

Libertarianism and Privilege¹

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Introduction

Libertarians are usually unconcerned with the existence of privilege where it is not clearly derived from state power. The privilege respectively enjoyed by capitalist employers relative to wage workers, and by men relative to women, is normally viewed as outside of the concerns of libertarian justice.² Here I will argue that what I refer to as the *right-libertarian*³ analysis of privilege is a mistaken one yielded by an overly narrow application of the two pillars of libertarian thought: the non-aggression principle and spontaneous order. In order to show where right-libertarianism goes wrong, I will contrast it against a more enriched libertarian analysis of two social forms that are constitutive of privilege: wage-labour and rape culture. I limit discussion to these two forms of privilege because of the degree of analogy between the two which highlights the shortcomings of right-libertarianism, and where libertarianism can do better.⁴ In both cases right-libertarianism fails to see where aggression

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² For example see Block (2010, 128-140), and Rothbard (2000a).

³ I use 'right-libertarian' as an ideal type; there are not necessarily any libertarians who perfectly conform to the type, but nonetheless it is a theme partially embodied in much of the right-wing libertarian commentary and literature. Libertarians who partially instantiate this type would not necessarily even consider themselves to be on the right; however, they reveal moral commitments beyond the 'thin' requirements of the non-aggression principle in failing to apply it consistently across the board. I say *right-libertarian* because such moral commitments are likely to be associated with right-wing politics, given the fact they are not critical of capitalist labour market relations, or of patriarchy.

⁴ It ought not therefore be implied that these are the only forms of privilege, or the only forms of privilege that libertarians ought to be critical of.

against persons and property has pervasive social effects beyond the proximities of such acts, and mistakenly defends both forms of privilege as perfectly just. However, state intervention and rape (both explicitly unjust in libertarian terms) have a strong causal role in creating the conditions under which capitalists occupy a privileged position in the political economy, and men are able to take advantage of women in society more broadly.

What is libertarianism?

The central axiom of libertarian political philosophy is something like the non-aggression principle, which says any action is permissible as long as it does not simultaneously initiate aggression against the person or property of another. The violation of property rights, including those in the person, is viewed as aggressive and *only* legitimate as a defensive response to the initiation of aggression by another (Long Unpublished [a]; Rothbard 1973, 27-30; 2000b, 154; cf. Zwolinski 2016). Aggression is understood as the non-consensual crossing of a property border, including those in persons. It could be parking your car on someone else's lawn, or stabbing someone to death – though these things are different severities of injustice, they are both unjust insofar as they are non-consensual uses of the property of another; they initiate aggression. Threats of such non-consensual border crossings are also instances of initiatory aggression (Rothbard 1982, 127-135). Hence libertarians criticise the state because its very existence is premised upon threats of violence against the taxpayer – at a minimum.

This is often viewed as a very narrow construal of the requirements of justice, and leaves aside many important questions which one might think to be legitimate concerns of justice. Indeed right-libertarianism's application of this principle *is* very narrow: right-libertarians only condemn actions as unjust when they involve proximate aggression, that is, those actions which directly involve aggression against persons and property and cannot be logically separated therefrom, for example, theft, murder, and taxation. One could be forgiven for thinking that the parsimony of the libertarian principles of justice is to blame. However it is not narrowness of principles but narrowness of application which is the problem. A libertarian critique of social forms that do not instantiate aggression but nonetheless depend upon aggression at other times and in other places becomes possible when we broaden our lens of enquiry. Many personal interactions, though logically separable from acts of aggression, are made possible because of acts of aggression elsewhere and at other times.⁵ Aggression plays a role in creating the conditions under which

⁵ One can accurately re-describe privileged interactions between capitalists and their employees, and between men and women, in isolation from acts of aggression, unlike theft, murder, and taxation, for example. Acts of aggression causally maintain the former types of interactions but are nonetheless logically separable.

workers and women are exploited; therefore these forms of privilege can be normatively analysed in terms of the non-aggression principle.

That brings us to the central tenet of libertarian political economy: spontaneous order. This is the idea that when individuals are left free of centralised or external direction,⁶ they tend to engage in mutually beneficial cooperation without any of the individuals at the micro-level intending to create such an order at the macro-level (Smith 1993; Hayek 1945; 1964). When the state coerces individuals in order to bring about some contrived socioeconomic end, the benefits brought by spontaneous order can be expected to diminish, not to mention the potential for actively malign effects – so-called *unexpected consequences*. The use of state coercion is rightly heavily criticised by right-libertarians; however, they have only narrowly construed the application of their own conceptual tools. They fail to see the most *pervasive*, and *systematic* forms of coercion that not only have effects on, for instance, unemployment, commodity prices, or crime, but also fundamentally shape the political economy (indeed perhaps even *creating* its defining institutions, such as wage-labour and global commodity exchange). To use the terminology of Kevin Carson, right-libertarians perceive only *secondary* intervention and not the more fundamental *primary* intervention that creates capitalist privilege (2008, 275-276). This blindness is the central weakness of the right-libertarian analysis of wage-labour.

Right-libertarians not only fail to perceive the coercion that is most pervasive, but also fail to fully take into account the pervasiveness of the coercion they *do* perceive. In condemning rape as a deeply unjust but nonetheless private or discrete act (in other words, not having any broader, significant effects on the rest of society), right-libertarians fail to see how such violations of the non-aggression principle create the circumstances under which men wield a greater degree of power over women; that is, they fail to see its *political* character: that it privileges all men. While they treat (some) of the coercive actions of governments as systematically harmful to society, when the coercion comes from non-governmental institutions, they fail to see its wider impact (cf. Long forthcoming).

