

Turning the Tables: The Pathologies and Unrealized Promise of Libertarianism

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Author's note: As a scholar and former libertarian, I have been disappointed at libertarians' general failure to engage in serious debate with their critics, but I have also been disappointed with most critics' relatively simplistic attacks on libertarian ideology. I wrote this chapter for a book of essays criticizing libertarianism. Some are among the best critiques written, but none but mine are written "from the inside" so to speak. It demonstrates how libertarian ideology does not understand its own key concepts, such as individuals, freedom, coercion, power, property, contracts, and democracy. Not only does this failure undermine their policy conclusions, it also prevents them from seeing the real possibilities opened up by taking individual freedom as the major value.

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Chip Py, a longtime resident of Silver Spring, Maryland, was walking downtown after eating lunch there. He took out his camera and started to photograph the contrast between the tops of the office buildings and the blue sky.

Within seconds, a private security guard informed Py that picture-taking is not permitted. In his report of this episode Marc Fisher of the *Washington Post* quoted Py: "I am on a city street, in a public place Taking pictures is a right that I have, protected by the First Amendment."¹

¹ Marc Fisher, Public or Private Space? Line Blurs in Silver Spring. *Washington Post*, June 21, 2007:
<http://www.washingtonpost.com/wp-dyn/content/article/2007/06/20/AR2007062002354.html>

The guard informed him he was on private property and sent Py to the office of the developer. “There, marketing official Stacy Horan told Py that although Ellsworth Drive – where many of the downtown’s shops and eateries are located – may look like a public street, it is actually treated as private property, controlled by Peterson.” It had in fact been a public street, until the county ‘privatized’ it.

From a libertarian perspective Py’s experience is an example of “freedom” at work, and public places where the First Amendment applies are areas of governmental exploitation and oppression. How could an ideology of freedom end up with a world where, if libertarians had their way, the First Amendment would not apply *anywhere* because all public spaces will have been privatized under the arbitrary control of an owner?

What is Libertarianism?

In a time when American politics has become largely a morass of nihilism, corruption, and debased public debate, libertarian candidates such as Ron Paul stand out seductively. They speak claiming a strong moral foundation, they believe ideas matter, and they are willing to say the would-be emperors within both parties are without the virtues they claim to embody. It is hard not to be drawn into sympathy with these libertarians even when we find ourselves at odds over important political issues. These people at least stand for something. In a world where few people of public importance stand for anything beyond enlarging their pocketbooks and power, that is indeed something. But is it enough? What about the rest?

The rest is both much less and much more than libertarians claim.

At its core libertarianism is the belief that “free markets” provide the optimal framework within which all human interaction should take place. Some grant a small additional role for government as a “night watchman state” to enforce contracts and deal with violent crime and defense. Others think markets can do even those tasks.

Very importantly, most libertarians draw their conclusions from a radically individualistic moral philosophy and argue that no peaceful individuals can be justifiably aggressed against. As Ayn Rand put it, “No man has the right to initiate the use of physical force against others.”² It is this moral foundation that makes them such staunch defenders of civil liberties for individuals and critics of war. Their additional defense of the ‘free market’ arises from their belief that markets simply reflect the choices peaceful people make when they cooperate with one another.

Yet, for many of us, something seems deeply inadequate to the libertarian claims that their nonaggression principle justifies *laissez faire* capitalism and relegates government to a purely supportive role for maintaining a good

² Ayn Rand, *For the New Intellectual* (NY: New American Library, 1961). 55.

business environment. We are attracted by their paeans to individualism, their praise of responsibility and individual initiative, and their opposition to those eager to force us to live the way they demand. And yet *something* seems to be lacking, even if we have a hard time putting our finger on it.

We skeptics are right. Their terminology uses common words in uncommonly narrow ways. Their faulty idea of an individual, combined with their narrow interpretation of “nonaggression,” leads libertarians to misunderstand what private property is. Along with ‘nonaggression’ and the ‘individual,’ ‘private property’ is *the* core principle underlying libertarianism’s solutions to all of society’s major problems.

Once libertarian framing of what constitutes individuals and aggression are accepted, arbitrary assumptions embedded within their arguments take away our ability to conceptualize what bothers us. Political theory becomes a source of blindness rather than insight. Libertarians give terms such as “individual,” “aggression,” and “property,” arbitrarily narrow meanings. Starting with a fragmentary understanding of their key concepts, their arguments ultimately provide cover for oppressing individuals and masking many forms of aggression. An ideology of freedom becomes in practice something quite different.

Growing out of these misunderstandings of the terms “individual,” “aggression,” and “private property,” another problem arises that renders libertarians unable to comprehend the nature and value of political democracy. These are serious shortcomings for an ideology claiming to respect individuals, honor property rights, and criticize government abuses.

And yet, if genuinely understood, the libertarians’ principle of nonaggression helps guide us towards a revival in the quality of American public life and public debate from its present debased form. In other words, my critique does not reject their principles; it argues that libertarians *do not understand them*. When properly understood, their principles do outline a vision of a genuinely free and prosperous society.

I have made very serious charges against a political and philosophical perspective that prides itself on its rationality and rootedness in American traditions. I will now prove them.

Individuals

Libertarians consider individuals to be a kind of social atom, the basic building blocks from which more complex social institutions arise. All of our complex institutions, from language and custom to governments and corporations, can ultimately be traced back to the actions of individuals. Therefore, if individuals are not aggressed against, the institutions arising from their cooperation will also be beneficent.

This view distinguishes libertarians from traditional conservatives who, from Edmund Burke to William Buckley, emphasize that we are embedded

within networks of tradition and custom that require honoring our ancestors, respecting what survived from the past, and protecting our cultural inheritance for future generations. It also distinguishes libertarians from most liberals and progressives, who argue that because our cultural and social relations so powerfully shape who we are – either inhibiting or expanding human well-being – we should seek to overcome and eventually replace all institutions of domination and arbitrary power.

Both genuine conservatives and progressives view people as embedded within a thick context of social relations. What distinguishes them from one another is that conservatives emphasize that what has survived has stood the test of time and should be changed only slowly, and progressives believe that as we better understand this context, we can abolish institutions that perpetuate or create new forms of oppression and domination.

Libertarians sometimes pay lip service to insights from both perspectives, but they focus overwhelmingly on the individual as an isolated entity. They assert that through voluntary cooperation with one another, individuals can create a prosperous, free, and creative society where all people are free to live, so long as they do not violate another. There is obviously considerable truth to this libertarian claim *in some contexts*. The libertarian error comes from seeking to include all relevant dimensions of human life within these partial contexts.

It Usually Begins With Ayn Rand

While the libertarian tradition has a number of key intellectual ancestors, today Ayn Rand towers over the others in influence and in number of readers. This section's heading repeats the title of Jerome Tucille's history of the libertarian movement,³ written during the time of its initial expansion from small groups able to meet in the private homes of people like Rand and Murray Rothbard, to its present nation-wide scale.⁴ Today, more than fifty years after her books first emerged, Rand's writings continue to sell in the hundreds of thousands, with over 12,000,000 of her books in print.⁵

Ayn Rand's influence extends well beyond self-consciously libertarian Americans and, in the process, magnifies libertarianism's influence far beyond those who adopted the term to define themselves. A 1991 survey conducted

³ Jerome Tucille, *It Usually Begins With Ayn Rand: 25th Anniversary Edition*, (Fox and Wilkes, 1997).

