctions can be just as noxious as state sanctions and is therefore concerned with the proper limits on social reprobation” (p. 56). But in a libertarian society, there would be *no* legal limits on such things as boycotts, discrimination, spurning, ostracizing, holding people in contempt, etc., for these acts are *always* (not just “generally”) non-coercive. *Any* limitation on them, then, constitutes a diminution in liberty.
- takes the position that “nobody gains anything of value from the anti-crime enterprise . . . since it consumes vast resources unproductively.” He makes, reasonably, exceptions for the “rent-seeking” activities of policemen, jailors, judges, etc., but we are still left with the view that there is something intrinsically non-productive about defense against criminals. Do police, courts, detectives (private ones, of course) add *nothing* to our well-being? As shown by his willingness to pay for these services when allowed to do so, the consumer feels otherwise. To be sure, if there were no criminals, then defense would be non-productive. But the same can be said for rain and umbrellas.
- holds that “monopoly power is necessary to rein in crime” (p. 69). If so, then the only way to deal with international criminals is to set up a powerful world government, perhaps under the auspices of the United Nations. At present, no one nation, not even that policeman-to-the-world the United States, has anything like a monopoly on total global power. Surely this is an initiative unwelcome even to our author.
- seems unaware of the debate raging within Austrian circles between those who view proper money as limited to warehouse receipts and those who see it as also including promissory fractional reserve notes.<sup>17</sup> Fulda treats these two vastly different systems as equivalent (p. 82) without delving into the arguments of either side.

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<sup>17</sup>On the former, see Hans-Hermann Hoppe, Jörg Guido Hülsmann, and Walter Block, “Against Fiduciary Media,” *Quarterly Journal of Austrian*

- takes the negligence side of the debate over tort liability vis-à-vis strict liability without dealing with or even noting the arguments of the latter (p. 84).<sup>18</sup> Again, my problem is not so much that he fails to agree with the libertarian side of this controversy (although this is disappointing in a book with that name in its title) as it is with his failure to realize that there even *is* such a perspective in the literature.
- equates “omission (to provide) damaging information” with fraud and misrepresentation (p. 93). It would appear from this that sellers have a duty to tell the whole truth and nothing but the truth to buyers about goods for sale. If so, this would be a violation of the libertarian stricture that there is no such thing as a positive right, and that there is no (non-contractual) obligation to respect anything other than negative rights. If the buyer wants full disclosure, let him buy it on the market, if it, in addition to the good *itself*, is offered for sale. Whatever became of the libertarian reliance on *caveat emptor*?

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*Economics* 1, no. 1 (1998): 19–50; Murray N. Rothbard, “The Myth of Free Banking in Scotland,” *Review of Austrian Economics* 2 (1988): 229–45; Murray N. Rothbard, “Aurophobia: or, Free Banking on What Standard? A Review of *Gold, Greenbacks, and the Constitution* by Richard Timberlake,” *Review of Austrian Economics* 6, no. 1 (1992): 97–108; Murray N. Rothbard, “The Present State of Austrian Economics,” *Journal des Economistes et des Etudes Humaines* 6, no. 1 (1995): 43–89.

For the latter, cf. George Selgin, *The Theory of Free Banking: Money Supply under Competitive Note Issue* (Totowa, N.J.: Rowan and Littlefield, 1988); George Selgin and Lawrence H. White, “In Defense of Fiduciary Media—or, We are *Not* Devo(lutionist), We Are Misesians!,” *Review of Austrian Economics* 9, no. 2 (1996): 83–107; Lawrence H. White, “Competitive Payments Systems and the Unit of Account,” *American Economic Review* 74, no. 4 (September 1984): 699–712; White, *Competition and Currency* (New York: New York University Press, 1989); and Lawrence H. White, “Review of *Man, Economy, and Liberty: Essays in Honor of Murray N. Rothbard*,” *Journal of Economic Literature* (June 1990): 664–65.

<sup>18</sup>For the negligence side, see Richard Epstein, “Crime and Tort: Old Wine in Old Bottles,” in Randy E. Barnett and John Hagel III, eds., *Assessing the Criminal* (Cambridge, Mass.: Ballinger, 1977), p. 707. For the strict liability argument, cf. Murray N. Rothbard, “Law, Property Rights, and Air Pollution,” in Walter Block, ed., *Economics and the Environment: A Reconciliation* (Vancouver, B.C.: The Fraser Institute), p. 247.

So much for the “horrid” parts of the book. Despite the litany of errors listed above, the “good parts” are very good indeed, and actually dominate the book. For a (limited) statist, Fulda is really quite a radical libertarian. He argues, intelligently and passionately, for example, for “private schooling, private roads, private water supplies, private bank insurance, voluntary charity and relief . . . and for such now-quaint, but perfectly workable ideas as privately coined and minted money” (p. 7). His treatment of how the poor benefit more than the rich from capitalism is alone worth the price of admission. He defends those such as the landlord and the employer and their ilk with wit and verve. I was at the edge of my seat, cheering him on (and learning as well) when he eviscerated zoning, public air waves, labeling requirements, regulatory agencies, “economic power,” drug prohibition, and much more.

For Fulda, moreover, the proper attitude toward the state remains eternal vigilance tinged with fear. Also most welcome is his insistence that the marketplace makes us sensitive to the needs of others.

I have devoted the lion’s share of this review to criticism. I do this, first, because of my inescapably negative personality, and, second, because it is more instructive to contrast an opposing opinion than to continually congratulate an author. But I appreciate, and warmly so, the overwhelming majority of this book. I welcome Fulda to the ranks of libertarianism, and look forward to having insightful discussions with this author.

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