What I intend to show is wrong with the right-libertarians analyses is not that they have inappropriate conceptual tools; the problem is rather the ‘atomistic’ way in which they use these tools (Silber 2003). Libertarianism is in fact uniquely suited to analysing privilege because of its insistence that *all* aggression is *always* unjust, and has negative effects when generalised across society; we just need to be thoroughgoing in understanding such effects.

⁶ This kind of direction is understood in terms of aggression against property, where forcing someone to do something with their property that they would not otherwise choose to do is aggressive against their person or property or both (depending on the kind of threat that backs up the directive).

The Capitalist Labour Market

Capitalism is a system of privilege insofar as it is characterised by differential access to the means of production resulting in uneven distributions of wealth. Those that have formal access to the means of production are privileged because they, as opposed to those without such access, have a greater amount of bargaining power in negotiating the terms upon which those without such access can earn a living. This bargaining power enables them to pay wages below the value of the output of production, creating profit. Without making any social scientific claims about value creation or normative claims about exploitation, it seems one can nonetheless say that the ability to be a profit maker as opposed to wage earner is a privilege enjoyed on the part of the potential profiteer.

For right-libertarians, the fact that differential access to the means of production exists in actual society means it must be a spontaneous trend resulting from the voluntary interactions of individuals (Block 2006). Since the government does not explicitly mandate the division of access to the means of production, there must be some other reason for it. Some individuals have a higher propensity to take risk, and prefer consumption in the future to consumption in the present; therefore they delay gratification by investing what they have into productive capital for a bigger pay-off down the road. Those who are less inclined to take risks, and prefer consumption in the present to consumption in the future, are able to satisfy their appetites by obtaining employment by the former class, whose capital is put to work by the latter in exchange for regular payment. In the labour market, employers benefit by having people make their capital productive who are willing to take a proportionally smaller cut of the end product in exchange for receiving payment before the product is sold, thus helping the employer to achieve her more high-risk, high-pay-off goals. The employee benefits from avoiding the risk of investing her time and money into entrepreneurial planning and fixed capital, which she ex hypothesi would prefer not to do. According to this view, then, the worker-capitalist relationship is mutually beneficial;⁷ it enables

⁷ Indeed where some libertarians either cannot, or omit to, provide a deontological justification for wage-labour, they fall back on the “it *must* be mutually beneficial since it *does in fact* take place” claim. This is one of the main problems identified by Friedman (1997) with the way in which libertarians justify their case; oscillation between consequentialist and deontological considerations when one or the other fails to justify the (right-) libertarian view. For example the welfare state will be denounced as glorified theft (deontological consideration) even when it may be the case that it is good for overall prosperity (consequentialist consideration), whereas wage-labour will be defended on the basis of overall prosperity (consequentialist consideration), even if it may be degrading to human dignity (deontological consideration). (Cf. Long 2002.)

both parties to satisfy their own preferences, given the options laid out before them. The fact that workers *prefer* receiving regular wages to investing in productive capital themselves and profiting off it is evidenced by the fact that workers (who remain workers) do not save up their wages by lowering consumption, pooling their resources, and making capital purchases.⁸ ‘Labor is always free to set up shop on its own’ (Block 2006, 39); there are no barriers to their doing this other than their own preferences and capabilities.⁹ The right-libertarian does not necessarily deny that ultimately the employer may gain more from the contract than the employee.¹⁰ For example, Ludwig von Mises said that

The factory owners did not have the power to compel anybody to take a factory job. They could only hire people who were ready to work for the wages they offered to them. *Low as these wages were*, they were nonetheless much more than these paupers could earn in any other field open to them. (1949, 619-620. Emphasis mine.)

And likewise Matt Zwolinski says, in the narrower context of sweatshop wage-labour, that

The compensation sweatshop workers receive for their labor is generally no higher than the amount they contribute to the firm (their marginal revenue product), and no lower than the value they place on their next best alternative employment. *Their compensation is low because these upper and lower constraints are low ...*¹¹ (2012, 166. Emphasis mine.)

Even though the right-libertarian might acknowledge the relatively low value

⁸ A problem with this argument that will not be discussed here is that it assumes that wage labour is the *only* way for a worker to lower exposure to entrepreneurial risk. However, sans legal barriers to doing so, workers could *mutually* pool their resources so as to form either productive capital, or a mutual aid fund, or both.

⁹ But see Cohen (1979).

¹⁰ At least in nominal monetary terms, but in terms of marginal utility this is a larger question.

