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America's Libertarian Moment

By Molly Ball

Libertarianism is on the march. From the rapid rise to prominence of first-term Senator Rand Paul to the state-level movements to legalize gay marriage and marijuana, the philosophy of fiscal conservatism, social liberalism, and restrained foreign policy seems to be gaining currency in American politics. But it's nothing new, of course. (*New York Times Magazine*, 1971: "[The New Right Credo: Libertarianism.](#)") A lonely band of libertarian thinkers have been propounding this philosophy since the 1960s, when the late thinker Murray Rothbard published his first book, *Reason* magazine was founded, and, in 1974, Rothbard teamed up with Charles Koch and Ed Crane to found the Cato Institute, one of Washington's most influential think tanks.

[David Boaz](#), Cato's executive vice president, has been with the organization since 1981, giving him a good perch to put the current libertarian vogue in perspective. In an interview this week, we talked about the political currents propelling libertarianism into the political mainstream, the Supreme Court's libertarian turn, whether Paul will be our next president, and much more. This is an edited transcript of our conversation.

Is there a libertarian moment happening in America?

Libertarian ideas -- and I'm never using a capital L [i.e., referring to the Libertarian Party] when I say that; in this case I don't even mean consciously libertarian, so not just the people who read *Reason* magazine and Murray Rothbard and call themselves libertarians -- libertarian ideas are very deeply rooted in America. Skepticism about power and about government, individualism, the idea that we're all equal under the law, free enterprise, getting ahead in the world through your own hard work -- all of those ideas are very fundamentally American. Obviously, from a libertarian point of view, America

nonetheless has done a whole lot of things, from slavery to Obamacare, that offend some number of those libertarian values, but the core libertarian attitude is still there. And a lot of times when the government suddenly surges in size, scope, or power, those libertarian attitudes come back to the fore.

I think that's what you're seeing. I think you're seeing a growth of self-conscious libertarianism. The end of the Bush years and the beginning of the Obama years really lit a fire under the always-simmering small-government attitudes in America. The TARP, the bailouts, the stimulus, Obamacare, all of that sort of inspired the Tea Party. Meanwhile, you've simultaneously got libertarian movements going on in regard to gay marriage and marijuana. And I'll tell you something else that I think is always there. The national media were convinced that we would be getting a gun-control bill this year, that surely the Newtown shooting would overcome the general American belief in the Second Amendment right to bear arms. And then they pushed on the string and [it didn't go anywhere](#). Support for gun control is lower today than it was 10 or 15 years ago. I think that's another sign of America's innate libertarianism.

This year you have a whole series of scandals that at least call into question the efficacy, competence, and trustworthiness of government. The IRS, maybe the [Benghazi cover-up](#), and the revelations about surveillance. All of those things together, I think, have lit a fire to the smoldering libertarianism of the American electorate.

None of which necessarily means that there's a libertarian majority that will sweep Rand Paul to the White House or anything like that. But there are a lot of people who care a lot, and a lot more people who care some, about these things, and a majority of Americans think our taxes are too high, a majority of Americans think the federal government spends too much, a majority of Americans think it was a mistake to get into Iraq. A bare majority of Americans now favor gay marriage, a bare majority favor marijuana legalization, a huge majority think there should be a requirement to balance the federal budget. So if you're a presidential candidate you don't call yourself a libertarian and run on Murray Rothbard's book, you run on those issues. And on those issues, you find a lot that a majority agrees with.

What is the significance of Rand Paul to this discussion?

Rand Paul is clearly the most significant libertarian-leaning American political figure in a long time. There are a couple of issues I disagree with him on, but when you look at issues that cut across left-right boundaries, like his interest in reduced spending, less regulation, reining in our adventurous foreign policy, protecting America's rights against

surveillance -- that's a combination of issues that libertarians have waited a long time to find together in one candidate. I think he can have a lot of appeal. A lot of libertarians, including those who came out of the Ron Paul movement but also others, are very interested in seeing how far his political ambitions might take him.

How does libertarianism figure into the war of ideas that's going on in the Republican Party? Is the GOP poised to embrace libertarianism?

I think they're poised to debate it. Rand Paul is going to be in the middle of the people debating the future of the Republican Party. Rand Paul has said he doesn't call himself a libertarian; he calls himself a libertarian Republican, small L-capital R, and he does sometimes say that the party needs to move in a more libertarian direction to broaden its appeal to young people and independent voters.