⁴ These statistics come from two excellent biographies of Rand: Anne C. Heller, *Ayn Rand and the World She Made*. (NY: Doubleday, 2009) and Jennifer Burns, *Goddess of the Market: Ayn Rand and the American Right*, (Oxford: Oxford University Press, 2009).

⁵ Heller, *op. cit.*, xii.

by the Library of Congress and Book-of-the-Month Club discovered more Americans reported *Atlas Shrugged* had influenced their lives than any other title except for the Bible.⁶ Many of those now calling themselves “conservatives” owe more to Ayn Rand than to traditional conservative thinkers. Alan Greenspan and Paul Ryan admit to having been significantly influenced by Rand. Glenn Beck, and other so-called Christian conservatives, sound more like Ayn Rand when it comes to the poor and unfortunate than anything written in the Gospels.

Ayn Rand has long been popular among young people struggling to define themselves in a society that increasingly seeks to narrow their horizons and diminish control over their own lives. Rand’s depiction of strong creative individuals standing firm in their visions of how life should be lived can be inspiring reading for young people discovering the many hypocrisies in our society. She exposes how the lust for power hides behind supposedly noble motives, and skewers the claims of those wielding power that they only act for the good of others. When many of us first encountered her, we were just beginning to suspect these truths and recognize that many people’s actions had little connection to their words. Rand’s fiction gave us a framework for understanding this reality and encouraged us to vow not to do such things ourselves.

As an older teenager, I certainly enjoyed *The Fountainhead* and *Atlas Shrugged*. These novels served as a kind of bracing literary tonic to help me say “no” as best I could to such pressures. I was hardly alone. She helped some of us overcome the fear of not fitting in and gave us permission to walk in tune with our own drummer. In that way, she assisted us in living life with greater integrity. This is Ayn Rand’s positive side, and I think it is very important.

If this were all there were to Rand’s celebration of the individual she would rightly be praised as one of the greatest Twentieth Century literary forces for defending human freedom. Unfortunately, it was not.

Rand’s striking fictional characters exhibit her theory of what human beings truly are. This is a theory with many of its roots based on her early fascination with the German philosopher Friedrich Nietzsche, and in particular with his division of humanity into “supermen,” an aristocracy of virtue and ability, and the inferior people who resented their excellence. In varying degrees, this basic dichotomy stayed with her to the end. For example, in *Atlas Shrugged* her ideal man, John Galt, said:⁷

⁶ Times Wire Services, Bible Ranks 1 of Books That Changed Lives, Los Angeles Times, Dec. 2, 1991: http://articles.latimes.com/1991-12-02/entertainment/ca-746_1_book-titles

⁷ Ayn Rand, *Atlas Shrugged* (NY: Penguin, 1992). 989.

The man at the top of the intellectual pyramid contributes the most to all below him, but gets nothing except his material payment, receiving no intellectual bonus from others to add to the value of his time. The man at the bottom who, left to himself, would starve in his hopeless ineptitude, contributes nothing to those above him, but receives the bonus of all their brains. Such is the nature of the “competition” between the strong and weak of intellect.

Beyond his praise of creativity, Galt’s description of superior and inferior human beings carries four additional characteristics that remained part of Rand’s outlook, and have powerfully influenced subsequent libertarian thinking.

First, the individual is radically atomistic. Superiority arises from those with better intellect, and intellect is self-contained. In explaining her concept of man, Rand wrote “man is a heroic being, with his own happiness as the moral purpose of his life, with productive achievement as his noblest activity, and his reason as his only absolute.”⁸ Essentially, John Galt is treated as completely autonomous throughout the novel. Like a Greek God he is a force of nature, albeit a mortal one.

Second, virtue and excellence ultimately exist along a single continuum. As Galt explained, “Thinking is man’s only basic virtue, from which all others proceed.”⁹ For Rand, ideally every dimension of a person’s life was evaluated by, and subordinated to, reason.

Third, the greatest number of people is incompetent to live their lives unassisted by the creativity and ability of the elite. As Ludwig von Mises, the economist who did the most to strengthen libertarianism’s grounding in free market economics, wrote to her: “You have the courage to tell the masses what no politician told them: you are inferior and all the improvements in your conditions which you simply take for granted you owe to the effort of men who are better than you.”¹⁰ She is describing a human *pyramid* and pyramids are biggest along their bottom. Absent this pyramid, the entire premise of *Atlas Shrugged* dissolves into absurdity.

Fourth and finally, the pay-off from the less rational to the more rational is measured only in “material payment.” The market is therefore the proper way to evaluate the relative worth of a person’s contribution to society. In this last point, Rand has amalgamated the Nietzschean superman with the

⁸ *Atlas Shrugged* (NY: Plume, 1999). 1070.

⁹ *Atlas Shrugged*, op. cit. (1992). 944.

¹⁰ Von Mises quoted in *Goddess of the Market: Ayn Rand and the American Right*, 177.

successful businessman and rendered it the most perfect exemplar, a theme absent in *The Fountainhead*. To be sure those who “shrugged” in her novel included artists and inventors, but they are vital primarily to a society’s future, not its present.

No individual resembles Rand’s image of complete self-sufficiency. As Rand’s own biographies demonstrate, she was powerfully impacted during her childhood by a vastly less than loving mother. Her youth in viciously anti-Semitic Czarist Russia and her young adult years lived during the horrors of the Russian Revolution had a powerful impact on her views of human beings. At the same time she often benefited in crucial ways from the kindness of others both in Russia and during the years of her emigration and gradual rise to success in the United States. Later in life, she remained powerfully impacted emotionally by critics’ and the reactions of others to her works. Ayn Rand cared, even when she said she didn’t. Like every person, Ayn Rand’s life reflected the complex interweaving of her own abilities, the people she met, the times in which she lived, and the unpredictable play of luck and fate, all coming together in an act of co-creation. Rand created a world and in turn was created by it.

Her image of a few supermen and women surrounded by vast numbers of the less competent and even more of the truly incompetent is not true. If her biographers are correct, her intense elitism likely came from growing up Jewish in the Czarist autocracy with its state sponsored pogroms, followed by the mob actions of the Russian Revolution. Under Czarist autocracy, hundreds of years of despotism had left most Russians incapable of acting responsibly outside their most intimate circles. Rand’s view of coercion as physical force represents the experience of a person raised in such violent societies. It left her relatively numb to the other forms aggression could take.

Disappearing Individualism

There is a fatal tension between Rand’s emphasis in *The Fountainhead* on independence, initiative, and love of one’s work as determining a person’s worth, (like the architect Howard Roark), and John Galt’s later claim in *Atlas Shrugged* that reason is the ultimate standard of human excellence.

The *Fountainhead* suggests a multiplicity of excellences based on internal standards of creativity whereas the second suggests a single scalar. Roark is first and foremost an artistic creator, and hardly financially successful or even financially motivated. There are innumerable possible artistic creators, each following their own visions. But reason is a single scale, and as Rand’s philosophy developed, there appeared to be only one rational way to live a life, her way. Over time, individual creativity became subordinate to her concept of rationality, proceeding from supposedly universally correct premises.