¹¹ Zwolinski does not believe this to be the full story however (particularly with sweatshops). In the article quoted he details some of the extra-market factors that negatively affect the bargaining power of sweatshop workers, such as union suppression, land seizure, protectionism, and legal protection of intellectual property rights (2012, 169-170).

of the typical wage, she will deny that it is the result of anything more than differential skills and preferences manifesting themselves on an open market place, i.e. the outcome of individuals' non-coerced choices. If wages being offered were so low that workers thought them not worth their time, then they would do something else with their time. Wage-labour is existentially tied up with its beneficial effects. *Or so the right-libertarian would have us think.*

Contrary to this right-libertarian 'fairy-tale' (Marx 1990, 873-874; Oppenheimer 1926, 7; Carson 2007, 114), it is not the case that differential access to the means of production is *only* the result of differential time-preference and propensity to take risk; but it is to a larger extent explainable by reference to pervasive state coercion. It is trivially true that wage-labour contracts are entered into because both parties expect to gain some benefit from them: an analysis of capitalist privilege must look at how privilege operates *through* individuals' nominally voluntary interactions. As much as right-libertarians may try to explain away wage-labour by reference to its mutual benefit,¹² viewing 'discrete transactions' as the locus of the exercise of privilege ignores the context in which these individuals voluntarily act, and, crucially, that it may be the result of coercive institutions (Zwolinski 2012, 158). 'The question remains: how did those who control access to the means of production come to be in this position?' (Carson 2007, 113.)

Differential access to the means of production is traceable to differential access to, and the differential impacts of, state assistance. The state directly coerces individuals in various ways (in violation of the non-aggression principle) so as to artificially decrease the range of options workers have for making a living, and therefore drive down their bargaining power. Through its legal monopoly, the state issues lingering threats of violence against those who might otherwise 'set up shop' on their own, or otherwise take economic initiatives that would compete with the power of established capitalists (Tucker 1888; Carson 2007, 89-135; 165-204; Chartier 2011, 25-52; Johnson 2010a; 2011). Therefore the privilege enjoyed by an individual employer occurs because she is a beneficiary of state coercion that protects her from competition, and is not dependent upon *her* execution of any coercive acts whatsoever.

While right-libertarians are quick to identify government intervention in the market both as illegitimately coercive, and as the cause of socio-economic ills¹³ such as unemployment, high commodity prices, or crime, their failure to see the pervasive nature of government intervention makes them blind to its effects. In general the right-libertarian critique of the state focuses on what

¹² See Carson (2007, 115-116) for a 'number of boilerplate articles' that attempt just this.

¹³ For example see Rothbard (2009, 875- 1356).

Carson calls *secondary* forms of intervention. These ‘include welfare-state measures, Keynesian demand management, and the like’ that are generally ‘stabilizing, or ameliorative’ of the effects of *primary* forms of intervention (2008, 275-276). Primary forms of intervention are the structural bases of privilege which benefit a certain class of people; they result from the exercise of the state’s monopoly on land titles, money production, tariffs, patents, subsidies, et al., which we will come to shortly. Primary intervention is structural insofar as it is sufficiently constant to condition behaviour so that a certain pattern of wealth and power emerges. Secondary intervention is an extra layer of coercion that is intended to target the effects of primary interventions.¹⁴ For example, if the state frequently handed out guns to one percent of the population, and confiscated whatever weapons the other ninety-nine percent were able to acquire, this could be considered primary intervention since it ex hypothesi both violates the property rights of gun-owners (the *intervention* part) and structures the distribution of power (and presumably wealth¹⁵) in society (the *primary* part). If the state then prohibited highway robbery on certain roads, or prohibited highway robbers from taking more than eighty per cent of their victims’ money (assuming for a moment that robbery itself is not an injustice), insofar as such policies are intended to modify the effects of the primary intervention, by either making them less harmful or more sustainable, they are *secondary* interventions.

Insofar as secondary intervention meddles with the legally recognised property rights that right-libertarians believe ought to be protected as a matter of justice, they oppose it. However, they fail to see the primary interventions that give rise to the legal rights they mistakenly believe are deserving of protection. Of course many right-libertarians might admit that if state intervention (although they will only have secondary intervention in mind) were abolished there might be higher wages (from the decreased costs of hiring labour and a slightly more competitive labour market), but wage-labour would nonetheless be a persisting institution in a free market due to reasons of time-preference and the necessity of high overhead capital as a factor of production (cf. Massimino 2014). Understanding primary intervention illuminates the cause of the employer’s structural privilege, and reveals it to lie, at root, in aggression.

Through its ‘many monopolies’ (Johnson 2011) the state pre-empts the

¹⁴ Although legislators will almost certainly not view the issues they seek to combat as effects of prior, more structural, intervention, it is the effects of primary intervention that motivate and/or legitimate the secondary. I thank Stephanie Collins for noting the importance of the intention of the intervening body in distinguishing primary from secondary intervention.

¹⁵ Cohen likens the probable economic results of an unequal distribution of guns to the unequal distribution of means of production (1995, 197-299).

economic initiative of individuals by legally prohibiting – by threats of violence – various activities that might otherwise undermine the privilege of capitalists. The state’s land monopoly (Tucker 1888, 12; Carson 2007, 89-130; 166-185; Chartier 2011, 36; Johnson 2010a; 2011) coercively keeps unused land vacant, prohibiting productive use by homesteaders.¹⁶ This keeps land and house prices artificially high and protects agricultural and other industrial producers from the pressures of competition that might otherwise force them to lower prices, and downsize productive scale. The land monopoly also offers opportunity for those with enough political and/or financial pull to get the state to grant them access to land and natural resources, which is prohibited for anyone else. The knock-on effect of all this is that established economic actors face far less competition than they otherwise would, both from other capitalists, and from workers themselves. This in turn means they can pay lower wages, charge higher prices, and maintain higher profit margins at lower levels of efficiency, which funds salaried management hierarchies that become ever more insulated from the day-to-day goings on of actual production. The costs of the inefficiencies that grow out of this insulation are absorbed through artificially high profit streams and paying artificially low wages: the costs are socialised. (Carson 2008, 197-224)¹⁷ The land monopoly is explicitly coercive because it is sustained by the state’s aggression against persons who attempt to homestead vacant land.¹⁸