One of the things Ron Paul's campaign showed was that a lot of young people who were not Republicans were interested in these ideas. But [as a Republican politician] you either have to get those people into Republican primaries or you have to get the nomination for that to do you any good.

Rand Paul's supporters believe as soon as he starts to look like a contender, the establishment is going to see him as a threat and [try to destroy him](#).

There are all sorts of Washington establishments who are going to want to take down Rand Paul. The spending establishment is certainly not going to like what he's talking about. The Republican political establishment doesn't particularly want to change. And certainly the national security establishment is extremely eager not to debate our policy of global interventionism. They have always sought to rule out of bounds any challenge to it.

They tried it in the Republican primary in Kentucky [in 2010]. The neocons organized one of their emergency committees to stop Rand Paul in the primary. I think they will continue to do that.

And yet some libertarians have [started to criticize](#) Rand Paul for going squishy as he tries to appeal more to the GOP mainstream.

If you want a pure libertarian to run for president, you've got the Libertarian Party. If you think the Libertarian Party's candidates aren't pure enough, you can write in Murray Rothbard. When we talk about a U.S. senator running for president, you are talking about the real world of politics. Nobody is going to be a doctrinaire Ayn Rand libertarian. Rand

Paul has rounder edges than his father. He has a number of other advantages over his father: He's not 77 years old; he's not a House member, he's a senator; and he has rounder edges in the way he presents libertarian ideas. There may even be issues on which they actually disagree, though I'm not sure I can think of one.

Well, Rand Paul says he would audit the Federal Reserve, not end it as his father promised to do.

Does he, in his heart, believe in ending the Fed? I believe he does. But the next president is not going to get rid of the Fed. If we can audit the Fed -- and, more important to me, we can rein in the incredible powers the Fed seized in 2008 and put some governor in control of the creation of new money -- we will have accomplished a lot.

Rand Paul is also strongly against abortion rights, which many libertarians disagree with. What is the libertarian position on abortion?

I don't think there is a libertarian position on abortion. There was a study done by a graduate student at UCLA that found that about two-thirds of people you would identify as libertarian are pro-choice. From a philosophical perspective, libertarians generally believe the appropriate role of government is to protect life, liberty, and property. The question is, is forbidding abortion a way of protecting life, or should it be viewed as a restriction of liberty? There's a plausible libertarian case on both sides. People who are consciously libertarian are more respectful of the other position on abortion, in my experience, than most pro-lifers and pro-choicers. I do not think there is an official position.

The Supreme Court had a remarkably libertarian term, and Cato had a [very successful year](#) at the Court, isn't that right?

Yes, we filed briefs in 18 cases and were on the winning side in 15 of them. [Cato was also the only organization to file briefs on the winning side of the four highest-profile cases: affirmative action, voting rights, the Defense of Marriage Act and Proposition 8.]

That's maybe less a sign of the zeitgeist and more a sign that Justice Anthony Kennedy, the court's swing vote, is a bit of a libertarian.

Of the 15 cases we won, Justice Kennedy was with us 14 times. If you look at his record over his 25 years on the court, you could argue he's the most libertarian member of the Court. He's made some egregious errors in that time. He was wrong on the *Kelo* case [in which the Court ruled that the state has the right to take private property for private

development]. However, on a lot of civil liberties, personal freedom, and gay-rights issues, he's been on the liberal side, and on a lot of business regulation, size of government, and federalism cases he's been on the conservative side. And that means we often agree with him.

There was a lot of whiplash among partisans over the big Court decisions -- progressives anguished about voting rights one day and thrilled about gay rights the next, and vice versa for conservatives. But from your point of view, a libertarian point of view, there was a consistency to be seen.

Yes, and not just the broad consistency of individual freedom versus the power of government, but on the narrower issue of treating people equally under the law. We would say that the issue of race in college admissions and the issue of equal marriage rights in the DOMA case are both applications of equal protection of the law. We actually had a similar experience 10 years ago, in 2003, when we were the only organization to have filed amicus briefs in support of Lawrence in *Lawrence v. Texas* [the case that struck down sodomy laws] and Jennifer Gratz in her lawsuit against the University of Michigan [for its affirmative-action policy]. There were a lot of gay-rights and liberal groups on our side in the Lawrence case, and a lot of conservatives on our side with Jennifer Gratz. We felt that we were asking for equal freedom under law for both Gratz and Lawrence.

Is this part of the attraction of young people to libertarianism -- that it seems to stand outside partisanship, in a pure, consistent way?