After his encounter with Rand and her closest students, Murray

Rothbard, another major figure in the history of libertarian thought, identified the biggest problem at the core of Rand's idea of individualism. Rothbard concluded that Rand's philosophy did not lead to valuing the individual. Quite the contrary. As he put it "she actually denies all individuality whatsoever." Rand's exaltation of reason as man's highest and most definitive characteristic meant that she regarded emotion as subject to reason. Men were only "bundles of premises" and their virtue or vice depended on whether they had the right premises. To be rational, people's choices had to rest on rational premises, of which there was only one set, those Rand taught. She told Rothbard "I could be just as good in music as in economics if I applied myself." Rothbard concluded that for Rand the perfect society "would be a place where all men were identical, in their souls if not their personal appearance."¹¹ As he wrote, "Since [her followers] all have the same premises, they are all ... individual parts in a machine."¹² (As we shall see, Rothbard did not free himself from another version of this problem.)

Jennifer Burns and Anne Heller's excellent biographies emphasize the extraordinary conformity in dress, manners, hairstyles, and even smoking habits of Rand's inner circle. Rachmaninoff's romantic music was good, but composers such as Beethoven or Brahms were bad. Because he depicted everything in stark black and white terms, Mickey Spillane's mysteries were examples of the best literature. Books by people with whom Rand had a falling out were actually prohibited from being read by students who wanted to be close to her. Even advocates of individualism and free markets were judged so unacceptable that her students were forbidden to socialize with them. After their falling out, Nathaniel Branden, long Rand's right hand man, described the pressures for absolute conformity he imposed on those who wished to study with her.¹³ At one point, Rand decreed that only she and Nathaniel and Barbara Branden could legitimately be termed "Objectivists." Everyone else who followed her teachings could at most be termed a "student of Objectivism."

This is in remarkable contrast with the message she taught in *The Fountainhead*, where she distinguished between those who followed their own ideas and values, and those she labeled "second-handers."¹⁴ Howard Roark describes them: "Their ability is not within them, but somewhere in that space which divides one human body from another. Not an entity but a relation.

¹¹ Rothbard's perceptive criticism is discussed in both biographies of Ayn Rand: Burns, op. cit., 153; Heller, op. cit., 253.

¹² Heller, op. cit., 298.

¹³ Ibid., 302-3.

¹⁴ See the discussion in Burns, op. cit., 40-41.

The second-hander acts, but the source of his actions is scattered in every other living person.”¹⁵ There are two ironies here. First, every person, even Ayn Rand, is who they are because of their relations with others. But second, all those she accepted for study had to endorse being “second-handers” to the point where they *gave up* their independent stance to think for themselves. Rand *required* that those who came to study with her be *and remain* second-handers. Perhaps this is why she once observed “I thought that my fans disappointed and depressed me worse than my enemies.”¹⁶ No one with a mind securely their own could stay in such an environment.

Not all libertarians are so slavishly devoted to Rand’s ideas. But to my knowledge, all have internalized some version of this failure to understand the very individuality they praise. If they have internalized a model of the individual that cannot appreciate individuality, they internalize a model of the market that subordinates individuality to the dictates of the price mechanism. This was Murray Rothbard’s failing, for he regarded the free market as a perfect reflection of the choices free men and women made when choosing to interact voluntarily. Therefore, interventions by government that changed the rules or injected values the market did not serve were always a sign of violence and oppression.

Coercion by the market

To understand Rothbard’s unknowing rejection of individuality, we need to look briefly at how markets work. The market does not simply reflect the free choices of human beings. The market effectively coordinates a worldwide network of exchange because it radically simplifies every exchange into monetary terms. Supposedly, I do not need to know anything but a product’s price to decide whether I am better or worse off by buying it. This quality can empower individuals and/or subordinate them, as surely as the most detailed governmental regulations, depending on context.

When free men and women look at prices, they serve as signals, telling them what they must part with in order to obtain something they want. It remains their choice whether they do so or not. Prices are one factor among many when we decide what to do. Individual business people, partnerships, and families all operate within such an environment. So do many who work for others. At this level markets can empower both producers and consumers. But, this is not the only level at which the market operates.

Consider a corporation. Here strangers buy shares in a common enterprise, hoping to gain returns on their investment. Sometimes, there are millions of shareholders. Today shareholders might own shares of mutual

¹⁵ Ayn Rand, *Fountainhead* (NY: Signet, 1993). 606.

¹⁶ Heller, *op. cit.*, 303.

funds, and these funds invest in companies from which they expect good returns. Under such circumstances no one has much individual influence on how a corporation acts, and because many invest in mutual funds, often they do not know what corporations they “own.”

Another prominent libertarian economist, Milton Friedman, famously argued that corporate managers do not own their companies. They are employees of those who do. Consequently, if they act in any way that reduces returns to owners in order to serve other values, they are stealing from their employers.¹⁷

But who are their employers? Friedman argued the shareholders were. But we have already seen that most shareholders do not exercise any power over the use of their resources by a firm, and often do not even know what firms they “own.” Let’s imagine that one of these shareholder “owners” notices that the company in which they hold shares is acting unethically. They will be unable to change its actions because they “own” such a tiny portion of the whole, and so perhaps they decide to sell their shares in protest.

Shares sold by people objecting to what they regarded as unethical behavior would be purchased by others who are either ignorant of what was happening or who did not care. The more shares are sold in protest, the bigger the financial gains for those who then buy them. Knowledgeable buyers with fewer scruples will buy additional shares, anticipating an even greater return for themselves from the unethical behavior than would have been the case had no one sold. When apartheid prevailed, many progressive groups urged divestment from companies doing business in South Africa. One argument given against this strategy was that the shares would simply be purchased by others with fewer scruples.

If unethical behavior is profitable, selling shares exacts a financial loss on ethical shareholders while enabling less ethical or knowledgeable shareholders to make a greater financial gain! Selling a share for ethical reasons does not increase the pressure to change the objectionable behavior and can even strengthen its continuance if it is bought by a less ethical investor. This kind of ‘ownership’ *penalizes* ethical behavior and rewards the opposite so long as it is profitable. It is the *opposite* of what we normally mean when we say someone “owns” something.

If, despite Milton Friedman’s admonitions, a CEO decides to sacrifice profits for some ethical goal, that decision will be reflected in a lower share price than would otherwise be the case. If it is low enough to be noticed, the

¹⁷ Milton Friedman, The Social Responsibility of Business Is to Increase Its Profits, *New York Times Magazine*, Sept. 13, 1970: <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>

CEO is likely to be ousted in an unfriendly takeover bid by others less ethically motivated. So the CEO does not really control corporate property any more than the shareholders do.