The state’s exercise of the money monopoly means they grant a protected banking cartel the exclusive right to issue currency, and prohibit all others from doing so (Tucker 1888, 11-12; Carson 2007, 185-189; Chartier 2011, 32; Johnson 2010, 68-69; 2011). Since they are the only ones allowed to supply money, they are able to maintain artificially high interest rates. This not only benefits them at the expense of borrowers, but also in turn benefits

¹⁶ Note that the forcible prevention of the appropriation of unowned property is also an act of aggression. One may forcibly prevent others from entering one’s own property, but not unowned property. Therefore to interfere with someone’s appropriation of unowned property is to aggress against their person. (Rothbard 2009, 170; Block 2013, 276-280)

¹⁷ One may object that the land monopoly cannot lower wages as such, because as long as there is competition in the labour market, workers tend to receive their marginal revenue product. However, without denying this claim, it is still the case that were the land monopoly to be abolished, established employers would not be able to compete with independent entrepreneurs and co-operatives; thus these latter producers would take over the market share of the former, and since they own their own capital, would earn the full value of the output, since they own all the inputs – so their “wages” would increase because their marginal revenue product would increase due to their ownership of capital.

¹⁸ See note 16 above.

incumbent market actors who can afford the higher costs of borrowing money, at the expense of would-be entrepreneurs in need of start-up capital. The money monopoly is, like the others, explicitly coercive because it is sustained by the state's aggression against the property of those who otherwise would issue money and credit against the value of their holdings.¹⁹

Other ways in which the state coercively structures the political economy to privilege incumbent market actors are tariffs (which protect large-scale domestic producers from more competitive international producers, inflating their profit margins and increasing the cost of living for the average domestic citizen, which disproportionately affects the working class), and intellectual property rights (which protect firms whose products could easily be mimicked by competitors, allowing them to keep their prices artificially high). Those who attempt to make international exchanges will have their property seized by the state and may be prosecuted, and those who produce merchandise that mimics other designs and technologies out of their own property will have their rights in that property denied in accordance with copyright and patent law, respectively.²⁰ There are also the interventions in workers' unionisation which damage workers' ability to pool their bargaining power (Johnson 2004; Carson 2008; Zwolinski Forthcoming, 8-12).

The state could not wield these monopoly powers without the threat of (and ultimately, the execution of) aggression against persons and their property. If one were to consistently defy the state's claim to any of these monopoly powers one would eventually be prosecuted, resulting in the forcible seizure of one's wealth or assets, or imprisonment against one's will, or some other violation of the non-aggression principle. In one sense, this does not mean that all wage-labourers are aggressed against, since they do not all attempt to economically compete with capital. In another sense however, the threats of violence against them are real: if they were to homestead unowned resources, or start mutual credit associations, for example, these activities would be brought to a violent end by agents of the state, as anyone involved in the urban drug industry will know too well.²¹ Therefore these options are coercively prohibited for them.

¹⁹ On the prospects of banking without the legal privileges of central banking systems, see Greene (1974) and Dowd (1992).

²⁰ For the libertarian case against protection of intellectual property rights see Long (1995) and Kinsella (2008).

²¹ Libertarians have long identified threats of violence as on a moral par with violence itself. Hence their opposition to taxation: just because one pays taxes without a gun to one's head, that does not make such payment voluntary in the morally relevant way. Indeed, even if one were forced at gunpoint to pay taxes, the injustice would be of the violence threatened, not of the violence executed.

The structure of capitalistic privilege therefore is a coercive one, since it depends at root upon threats of violence that condition socioeconomic relations in wider society. The privilege that an employer has in securing an employment contract that allows her to benefit more than the employee, though it does not involve *proximate* coercion (that is, the capitalist herself does not directly coerce the worker), is dependent upon a coercive system that prohibits certain kinds of market competition. One need not deny that given the set of options before the prospective employee, agreeing to wage-labour employment is her best course of action; however, *why* these options are the only ones open to her is not (at least not *only* or even *mostly*) the result of differential skills and preferences manifesting themselves on an open marketplace. The threats of force made against those who would defy the state's monopolies have strong ripple effects on society at large. As with the enforcement of any other law, there only needs to be knowledge that force could be used against oneself if one acted in such-and-such a way in order to shape one's actions (and therefore social institutions) around avoiding the threat of violence.²² Therefore although the employer does not need to coerce her employee in order to cash out her privilege, the nominally voluntary interaction that takes place comes about on the basis of coercion elsewhere. The privilege of one class to impose costs upon another does not depend upon the execution of force in every interaction, but only on a pattern of behaviour that is pervasively caused and sustained by the actual execution, and residual threat, of force. The spontaneous order of individuals achieving their ends by the means available to them is sufficient to sustain a system of privilege. Capitalism is a spontaneous order in the sense that the exchanges that occur within it are unplanned, but it is coercive and should therefore be condemned by libertarians.