I think that's true. I think having a consistent principle that organizes all these issues was very helpful for Marxism, and I think it's also an attraction of libertarianism. It may also be that on a gut level, there are a lot of people who like not being a Democrat or a Republican. Millions of Americans -- 59 percent, according to one poll -- would tell you they are fiscally conservative and socially liberal, and that's a real loose definition of libertarian. We consider those people to be a large constituency that libertarians should be able to access. Especially for young people, saying, "Nobody tells me what to say, I'm not a partisan Democrat or Republican," is attractive. To see Ron Paul, in the Republican primary debates, clearly challenging the things the rest of the Republicans were saying, but also clearly not a Democrat.

You mention Marxism. Some would extend the parallel and say libertarianism is another ideology that works in theory but not in practice.

I'll tell you the difference. We've tried stunted and cramped versions of libertarianism in the world, and we've tried versions of Marxism that were less stunted and cramped because they had all the levers of power. I am willing to match England, the United States, Canada, and Hong Kong, which are all approximately libertarian societies, against the Soviet Union, China, and Cuba any day.

In my view, the farther you go toward actual, existing libertarianism, the closer you get to a society with prosperity, economic growth, social dynamism, and social harmony. More and more countries in the world are moving toward broadly libertarian principles. Freedom of religion, freedom of the press, freedom of travel, freedom of movement, freedom of occupation. Sometimes we forget how different these things are than what went before. Economic and personal freedom, and the extension of the promise of the Declaration of Independence to more and more people -- to black people, to women, to gay people -- all of those things are trying libertarianism in real life, and I think it works pretty well.

Can someone like Rand Paul win a national election? Won't he get painted as weak on national defense by his political opponents?

It's not clear that a strongly libertarian, noninterventionist program could command a majority. But I think a mildly noninterventionist retrenchment, and [proposing to] do a better job of protecting people's privacy, could be a viable political alternative. I do think the reaction to the NSA spying and Americans' weariness with the wars in the Mideast is changing that game.

You say people want more freedom, but the counterargument is that people really want the welfare state. They don't want Social Security and Medicare taken away or cut. Doesn't that limit the political viability of libertarianism?

Certainly people on Social Security and people who anticipate being on Social Security are supportive of it.

Isn't that everyone?

Well, I'm not sure people your age think of themselves as future Social Security recipients. You might be thinking, "I want someone taking care of my parents." But people want economic growth. They want low taxes. They also like people to give them stuff. So part of the political argument is which side wins those battles. It changes. Reagan did say we have to rein in spending and government is the problem right now,

and he won a big victory twice. It's also true that he didn't really touch Social Security or Medicare.

He tried to change Social Security, and he paid a big price for it politically and changed his tune.

That's right. So those things are tough. For a libertarian policy wonk, that is a very frustrating thing. We actually have a plan that would work to put Social Security on a sound footing and eventually liberate people from being reliant on government, and we couldn't even get a hearing in Congress for it. And Social Security is so much easier a topic than Medicare.

You mean in policy terms it's an easier fix, not that it's easier to attack politically.

Right, it's a much easier problem to solve. With Medicare, the unfunded liabilities are far greater, transforming it into a privately funded system of accounts is much more difficult. So absolutely the entitlement state is a huge challenge for libertarians in any modern welfare state. But it's also true that people don't like paying what it takes to pay for these programs in Europe, and it's getting to be that way here.

The political battle is to get people to recognize that the cost in taxes and lost economic growth is more than they are willing to pay for an expanded welfare state. The current welfare state is a tougher argument. In Europe, they are running into walls. They're going to have to do something, and some of them have. Sweden has significantly reined in their welfare state. They figured out that they can't afford it.

Are there other libertarian-leaning politicians you're interested in besides Rand Paul?

One of the problems for libertarians is they aren't much interested in politics. The three most libertarian governors of past decade -- the brilliant lawyer William Weld, the true citizen-politician [Gary Johnson](#), and the eccentric entertainer [Jesse Ventura](#) -- all walked away from politics. In the House you have Justin Amash [of Michigan] and Thomas Massie [of Kentucky] -- I once did a study that determined that Kentucky was the least libertarian state in the country by several criteria. Then they elected Rand Paul and Thomas Massie, so maybe I have to reconsider.

There are a few other members of Congress who say they are inspired by Ron Paul. Then there are people on the conservative side like [Pennsylvania Senator] Pat Toomey, who is a strong fiscal conservative, even though he would probably vote wrongly in my view on

things like gay marriage and the Iraq war. Jeff Flake is a very good fiscal conservative. Mike Lee has interesting ideas on the Constitution and the role of the federal government.