A primary characteristic of ownership is control over what is owned. Neither shareholders nor CEOs ultimately control a corporation. No human being does. Theoretically a corporation, like the market, is immortal while individual shareholders and corporate and investment managers come and go. *In capitalism individual ownership has been replaced by market ownership.*

Corporations are as responsive to market dictates as a human-created institution can be. The market dominates what companies do on pain of their being taken over by other companies operating in even greater harmony with market incentives. Like CEOs, shareholders work for the capitalist system. Their job is to shift capital to where it will bring the greatest money profit, and their fee for doing their job well is the profit they make in their stock. Managers who serve other values are ejected, and so are shareholders who put values other than profit first. “Ownership” has shifted from individuals to the capitalist system, and rather than enhancing individual freedom, the system now requires individuals to serve its values on pain of gradually or quickly losing their fee for managing its assets, to be replaced by “better” employees. The profits shareholders make for investing wisely are the fee the market provides so that its property is well managed, just as corporate managers obtain a fee for competently managing property they do not own. Whereas individual ownership is used in myriad ways, reflecting the richness, strengths, and weaknesses of the human character, market “ownership” serves much narrower values. In capitalism organizations respond to prices, real and anticipated, and to nothing else. In the process, the concept of moral responsibility traditionally entailed in the concept of ownership has disappeared.

Economists have internalized libertarian ideas about individuals and the market more than in any other profession. This is because if every individual acted like a rational sociopath the market would operate as it now does. Individuals do not usually act this way, but the market creates a context that narrows the power of human values to influence anything but the final product. So “sociopathic” models of “rational choice” work in economic theory even if not in human life.

Our present wholesale collapse in business ethics illustrates this dehumanizing process. Today many corporations have pretty much freed themselves from the world of human values whereas privately held companies remain a part of civil society, still existing within the realm of freedom. Koch Industries is privately held, and as a consequence Charles and David Koch can legitimately be considered responsible for its actions, good and bad alike. They committed massive fraud against Native Americans and

these actions are a permanent blot on their character.¹⁸ On the other hand, if GE does something good or bad, as a tiny owner of GE stock I can reap neither praise nor blame, even when that praise or blame is attenuated to reflect the percentage of shares I own. I have as much influence over GE as I do over Apple, where to my knowledge I own no shares at all.

The libertarian equation of the market as the vehicle for expressing individual freedom sacrifices all individuality that does not serve corporate profit. Neither shareholders nor management are truly free. Prices have become commands. What does not make a profit does not get done. Even Murray Rothbard, who perceptively saw problems in Ayn Rand's vision of the individual, ultimately was no more a defender of individuality than she.

But how, then, are we to think about individuals and why they are so important?

Thinking about individuals as they are

In some sense we are unique individuals. Clearly, we are also beings decisively shaped by time, place, and the key experiences of our lives. How do we make sense of how these seemingly disparate characteristics relate to one another? And why are individuals so uniquely valuable? I think sociologists Peter Berger and Thomas Luckmann give a good start for answering these questions. As they explain it, to understand what an individual is we need to keep at least three perspectives simultaneously in mind. These perspectives *cannot* be reduced to one or the other.¹⁹

1. *Society is created by the actions of individuals.* Ayn Rand's model fits easily here and, in fact, this is the almost universal libertarian view. Individuals are social atoms whose combinations create society. The best society is one where these combinations are voluntary. As Rand put it, "The principle of trade is the only rational ethical principle for all human relationships, personal and social, private and public, spiritual and material. It is the principle of justice."²⁰ This point is important and true as far as it goes, but it does not go nearly as far as Rand or other libertarians think it does.
2. *Individuals are social creations.* We reflect our place and time. We even think with concepts we inherit and only slightly

¹⁸ On the Kochs and Indians see:
http://webarchives.net/december_1999/koch_loses_oil_fraud_case.htm

¹⁹ Peter Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise on the Sociology of Knowledge* (NY: Anchor, 1967).

²⁰ Ayn Rand, *The Virtue of Selfishness* (NY: Signet, 1964). 34.

modify. Albert Einstein could never have arisen on the Lakota Reservation, nor could Lakota medicine person Black Elk have become the man he was in late 19th century central Europe. Even intensely personal behavior, such as suicide, varies in frequency from society to society. I suspect we can all name encounters with others that decisively shaped who we have become.

3. *Society is encountered by individuals as an objective reality.* This third point is a little more difficult to grasp. We are born knowing nothing or next to nothing about our world. Newborns become fully-fledged members of their society by learning how members of that society make sense of things, and adopting all or most of it for themselves. Their consciousness reflects that social world of meanings within which they live as surely as it reflects knowledge about the physical world. Initially, we take as unquestionably true both the things we learn about the material world – rocks are hard, stoves are hot – and the things we learn about the social world – marriage is between a man and a woman, or in other societies that marriage is between one man and many women. Today some children are learning that their parents can share the same gender.

Beginning in infancy the child encounters a socially mediated reality, we are not simply the products of our environment. To some degree we can stand outside and question what we once took as simply natural. The child notices how two messages it receives do not fit together, and so he separates himself to some degree from both in order to evaluate this contradiction. This process continues into adulthood. But there is no place where we can stand outside all of our socially acquired knowledge and evaluate it all at once. No matter how sophisticated our questions, we always ask them within a social context that remains largely taken for granted.

In this important sense a human life is a creative discovery process where we continually encounter that which we do not know from within a context of what we think we do know. If we are honest and not afraid, we will recognize that the edges of what we think we know blends into what we know we do not know. The lines are blurred and how we ultimately interpret them can potentially send unexpected shock waves deep into our taken-for-granted world of certainty. But we can never doubt everything.

Berger and Luckmann argued, and I think correctly, “Society is a human product. Society is an objective reality. Man is a social product. An analysis that leaves out any one of these three moments will be distortive. Only with the transmission of the social world to a new generation (that is, internalization as effectuated by socialization) does the fundamental social dialectic appear in its totality.”²¹ These three dimensions do not exist in a linear causal relationship to one another. *They are always simultaneous*, creating an enduring and dynamic pattern of relationships out of which both individuals and societies emerge.²²

The Centrality of Relationship

This insight tells us that *individuals cannot be separated from their relationships* because our relationships are fundamental in determining who we are. As we make sense of our relationships and encounters within the world we inherited we must interpret what happens to us. We are unavoidably creative as we give them a meaning that is always at least to some degree unique to ourselves. I believe another Russian, Yevgeny Yevtushenko, captured a core insight about what an individual is far better than has Rand or any libertarian I have ever read.²³

In any man who dies there dies with him
his first snow and kiss and fight.
It goes with him.

There are left books and bridges
and painted canvas and machinery.
Whose fate is to survive.

But what has gone is also not nothing:
by the rule of the game something has gone.
Not people die but worlds die in them.

In a word, individuals are creative gestalts formed from interacting relationships, and every relationship involves at least two parties. Think of the well-known image of two faces, which, looked at differently, reveals a vase. The vase is dependent on the faces, the faces dependent on the vase.

²¹ Ibid., 61.

²² Paul Lewis, Peter Berger and his critics: The Significance of Emergence, *Society*, 47: 3, 2010. 207-213.

²³ Yevgeny Yevtushenko, *People*, *Selected Poems* (NY: Penguin, 1979). 85.

Different faces manifest different vases, and vice versa.