Libertarianism is not only well-equipped to provide an analysis of capitalist privilege by tracing the privilege of nominally voluntary interactions to acts of coercion elsewhere in the social order, but out of this it is uniquely situated to provide solutions to end capitalist privilege. By viewing capitalist privilege as an outgrowth of state coercion, we can clearly see how such privilege must be brought to an end – by abolishing the state's monopolies. Indeed its historical view of justice²³ reveals libertarianism to be uniquely

²² It should be noted here that even right-libertarians condemn threats of violence, even when that violence is not executed. Threats of violence are coercive insofar as they illegitimately compel someone to do something they otherwise would not have, in order to avoid the illegitimate violence of another. Therefore this constitutes no deviation from the principles of mainstream libertarianism, since their critique of the state is not only that its actual violence is unjust, but also that its laws which constitute threats of illegitimate violence are also unjust.

²³ Nozick famously contrasted the libertarian historical entitlement theory of

suiting to analysing privilege and condemning it (Long 2012). Theories of privilege that only look for features *proximate* to discrete transactions, rather than their history, in order to explain them, will (if they condemn them) recommend restrictions on how these interactions may proceed. For example, if one explained capitalist privilege merely by reference to the employer's unfair use of her superior bargaining power, this might lead to viewing the only solution as placing restrictions upon the way in which employers and employees may bargain, which in Carson's terminology would be a *secondary* intervention to remedy the effect of a *primary* intervention, while leaving the overall structure that gives the employer her superior bargaining power intact. In the sense that egalitarian principles of justice dictate "rules of the game" to achieve a certain range of outcomes, libertarian principles reshape the game itself.²⁴ In analysing capitalist privilege as being emergent from explicit acts of unjust coercion elsewhere in society, libertarians are able to show how the superior bargaining power of the employer can be removed altogether, rather than merely checked.

Abolishing the state's monopolies would remove the employers' superior bargaining power altogether, rather than *remedying* its effects. There is a sense in which it is not enough to simply abolish monopoly, however; the spontaneous order that ensues has to be the result of individuals taking initiative, responding to information, solving problems, and taking opportunities.

We should remember, when we say "the market will take care of it," that *we are the market*, that its successful operation depends on the alertness of Kirznerian entrepreneurs, and that we who have noticed a problem are in the best position to fill that entrepreneurial role.²⁵ (Long 1997, 13.)

Coercion shapes institutions, and therefore after the coercion disappears, institutions must be accordingly reshaped. Unless individuals take the new opportunities that the removal of monopoly would offer, no real change will be achieved. Indeed, *we are market forces* (Johnson 2009); therefore a call to action is implied. I will

distributive justice to egalitarian patterned or end-state theories of distributive justice (1974, 150-164).

²⁴ This is often cited as the Rawlsian response to, in particular, Cohen's (2000) criticism that Rawlsian principles of justice do not proscribe behaviour that exhibits sufficiently anti-capitalist convictions. There are similar important criticisms not answered directly by this claim, e.g. Wolff (1977).

²⁵ See Kirzner (1973; 1978; 1995).

return to this issue at the end.

Rape culture

The right-libertarian position on patriarchal privilege is analogous to its position on capitalist privilege.²⁶ As long as social interactions are voluntary, they are mutually beneficial and just; therefore patriarchal relations that do not involve any proximate coercion are mutually beneficial and just. Right-libertarianism is well-equipped for condemning violence against women as unjust and harmful; however, where interactions between men and women do not involve any proximate coercion, they assume them to be always entirely just. This ignores the possibility that such interactions may occur only on the basis of actual aggression against women elsewhere and at other times. The assumption that there is no systematic aggression against women by men is wrong, and understanding the political nature of rape enables one to see its relationship to male privilege, even as it is manifested in nominally voluntary interactions.

The lingering threat of rape that exists in patriarchal society means men are privileged insofar as they can exert leverage over women in many of their interactions due to the latter's felt need for physical protection of men (from other men). Men can restrict women's behaviour through '[p]aternalistic double binds' that on the one hand tell women to avoid placing themselves within dangerous situations vis-à-vis being raped by men, and at the same time tell them to seek the physical protection of men (Johnson 2010b, 12). The effect of these double binds is that men are not held responsible for their violence against women because it is seen as women's responsibility to avoid dangerous situations, and/or seek male protection.²⁷ The simultaneously felt need for women to secure men's protection and their fear of men's violence 'simply means that women's freedom is systematically constrained by fear of men', and this, whether men want it or not, allows them to benefit at women's expense – benefit by generally being able to treat women relatively badly while receiving relatively good treatment in return. Because of the

²⁶ Where capitalist privilege and patriarchal privilege become disanalogous is that capitalist-worker relations typically do not involve proximate coercion (where they do, we would be inclined to call it a master-slave relation instead); however, many interactions that involve the use of patriarchal privilege do involve proximate coercion. Domestic violence, sexual assault, and most forms of violence against women are all coercive and patriarchal acts; we are not inclined to call them something else *rather* than patriarchal when they directly involve violence, but coercive in *addition* to being patriarchal, contra the case with capitalist privilege.

²⁷ Often of course these are one and the same thing: the very men that abuse women are the ones whose protection is antecedently sought. This is, in part, owed to the myth that all rape is committed by strangers; see Brownmiller (1975), especially ch. 6.

danger men present to women, women stand in *need* of male protection.²⁸ This has ‘*ripple effects* for *all* women’s social freedom and material well-being’ (Johnson 2010, 3), from domestic relationships to professional ones.