I keep hearing about libertarian Democrats out West, like [Senator Jon] Tester and [former Governor Brian] Schweitzer in Montana -- they're good on privacy issues and gun rights. [Oregon Senator] Ron Wyden is doing a great job on privacy even though I disagree with him about other things. [Texas Rep.] Beto O'Rourke spoke at a conference of ours on drug policy in Latin America. I assume on other issues he's a standard big-government Democrat, but he does want to change the drug war. [Colorado Rep.] Jared Polis is a guy who I think is very interested in personal freedom and civil liberties issues.

Is Ted Cruz a libertarian?

No, Ted Cruz is a two-fisted Goldwater conservative. He's very strong on national sovereignty issues in a way libertarians tend not to be, aggressively so. He defended the Ten Commandments on the grounds of the Texas state Capitol, which to me smacks of entangling government and religion. He is very strongly against gay marriage. I am glad to see him standing up against Obamacare and showing up on filibuster night to spell Rand Paul for a little while. He's a smart guy. But I wouldn't call him a libertarian.

What should a libertarian candidate be running on? I would say fiscal conservatism and social tolerance. Get the government out of people's lives. Why do you care who marries someone else? But that's one thing that Rand Paul can't run on in a Republican primary. He's not in favor of marriage equality.

He says he would leave it up to the states to define marriage.

That was a defensively softer-edged libertarian position until the Supreme Court cases. Six years ago, that was a libertarian position because it meant you were not in favor of a federal amendment [banning gay marriage nationally]. These days, it's pretty clear there's not going to be a federal amendment banning marriage equality. What there may be is a Supreme Court decision striking down marriage bans [in the states] on equal protection grounds. So Rand Paul is still behind the curve on that issue. He's where President Obama was about a year ago, so it's not like he's stuck in the 1950s.

And the social conservatives see his position as opening the door to gay marriage in the states.

From their point of view, they're still pushing for a federal marriage amendment, but that's not going to happen. And didn't Rand Paul do a [radio interview](#) after the Supreme

Court decision where he talked about people marrying dogs? [Ed. note: Paul [later said](#) he had been joking.] He's trying to do a balancing act. He doesn't think you can win the Republican presidential nomination without the religious right, or at least not with them united against him, You don't have to get all of them. And he probably believes, along with Karl Rove, that you can't put together a 51 percent Republican majority without making sure Christian conservatives show up and vote.

What about the many religious voters there are in America? What does libertarianism have to say to them?

If somebody's Catholic values inform what they believe, on welfare or marriage or whatever, that's their business. They can say in public, "God says we should take care of our neighbors" -- that's fine, that's legitimate. What's not legitimate to me, and goes against the American Constitution, the American tradition, is to entangle government policy with religion. We don't have an established church. We don't have a religious test for public office. That's why I am against things like school prayer -- that is an establishment of religion. And if your best arguments for banning gay marriage are, in fact, religious, then I think you can expect a limited reception in the courts, because the courts want to know what does the Constitution say. They're not going to care what your religion says.

You're rather dismissive of the Libertarian Party. Why is that?

It appears that Americans are not much interested in third parties, especially third parties not led by existing political figures or celebrities. Ross Perot was a celebrity and a billionaire. George Wallace was an existing political figure with a regional base. [1980 independent presidential candidate] John Anderson was kind of an interesting one, but still, he got 7 percent of the vote. That's not exactly what you'd call successful. And none of them created anything lasting, they were just individuals.

What's next?

I believe that that libertarian policies work, and that over long periods of time we figure out what works. A whole lot of things we have tried -- actual socialism, established churches, rigid class distinctions, racial distinctions, even 90 percent income tax rates -- have fallen by the wayside. A lot of really bad, unlibertarian policies have fallen by the wayside, and I think we will broadly, gradually move in a more libertarian direction over the next 100 years.

Over the next five or 10 years, I don't know. There could always be another 9/11, another financial crisis. Looking at what the Fed's doing, I can't believe there won't be inflation that won't significantly affect our politics, but that's not showing up yet, at least in consumer prices.

My guess is that Rand Paul will make a serious bid for the Republican nomination. If had to bet on Rand Paul versus the field, I'd take the field. After that, I don't know. There will be more libertarian-leaning politicians in Congress, but we're a long way from being a caucus at this point. What's more important is what do the Republicans and Democrats who actually get elected want to do. I hope they will recognize that the country wants to move in a more tolerant direction on marriage and marijuana, and that we are overextended financially and need to restrain spending and the entitlement state.