Every such gestalt is a unique center of consciousness, a self, one constituting the only real center of moral action. We are unique selves *because* of our relationships. If there are no relationships, there are no individuals.

This observation is paradoxical, but it is not nonsensical. Physicists deal with a somewhat similar paradox at the core of their knowledge. Consider the photon, a genuinely quantum phenomenon. In quantum mechanics a photon is a single quantum, and as such it is far more paradoxical than any comparatively gigantic atom. Atoms are things in ways that photons are not. Thinking about quanta helps us think more clearly about individuals than does using the libertarian image of an atom.

Ask certain experimental questions about the nature of light, and photons act as if they were particles (individuals). Ask other questions, and they act as if they were waves (certainly not individuals). *A photon is at least both* even though our minds cannot conceive clearly how this can be. The math works and exceedingly exact predictions can be made, but a clear mental image of what a photon really is eludes us.

Individuals only resemble atoms (particles) in some contexts and when some questions are asked of us. Ask an individual one set of questions and you get answers in keeping with libertarian beliefs, where individuals to some degree resemble irreducible units of social and moral reality. Do you want to be an engineer or a physicist or an artist? Are you gay or straight? Do you prefer meat or fish or are you vegetarian?

But if you ask *other* questions about individuals you get very different results, for we are also social beings reflecting the time and place we were born and our experiences with others, particularly as children, even down to the most basic levels of who we are. Why is suicide more prevalent in some societies than others? Why are marriages more egalitarian in some societies than others? Marriage and suicide are individual choices, yet they clearly are choices reflecting patterns that include and extend beyond individuals. I think we can assume individuals are at least as complex as photons.

The Centrality of Empathy

There is another glaring absence in Ayn Rand's concept of the ideal individual, one that also helps explain why her characters, memorable as they are, were so unlike real human beings and why genuine individuality was discouraged among her closest followers. That missing quality is empathy. "Self-interest" turns out to be a very interesting concept. It turns out that in the absence of the capacity for empathy the ability to act in rational self-interest is also absent.

What is "self-interest?" Rand and the libertarian tradition generally take the "self" for granted. The self is contrasted to other selves, and these selves gain when they cooperate, and at least one loses when one coerces another. In

Rand's formulation, coercing another makes the coercing self-dependent on its victim, and so not truly autonomous. Even the coercing self is not really free. As is so often the case, a partial truth is confused with the whole story.

There is nothing new about the argument that men and women act in their self-interest. If we go back to the time of David Hume and Adam Smith, many argued that in the end all human action is self-interested. As Hume described this point, no "passion is or can be disinterested; . . . even unknown to ourselves, we seek only our own gratification while we appear the most deeply engaged in schemes for the liberty and happiness of mankind."²⁴

However, both he and Adam Smith emphasized that such an egoistic analysis fails to describe our actual experience. For example, Smith observes that when we are pleased by observing or displeased by not observing something in others, "fellow-feeling with all the emotions of our own breast – both the pleasure and the pain – are always felt so instantaneously, and often upon such frivolous occasions, that it seems evident that neither of them can be derived from any such self-interested consideration."²⁵

When we rigorously examine it, egoism defeats itself. To act in our self-interest beyond the spur of the moment we need to anticipate our future situation. To do this, we imaginatively project ourselves into our anticipated future circumstances, and on that basis choose a course of action we believe will lead to a desirable outcome. This hypothetical future self of ours does not yet exist. It is a projection of who we think we will be at some future time.

Our ability to project our imagination into possible future anticipated circumstances arises from what Hume and Smith termed our *sympathetic* capabilities. By sympathy they refer to what we would call empathy today. We identify with another being. Regardless of what we call it, sympathy, empathy, or identification, this trait is not simply a passion or feeling. Hume emphasizes that "we must be assisted by relations of resemblance and contiguity in order to feel the sympathy in its full perfection."²⁶

The effective power of sympathy (empathy) cannot be simply taken for granted. Smith observes that "Men, though naturally sympathetic, feel ... little for another, with whom they have no particular connection, in comparison of

²⁴ David Hume, *An Inquiry Concerning the Principles of Morals*, appendix II., in David Hume, *Moral and Political Philosophy*, Henry D. Aiken (ed.) (New York: Hafner, 1948). 270.

²⁵ Adam Smith, *The Theory of Moral Sentiments*, (New Rochelle, NY: Arlington House, 1969), 10; Hume, "Of Self Love," *Moral and Political Philosophy*. 270-275.

²⁶ David Hume, *Treatise on Human Nature*, Bk. II, sec. ii, in Hume, *Moral and Political Philosophy*. 7.

what they feel for themselves.”²⁷ For empathy to develop, our intellect is needed to grasp or deny relevant similarities. Our predisposition to empathy can be cultivated and strengthened, or it can be inhibited.

The *same* capacities, which enable us to put ourselves into our own future shoes, also enable us to put ourselves into the shoes of another. In both cases we project our present self into the imagined mind of another self. Rational self-interest, which depends upon being able to anticipate the probable future consequences arising for us from something we do now, requires that we have the same capacity to sympathize with others. In both cases the capacity depends on our ability to recognize similarities in beings other than our immediate self.²⁸ As we put ourselves in others’ minds, based on their similarities with our own, we *care* about them.

Self-consciousness along with reason creates the capacity to care for others. Were we unaware of ourselves, we would have no basis for understanding a mind. Without our reason we would have no basis for understanding experience other than our own at the time we have the experience. *The greater our sense of self as a being extending over time, the greater becomes our capacity to empathize with other beings.* This is because the farther into the future our self-interest extends, the more developed our capacity for empathy must become, since our present situation, and the temptations and pains it presents, is ever farther removed from that imagined being for whom we can effectively care.

The more a being seems to resemble ourselves, the more easily we can empathize with it. Because we believe our own self is largely unchanging, when pursuing our rational self-interest, we usually extrapolate our present self into our future. When the future arrives we often discover we were wrong. We will often be closer to the mark in our empathy for a close friend today than for our imagined self ten years hence.

Sympathy (empathy), Hume observed, “extends itself beyond our own species.”²⁹ Some species are more like ourselves than are others. We can more easily sympathize with chimpanzees than with fish and fish more easily than with earthworms. But it is not the case that sympathy, even towards earthworms, is impossible. We have a gradation of similarities, and therefore a gradation of the possibilities for sympathy, which never fall to zero. Even

²⁷ Smith, *op. cit.*, 125.

²⁸ Hume, *Treatise on Human Understanding*, Pt. II, sec. vi; Sec. ix, In Aiken (ed.) pp. 227, 258. See Henry Aiken’s introductory essay, xxiii. I am uncertain whether Aiken clarified what is implicit in Hume, as it certainly is, or whether Hume fully grasped this point himself, for in Pt. II, Sec. v he noted “It is needless to push our researches so far as to ask why we have humanity or a fellow feeling with others.” 212.