The negative effects upon women (and the privilege enjoyed by men) that are entailed by this state of affairs are not restricted to those interactions that involve coercion or aggression. Just as capitalists do not need to force workers into employment, all men do not need to coerce women in order to have material leverage over them. As I said, according to the right-libertarian, instances of actual violence against women are condemnable as unjust and harmful, but interactions that occur between men and women, where the men in question do not coerce the women in question, are voluntary and mutually beneficial. And since these interactions are not (proximately) coerced, they are perfectly just. Just as the right-libertarian is inclined to view (secondary) state interventions as one-off injustices creating localised distortions in the political economy which is otherwise characterisable as *laissez faire*, rather than as part of pervasive state coercion, the right-libertarian is equally inclined to view violence against women as deeply unjust but nonetheless *random* and *discrete* acts of private injustice – in other words, not ‘*structural* or *political*’ (Johnson 2010, 2). However, we must view the nominally voluntary interactions between men and women that instantiate patriarchal privilege in light of explicit acts of coercion that exist in wider society, particularly, rape.²⁹ Such acts of coercion in wider society explain why women’s options are such that it can be in their best interests to act in such a way as to give more than they get from men.

The rape of *some* women by *some* men is the process ‘by which *all* men keep *all* women in a state of fear’ (Brownmiller 1974, 15), whether or not the male beneficiary in each case is himself a rapist. Just as with the threats of force issued by the law that keep competition out of the capitalist market

²⁸ Analogously, because of the monopolisation of economic activity by capitalists (at the behest of the state), the working class stand in need of employment by capitalists, or in need of welfare payments from the state.

²⁹ In the case of wage-labour, it is fairly easy to say that employment contracts constitute privilege on the side of the capitalist because it is fairly easy to make an ordinal valuation of what is being exchanged. However, the state’s primary intervention creates privilege elsewhere within the capitalistic market, where it may be less obvious due to difficulties in making ordinal valuations of items of exchange. Equally with social interactions between men and women, it is difficult to say which ones are afflicted with privilege and which are not. However, what I intend to say is that whatever interactions do take place, we should expect women to be able to derive more of a benefit than they in fact do, if there existed no fear of male aggression. Therefore, *prima facie* at least, we can say that in those interactions where it looks like men benefit more than women, privilege may exist.

place, it is the threat of rape and other forms of violence against women that enforces the ‘unwritten law of patriarchy’ (Johnson 2010).³⁰

Johnson identifies three, potentially overlapping, Hayekian notions of ‘spontaneous order’. A spontaneous order can be a benign social order that emerges consensually (where ‘spontaneous’ means uncoerced), and/or is polycentric or participatory (where ‘spontaneous’ means unprompted), and/or is emergent rather than consciously designed (where ‘spontaneous’ means unplanned) (Johnson 2010, 8; Hayek 1964). Johnson points out that patriarchal privilege qua the structural result of rape ought to be understood as a malign, polycentric order emerging from coercive actions. The fact that some men rape some women conditions behaviour in wider society by keeping women in fear. This is analogous to how the state’s use of violence against those who violate the laws that underwrite monopoly keeps the poorer members of society looking for wage-labour.

The use of coercion under capitalism is political because the force in question is wielded by the state, but also because it has systematic effects on the distribution of socioeconomic power. It is part of the legal system: so prominent that it creates regularities of behaviour that characterise society generally, not just those against whom the state actually executes aggression. Rape is political for this same latter reason: it is not (normally) executed by the state, but it is executed widely enough by non-state actors to create regularities of behaviour that characterise the distribution of power in society generally, not just of those who are raped. Johnson’s Hayekian analysis of rape culture (2010) not only shows how libertarianism is well equipped to analyse and offer solutions to end the patriarchal privilege that emerges out of rape culture (which I will come to shortly) but also makes clearer the feminist concept that is usually rather opaque to liberals and libertarians: structural violence. Recall that capitalism ought to be viewed not as a social order brought about through the uncoerced choices of free (but differentially endowed) agents, but rather as a structurally coercive order insofar as certain kinds of non-aggressive behaviour are coercively prohibited. Equally patriarchy ought to be viewed not as a social order brought about through the uncoerced choices of free (but differentially endowed) agents, but rather as a

³⁰ Block’s claim (2010, 129) that all states are coercive whereas not all men are coercive is true but entirely irrelevant to the libertarian and feminist claim. The actions of two men M_1 and M_2 can condition behaviour of a woman, W , in relation to a man, M_3 , such that M_3 can (with or without intention) exploit the fear in W caused by the actions of M_1 and M_2 . One can analogously imagine someone refraining from lighting a joint because they see a police officer (or anyone in a high visibility jacket, for that matter) without that officer ever having made an arrest or issued any threats of violence against anyone, let alone the smoker in question. Such interactions are not to be viewed as uncoerced, since they are conditioned by threats of violence.

structurally coercive order insofar as there remains the threat of real violence. The violence is structural, because the threat is so systemic that it does not need to be executed against everyone it has an effect upon. Just as all men enjoy privilege due to the actions of rapists, all capitalists enjoy privilege due to the actions of the state against those who might compete with them.