²⁹ Hume, *Treatise on Human Nature*, Bk. III, Part. II, sec. i., in Aiken (ed.), 52.

the simplest forms of life can flourish or not, react to stimuli that are harmful or beneficial, and enjoy good or suffer ill health.³⁰

An observation by Aldo Leopold helps us better appreciate these implications of empathy. Leopold wrote that while we can mourn the demise of the passenger pigeon, which none of us has ever seen, no passenger pigeon would have mourned our own passing. He concluded, “For one species to mourn the death of another is a new thing under the sun.”³¹

All life is related. The more closely the physical nervous system of an animal approaches our own, the stronger the burden of proof must be on those who say its experience is wholly unlike our own. It makes far more sense to say that we have important similarities with other forms of life than to wall our experience off from everything else in the world. Descartes could attempt this latter move because he believed in a traditional, literal, way in *Genesis* and allowed “doubt” to overwhelm common sense. But what excuse does a post-Darwinian have?

Once we admit to sharing significant traits with chimpanzees, we enter on to a continuum extending indefinitely far. The implications of this point were not lost on Charles Darwin, who wrote, “I have all my life been a strong advocate for humanity to animals, and have done what I could in my writings to enforce this duty.”³² Darwin believed that ultimately ethics would evolve to include all sentient beings, gradually expanding its scope as people came to see their similarities with ever more distant forms of life.³³ Like Hume and Smith, Darwin believed natural sympathy provided the *foundation* of moral action. On this basis, the theory of evolution expanded moral consideration to encompass all life, for we can no longer hold ourselves as truly separate from others.

Here is a contrasting definition as to what is valuable about human beings. Hume and Smith’s analysis of sympathy explains why people would

³⁰ John A. Fisher, Taking Sympathy Seriously: A Defense of Our Moral Psychology Toward Animals, *The Animal Rights/Environmental Ethics Debate*, ed. Eugene Hargrove, (Albany: State University of New York Press, 1992), 227-248; J. Baird Callicott, Animal Liberation and Environmental Ethics: Back Together Again, *In Defense of the Land Ethic: Essays in Environmental Philosophy* (Albany: State University of New York Press, 1989). 49-59.

³¹ Aldo Leopold, *Sand County Almanac* (New York: Ballantine Books, 1970). 117.

³² Quoted by Donald Worster, *The Economy of Nature: A History of Ecological Ideas*, (Cambridge: Cambridge University Press, 1977). 181.

³³ Charles Darwin, *The Descent of Man*, New York: Modern Library, 471-511, esp. 492. See also Callicott, *In Defense of the Land Ethic*, p. 119; Donald Worster, *Nature’s Economy*, op. cit., 180-184; Roderick Nash *The Rights of Nature: A History of Environmental Ethics* (Madison: University of Wisconsin Press, 1989). 42-45.

want to act ethically not through self-sacrifice but through an ever richer experience of self. We are not qualitatively unique among living species in rationality (crows, chimpanzees, and even some fish and mollusks make tools to accomplish intended ends). We are, as Leopold observed, unique in our capacity to care for other beings of no utility to us and whom we have never seen. This capacity has nothing to do with self-interest the way Rand and libertarians in general define it, and requires instead the existence of a self that can grow to embrace ever more of the world. Empathy inclines us to wish well-being on at least all not actively injuring us. Which brings us to groups.

Groups: “I am because we are”

If individuals are more complex than atoms, groups are more complex than simple threats to individual freedom or collections of individuals pursuing mutually advantageous trade, as in the libertarian outlook. Relationships always occur in the context of groups. Since there cannot be individuals without relationships, so there cannot be individuals without groups.

Initially a libertarian might reply, “But the real issue is whether or not the groups are voluntary.” This is not true.

Beginning with our families, we are born into and live within groups we do not choose. For better or worse our parents’ job of loving and raising us powerfully influences our beliefs, emotional security, self-image, tendency towards anger or love, and other dimensions in a list that goes on and on. If our families are wealthy, greater opportunities open up for than if they are poor. On the other hand, too sheltered an upbringing can render us a kind of hothouse plant feeling at great risk if ever placed outside. We do not choose our families and for most of us our families are where we first learn about reality. So, they influence us at levels far deeper than where we make deliberate choices, at least without benefiting from input by friends or therapists who see patterns in our behavior we cannot.

The society we are born into is another group we do not choose. It also powerfully influences our life possibilities. It provides us with our initial language, customs, awareness of our place in the world, and much more. For Ayn Rand, once the Russian Revolution ended Tsarist discrimination against women and Jews, she could attend a university. When the Bolsheviks began discriminating against the children of the “bourgeoisie” she was forced out. Both events powerfully influenced her subsequent career and outlook on life. Many a banker or venture capitalist would live a far different life in a different society. Some of these people would die young if they were born into an overpopulated agricultural society. Others might become mediocre farmers or respected village headmen. The manipulative skills of a hedge fund billionaire would be of little value in most societies. Yet none of these people

chose their place of birth nor did they do anything to earn their initial place in the society in which they were born. Similarly, poor children did nothing to “earn” their place living with parents just scraping by.

Even after they attained adulthood and set off on their own, people attained success in most cases not simply through their unique abilities, real as they may be. First, they benefited from a social inheritance going back hundreds and even thousands of years, an inheritance they were lucky enough to acquire. Second, they lived in an environment where they had the good fortune to meet the right people at the right time, people who recognized their qualities and were in a position to reward them. Rand’s immigration to the US was made possible by loans from relatives already in America. People she subsequently met provided her crucial help at crucial times

Of course hard work is also important especially for those not born to wealth, but many poor Mexican laborers work far harder than many Americans who are comparatively wealthy. Many people who rose from poverty to wealth worked hard, but many people work hard who do not rise from poverty to wealth. Creativity can also play a role in economic success, but creativity, even when honored long after the creator’s death, is often not rewarded. Vincent Van Gogh’s paintings have made millions of dollars for people who collected his work but he himself lived and died in poverty. To make their millions all they did was recognize Van Gogh’s work as worth more than the pittance he charged for it, or perhaps they simply acted from charity. A similar charitable act to another artist would have led to no fortune. This brings us to the role of luck.

Along with individual ability and the environment into which they were born, luck is a vital part of economic success, especially big success. First there is the luck of being born in the right society at the right time, and then there is the luck involved in meeting the right people. The wisest free market thinkers are very clear about this. Nobel Laureate F. A. Hayek emphasized, “The element of luck is as inseparable from the operation of the market as the element of skill.”³⁴ Luck and undeserved good fortune count for a lot in enabling material success in a market society. The market does *not* simply reward hard work and creativity. Again, think of Vincent Van Gogh.

Collectivism, individuals, and groups

A libertarian might respond that I am advocating “collectivism.” Libertarians continually contrast individualism to collectivism. This was a major theme in Ayn Rand’s work and is present in the work of nearly all other libertarians I have read. There is an important historical basis for this. Libertarianism’s seminal thinkers lived during the time when Communism

³⁴ F. A. Hayek, *Law, Legislation and Liberty, Vol. 2: The Mirage of Social Justice* (Chicago: University of Chicago 1976). 117.

seemed to many people a viable political and economic system, and fascism, a collectivism on the right, had only been defeated through a long and bloody war. As an alternative to free societies, collectivism burned its image deeply into the consciousness of many who lived during this time.