This analysis is a more naturally libertarian one because it does not make special exemptions for those who commit violence based upon affiliation with a government office. What makes libertarianism distinct from other political philosophies is its application of principles of justice to all individuals, including agents of the state. This leads to the conclusion that the state may not do anything that is impermissible for anyone else to do. Individuals cannot initiate violence; therefore states cannot initiate violence. As Rothbard said:

While opposing any and all private or group aggression against the rights of person and property, the libertarian sees that throughout history and into the present day, there has been one central, dominant, and overriding aggressor upon all of these rights: the State. In contrast to all other thinkers, left, right, or in-between, the libertarian refuses to give the State the moral sanction to commit actions that almost everyone agrees would be immoral, illegal, and criminal if committed by any person or group in society. The libertarian, in short, insists on applying the general moral law to everyone, and makes no special exemptions for any person or group in society. (1973, 1-2.)

Where right-libertarianism's view of coercion as the *be-all-and-end-all* of injustice is a weakness in analysing privilege, the same feature is a strength in a more complete libertarianism. Where right-libertarians only look for proximate coercion in analysing the justice of a particular social relation, a more complete libertarian analysis applies the non-aggression principle more broadly and sees many forms of coercion as structuring society, thus delegitimising those relations that are characterised by it. Structural violence is constituted by those acts of violence that the right-libertarian condemns but mistakenly views as abnormal, as having only localised effects, or otherwise as not a characterising feature of society. They in fact are 'interlocking components in a system of class power' (Johnson 2010, 1), just as acts of buying and selling at certain prices are interlocking components in a free market system, and ought not be analysed in isolation from their causes and effects in wider society.

Just as states cannot initiate violence in the same way it is impermissible for non-state actors to initiate violence, non-state violence can dominate

society in the same way that state violence can dominate society.

Conclusion and Prospect

There are two different approaches to eradicating capitalist and patriarchal privilege that the libertarian analysis might lend itself to. One approach is electoral politics; the ballot box is often the first port of call when political reform is sought. Seeking to abolish the state's monopolies incrementally by electing libertarian politicians, if successful, would eradicate capitalism and free the market. If the state's monopolies were to be abolished, individuals would begin to compete with incumbent market actors on *truly competitive* terms, driving down the socioeconomic power of capitalists and dissolving the privilege they enjoy. It is exceedingly unlikely that a truly libertarian party that campaigned on the abolition of state monopolies could ever get elected; furthermore, empowering a government on the premise that it disempower itself goes against our most basic intuitions about power.³¹

This method of eradicating capitalism does have a corollary with patriarchy, though even harder to make sense of in the latter instance. Since the state's causal role in capitalist privilege entails the abolition of the state, rape's causal role in patriarchal privilege entails the abolition of rape. The abolition of rape is obviously the answer: if rape were to be abolished, men would no longer be both feared and sought for protection, and women could face men on more equal terms. But what does it mean to abolish rape? To abolish the state, one can fantasise about electing a self-destructing government; the law is something that an appropriately situated group of appropriately motivated people could radically change. Rape, however, is – seemingly – thoroughly more decentralised and unofficial than the state; therefore it is even more fantastic to claim that its abolition is something one conscientious individual or organised group could achieve. Furthermore, rape is already illegal, and the non-enforcement of such laws is again something deeply decentralised and engrained in the bureaucratic and patriarchal culture of our society. How then can decentralised, unplanned patterns of behaviour be changed? Here is another place in which right-libertarianism has gone wrong:

When the collective action in question is something good or desirable, [right-libertarians] are confident that market incentives and natural human sympathies will unite to bring the collective action about without the need for coercive

³¹ Indeed the peculiarity of this notion is what made Tucker identify with anarchism over state-socialism. The way he saw it, the problem with capitalism was too much monopoly; therefore electing an all-powerful monopoly to solve the social ills caused by the former would be self-defeating (1888).

coordination from government. But when it comes to harmful or unpleasant collective action (including the formation of a plutocratic ruling class [or rape culture]), this, [right-libertarians] are sure, can flourish only with the help of state intervention and will quickly wither and die when exposed to the light of freedom and economic rationality. (Long 1998, 341-342.)

The reason for this is that the right-libertarian cannot see what kind of ‘coercive coordination’ there could be other than (secondary) state intervention. We need to look not only past the more modern forms of (secondary) state intervention to the more historical and more pervasive (primary) forms of state intervention, but be aware that systematic (if *unconsciously* coordinated) coercion can be present without the state coordinating it, as is constituted by rape culture. Indeed, even the state itself is not *causa sui*; it was created, and is sustained, by the actions of private individuals. We can blame capitalism on the state, but we cannot blame the state on itself, just as we can blame male privilege on rape, but we cannot blame rape on itself.³² It is human actions that underpin institutions; it is because people think the state is legitimate that the state is able to survive. And it is because people think rape is legitimate (or at least, not a pervasive or political issue) that rape is able to survive as an institution. Although the individual cannot change the behaviour of everyone, she can delegitimise and denounce both the political violence of the state and that of rape. This brings me to the second and more plausible kind of solution for eradication that libertarianism lends itself to: the creation of a countervailing order through direct, conscious action.