Libertarian thinkers such as von Mises and F. A. Hayek were among the most powerful intellectual opponents of collectivist views. And ultimately their arguments prevailed just as collectivist societies proved less prosperous, less sustainable, and immeasurably more vicious than Western liberal democratic ones. Had von Mises and Hayek been better understood many idealists would not have wasted their lives counting on Communism to bring humanity a better life. Today, communism is gone and collectivism has few explicit defenders except for the excesses of virulent nationalism and the perpetual scourges of racism and theocracy.

The problem is that like victorious generals, victorious thinkers always seem prepared to wage the last war and never notice when their priorities and outlooks depart from new challenges. They see collectivism everywhere even when it isn't present. They view the present through the patterns they discerned in the past. Of course we all do this to some extent, but creative and perceptive minds are aware that these patterns change as the world changes. For the most part, libertarians today remain mired in intellectual outlooks rooted in the problems people faced during the 1930s and 40s.

So what is collectivism?

Collectivism is a modern form of tribalism, writ big. The idea behind collectivism is that one group is so important, so decisive in determining who we are, that our individuality and everything else fades into relative unimportance. Some on the left said this was true for economic classes. Some on the right claim it is true for races. Others make a similar claim on behalf of their religion. Perhaps the most effective collectivists have claimed as much for the nation or "the people." In all of these cases individual rights wither away when they stand in opposition to whatever group is regarded as all important.

Great crimes have been committed in the name of different collectivist identities, both internally and between different countries. Because collectivists have never agreed on which group is all-important, many wars have occurred between different collectivist nations. Nazi Germany's attack on Communist Russia is the bloodiest example. But collectivism has *nothing* to do with the argument that individuals are inextricably immersed in society.

There is no single-most-basic group. In practice we belong to many different groups, including culture, family, nation, economic class, race, gender, generation, religion, or lack thereof, and on and on and on, down to our most subtle identifications with even transitory groups of friends and brief acquaintances. Some groups we belong to by choice, some by fate, and in our individuality we create a unique self that stands in both support and

tension with all these various groups because we cannot be reduced to any one of them. Even if you and I belong to the same groups, the worlds we create will be different. But this hardly means groups are secondary to individuals. Groups are as constitutive of our individuality as individuals are constitutive of groups.

Because individuals can never be separated from groups and many are attached to us by fate not choice, the real issue is not simply keeping groups “voluntary,” but rather *what are the most appropriate relations* between an individual and a group? Often they are simply voluntary, as when we join a club or a church. But in other contexts, the issue is that you are a member whether you want to be or not. What kinds of influence should you have in the group? And, what kinds of influence should the group have on you?

A New Collectivism

Collectivism is the exaltation of a group and its well-being over the moral status of any individual within or without the group. Individuals can be sacrificed for the benefit of the group. Once we understand both what collectivism is *and* the failure of Rothbard and other economic libertarians to grasp the tension between individuals and markets, we come to a disturbing insight. Much libertarian thought leads to a new collectivism. It is not intended to do so, but we know how the road to Hell is paved.

I explained above that as the market shifts from being dominated by individuals and family producers, towards becoming ever more thoroughly comprised of corporations, the range of free choices within which individuals have to act gets more constrained. Prices shift from being signals indicating how individuals can make more informed choices about means to their ends, to becoming commands which, if not followed, will lead to their progressive elimination. A new group, one that responds only to a small fraction of what we regard as human values, has become a major arbiter of human fate, one that is limited only by people’s capacity to not be subjected to corporate logic. In a sense it is not even a human group.

For all their talk about the sanctity of an individual, libertarians do not know what an individual is and so cannot really appreciate what is necessary to preserve individual freedom. Not knowing this, they also misunderstand their own nonaggression principle.

Nonaggression and property

Using physical violence or its threat against another person is a pretty clear example of aggression. This image makes the libertarian nonaggression principle persuasive. But once we understand that individuals only exist within a context of relationships, other kinds of aggression become possible, the kinds libertarians cannot see. They believe we are distinct from our relationships and ultimately autonomous from them. Our experiences *happen*

to the self rather than helping to constitute it.

This blindness plays out in a fascinating way when we examine the core libertarian concept of property. Libertarians claim that taking property against our will constitutes theft or robbery. Because they are not voluntary, taxes are a reason for their hatred of government. However, this reason is incoherent.

Where did *property* come from? Why is it legitimate for me to own something and only allow others to use it with my permission? The classic libertarian explanation is some variation of John Locke's argument that something unowned becomes ours when we "mix" our labor with it. Locke's initial example was picking up an acorn or apple to eat. This description seems reasonable, for hardly anyone would doubt that if I picked up an apple or acorn, it would make it mine.³⁵

Owning an acorn or apple is reasonably derived from a Lockean argument because they have boundaries that for most purposes are clear to everyone. But for the most part, our world is not made up of neat bundles forming discrete units we can appropriate and exchange as our property. Further, if it is to be useful in a market economy, we must all agree as to what constitutes a unit of "property." Otherwise we cannot agree on what it is we are exchanging. Property rights need to be respected by all concerned.

Agreement about what constitutes property is necessary because without it there can be no market economy. But how do we reach this agreement? We cannot "let the market decide" because without defined property there cannot be a market to decide anything. Both historically and logically, property exists *prior* to the market.

So long as we consider property a "thing," using the acorn or apple as our universal example, we cannot answer our question. There are too many possible ways to define property. We encounter another version of the dilemma libertarians are impaled on, we see that they treat individuals as isolated units that can cooperate together, or not, depending on how they choose. Property is not an isolated thing existing distinct from the world in which it is found. *Property is a locus of rights to enter into relationships*, both with what is owned and with others.

There are two steps in attaining a better understanding of property.

First, think about what it means to own a house. In most cases I have complete control over it. I can remodel it, tear it down, live in it, let it stand vacant, or rent it out. Let's assume I decide to rent it out. I still own my house but I sell the right to its exclusive temporary use to another person so long as a mutually agreeable rent is paid. In doing so I lose the right to enter my house whenever I want, whereas the renter, a non-owner, now has this right. But I still have other rights to the house, including raising the rent, selling it,

³⁵ John Locke, *Two Treatises on Government*, Peter Laslett, ed. (NY: Mentor, 1960). 327-44.

remodeling it or moving the renter out and moving in myself. This example leads to our first clarification about “property:” property is not a thing; it is a *bundle* of rights to be employed in certain ways if the owner so chooses. The owner can rent out some of the rights in that bundle and still retain the others.

Another example expands this point. Many land trusts preserve open space by encouraging property owners to sell their development rights to the trust, which has no intention of developing the property. The landowner still lives there and cannot be forced out by the owner of the development rights. The owner can still sell or bequeath the land, minus its development rights. He or she still has “private property,” but the bundle of rights his ownership includes is smaller now.

The land trust example demonstrates that not only can some of the rights in a bundle of rights be temporarily rented or leased; some can also be sold while the others remain under separate ownership by the original seller. To own property is to own rights to enter into relationships, not to own a thing, for neither the rancher nor the trust own “the land.” This observation leads us to a second clarification in how we normally think about “property.”

Bundles of property rights vary with the property. I can chop up my chair into kindling any time I want. In most societies I cannot chop up my living dog or cat any time I want. No one thinks it wrong to chop up a chair but all normal people think it is wrong to chop up a living pet dog or cat. I can sell someone the right to chop up my chair. I cannot sell someone the right to chop up my pet. Yet I own my pet.