Many libertarians believe in engaging in innovative business enterprise because this is what makes up the spontaneous order of the market place, and all the benefits that flow from it. Equally libertarians should believe in engaging in ‘counter-economic’ activities, since we do not live in a free market. By consciously flouting existing state institutions that protect capital from competition, individuals defy those behavioural norms that underpin capitalist privilege. Through the development of rival socioeconomic institutions a social order can be generated that makes the state redundant and/or toothless; ‘forming the structure of the new society within the shell of

³² In assigning blame I do not mean assigning moral responsibility, but causal responsibility. The state is itself unjust, as is rape, and those who execute violence as rapists or on behalf of the state (or both) are morally accountable for their actions even if there are sociological causal explanations for them.

the old.³³ Agoristic practices (Conger 1973; Konkin 1983; 1995, 2008) can range from one-off economic transactions to building vast social and support networks and black- or grey-market businesses. Unofficial workers' unions, drug trafficking, illegal immigration, occupying vacant land, mining cryptocurrencies, boycotts, civil disobedience (or even civil militias), tax avoidance, unlicensed taxi driving and child-minding, are all ways in which one can defy the structural coercion of capitalism, and drive it towards redundancy. Agorism is a necessary condition for the removal of privilege. Saying "the free market will take care of it" just means "individuals will need to take certain kinds of initiative and it will be in their interest to do so," but it's important that they become aware that it is in their interest to do so.

The coercive order of patriarchy can also be countered through activities that generate a social order that makes patriarchal power redundant and/or toothless. Johnson writes:

Grassroots women's movements to counter diffuse male violence formed outside, or *beyond*, the sphere of government and conventional political lobbying – c.r. groups, speak-outs, dispersed networks of women's shelters, rape crisis centers, and other feminist spaces – originally with little or no connections to hierarchical power-politics or the male-dominated State. All could productively be understood as *voluntarily-coordinated, polycentric, but consciously organized* political resistance to a *polycentric, emergent, coercive* order of violent oppression. (Johnson 2010, 14.)

Through the taking of voluntarily coordinated and conscious action, an order can be created that protects against the coercively coordinated and unconscious order of patriarchal capitalism, so as to diminish the damage of such coercion and check or remove the privilege of its beneficiaries.³⁴

³³ Repeated phrase of the Wobblies; see *Industrial Workers of the World*: <http://www.iww.org/culture/official/preamble.shtml>

³⁴ In saying that each individual's behaviour is what underpins capitalism and patriarchy, and that therefore this behaviour must be changed in order to change the social order, I do not mean in any sense that it is the moral responsibility of those that are made worst off by the state, plutocracy, and sexism to improve their condition (if what I've said is correct, it is the agents of the state and rapists who are morally responsible for changing their behaviour). However, in fighting against the state, plutocracy, and sexism (while these things *unjustly* exist), some action does need to be taken, even by those made worst off by it. With regard to rape, it is certainly true that there needs to be more telling men not to rape people rather than telling women to avoid being raped. However, telling men not to rape people is *itself* (albeit, fairly minimal) conscious social activism, that no one in a just world would need to

However, “leaving it” to the market is not sufficient; ‘the alertness of human beings’ must be harnessed in order for opportunities to be consciously seized (Kirzner 1995, 39).

The approach defended here takes the core pillars of libertarianism, spontaneous order and non-aggression, and shows both how unconscious spontaneous orders shaped by aggression are unjust, and how they are rectifiable through direct, conscious action. Viewing individual interactions as the locus of the exercise of privilege, as right-libertarians do, is ineffective both at identifying the real origins of privilege in aggression, and in condemning it. The atomistic approach does not sit well with the rest of libertarian social theory, which has always viewed patterns of social interaction (whether optimal and cooperative, or suboptimal and conflicting) as natural human tendencies, not necessarily in need of a force-wielding leviathan to guide or counter them. ‘Indeed, radical individualists have hardly ever been social atomists.’ (Long Unpublished [b]). Furthermore, the radical feminist mantra that ‘the private is political’³⁵ is a vital part of libertarianism too (Long & Johnson 2005). It lends itself to the feminist critique of patriarchy and rape culture as much as it does to the libertarian critique of the state and the privilege it affords to capitalists. Just as we should view the systematic and political violence of the state as on a moral par with the private violence of a criminal gang, we should view the private violence of the rapist as on a structural par with the systematic and political violence of a state. Violence is violence no matter whom it is executed by, and when this violence becomes so prevalent that it conditions behaviour throughout society so as to affect the distribution of socioeconomic burdens and benefits, it is political.

A fully enriched libertarianism comes out as a staunch critic of both the privilege of employers in the capitalist labour market, and that of men in patriarchal rape culture. What is often viewed as a weakness of libertarianism (being concerned with only a narrow notion of injustice as aggression), when fully fleshed out becomes a strength.³⁶

take. While we are in an unjust world and want to make it better, there are certain things we need to proactively do, as opposed to those things the perpetrators of injustice need *not* to do.

³⁵ Or as Carol Hanisch put it, ‘the personal is political’ (1969).

³⁶ I have not labeled the libertarianism I defend here as ‘thick-libertarianism’ (Johnson 2008), ‘left-libertarianism’ (Long Unpublished[b]), or ‘dialectical libertarianism’ (Sciabarra 2000), because I intend to show that what I have labeled ‘right-libertarianism’ falls short of the requirements of even the thinnest libertarianism. Right-libertarianism fails to follow the central tenets of mainstream libertarianism to their logical conclusion, and therefore needs to explain why. Whether there is some additional methodological or moral principle that compels them to apply libertarian principles selectively needs to be made clear. It is those who

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