Consider a much less extreme example. In most cities I can play my music louder during the day than I can late at night. Why? Because making noise is more appropriate during the day than late at night. Different times of day determine different contents to my bundle of rights to use my drums. As a physical object my drums remain the same, but considered as my property, the rights in my bundle of uses varies over time and in relationship to others. Nor does anyone find this at all strange.

Bundles of discrete property rights vary with what is considered an *appropriate relation* with the property and its environment. What is appropriate differs with regard to chairs and to cats and dogs. They also vary depending on what are considered appropriate relations with others such as my neighbors. We are back to that concept so irritating for libertarians: relationships. The “thingness” of property manifests in being the physical referent for our bundle of rights that give us some sphere of control over it. But the rights in that bundle are defined in terms of appropriate relationships into which I can enter with and through my property. Property therefore implies a concept of what constitutes appropriate relations both with what is owned and with others.

From this perspective a world of private property is a world where a wide

number of cooperative relationships can be entered into with others, depending only on mutual agreement. So far Ayn Rand and other libertarians might remain happy, if uneasy with the unaccustomed terminology. But their smiles fade when we ask the next question.

Who Decides?

Who determines what relationships involving property are appropriate? Let's return to the issue of noise. In terms of either its volume or the time of day, there is no clear point identifying when we should shift from the greater permissiveness for loud noises during the day to the greater restrictions of night. Yet somehow a point and volume must be determined, and normally it must apply equally to everyone within a given area.

Traditionally, a libertarian will say property is misused when someone's boundary is involuntarily crossed. That constitutes aggression. At first this standard sounds reasonable and as usual, it masks a deeper reality. Noise *always* crosses boundaries and no one would argue that all noise should be eliminated unless it is expressly allowed by all who hear it. That would be absurd. The same point holds for auto exhaust, barbeque smoke, cigarette smoke, bright light, and many other things. We are immersed in relationships where acts by others cross our boundaries without our permission and we do the same in return, and it is obviously absurd to call all such phenomena aggression.

It is also obviously absurd to say that no such boundary crossings are inappropriate. Some easily can be considered aggression. Very few libertarians, and no sane ones, would say my setting firecrackers off in my back yard at 3 a.m., just to wake you up, is not some kind of aggression on my part. Yet based on their principles libertarians cannot answer how to make such a determination. At what point can you legitimately shift from wearing earplugs and running a white noise machine to calling the cops?

Libertarian theorist Murray Rothbard once argued that no one should be able to pollute another person without his or her consent. From this perspective no one was "greener" than Rothbard on pollution. Then someone pointed out to him that if that were the case no one could run an internal combustion engine without the consent of all who could breathe its fumes, at least if they found it interfered with their enjoyment of their property. Rothbard then went from too stringent a standard to effectively none at all, arguing the individual polluter had to be identified so he or she could be held personally responsible. "The guilty polluter should be each individual car owner and not the automobile manufacturer, who is not responsible for the actual tort and the actual emission."³⁶

³⁶ Murray N. Rothbard, *Law, Property Rights and Air Pollution* (Ludwig von Mises Institute, 2006). <http://mises.org/daily/2120>

As a practical matter that is often impossible. Rothbard did suggest that in a pure ‘stateless’ libertarian society the roads would be privately owned and the owner of the road could then be held liable for pollution. But even a moment’s thought demonstrates the absurdity of his argument. Think of Beijing and the smog it produces, smog that mixes pollution from cars and industry. This smog kills people.

A comprehensive study of the health and economic costs of smog in the Los Angeles basin as well as California’s San Joaquin Valley, concluded that attaining the ideal federal standard for clean air “would save more lives than reducing the number of motor vehicle fatalities to zero in most of the counties in this study.”³⁷ People could be dropping dead from poisoned air within a Rothbardian society without having any legal resource so long as enough separate sources contributed to the poison. No one could now be browner than Rothbard.

Advocating these ridiculous extremes arises because treating property as a thing with objective boundaries misidentifies it. Property always exists in and through relationships. Some relationships are legitimate, some are illegitimate, and in some cases a line must be drawn that could be drawn in many possible places. Libertarianism has nothing to offer us as guidance in such important cases. It cannot even understand the problem.

There is still another complication in determining what constitutes appropriate property rights, and pollution helps us see it clearly. Many cities develop serious air pollution when they grow large enough that practices once entirely harmless begin to adversely impact more and more people, beginning with those who are the most sensitive. In other words, not only can responsibility for pollution not be laid at the foot of individual polluters, in time what was once not pollution can become pollution.

Missoula, Montana had to face an air quality problem when its population growth plus normal air inversions during the winter trapped increasingly dangerous quantities of wood smoke in the air. What was once entirely acceptable for everyone became lethal for increasing numbers of people unless something was done about it. What was clearly an allowable right at one point might become a prohibited use at another, meaning that one right in a bundle concerning heating my home and perhaps enjoying a wintertime fire in my fireplace might be removed from it.

Who decides what the allowable boundaries will be? Who decides when conditions have changed? Ayn Rand’s vision of completely independent people owning discrete properties and contracting with one another over them is only a part of human reality, and as we become ever more numerous

³⁷ Janet Hall, Victor Brajer, Frederick W. Lurmann, *The Benefits of Meeting Federal Clean Air Standards in the South Coast and San Joaquin Valley Air Basins* (California State University, Fullerton, 2008). 84.

and interconnected, it becomes increasingly misleading when considered by itself. But how can change or lack of change be justified to those with different ideas as to what should be done?

Things bleed out into the world and interpenetrate at least through some combination of sound, photons, and smell. We need to come to agreement about how much of this bleeding out is acceptable and what is beyond the pale. I cannot detonate firecrackers in my neighborhood at 3 am, but I can talk with a friend while on the sidewalk at that time. Both create noise that might disturb someone. I can have an outdoor light by my front door and leave it on all night, but it is a different matter entirely were I to buy a searchlight and aim it at your bedroom window. Both examples create photons that cross your property boundaries. Where between these extremes do we draw the line?

There are *no* clear lines between acceptable and unacceptable pollution by chemicals, noise, odors, or light yet we need to have one if we are to have a system where contractual agreements work for the ultimate benefit of all and where no one is aggressed upon. This is true even if all we want are useful engines and breathable air. An atomistic view of property *cannot* solve this problem either.

The only way to define rights when people disagree so that the inevitable losers will recognize the outcome as legitimate is to be fair to all sides, *and the only way to be considered fair is if everyone affected by the decision gets some opportunity for input, and at some crucial point equal input, into the decision.* If you have more input than me at every point, and my view fails to make a difference while yours prevails, I will reasonably regard the outcome as unfair. I will rightfully feel coerced. *Absent fairness over these decisions even the seriously inadequate libertarian view of the nonaggression principle is violated.*

Property rights cannot be derived without some prior collective means for making decisions. Further, these rights will need a way to be changed from time to time should the need arise, as with our examples of air pollution in Missoula. Deciding when the need arises should also be done fairly. Because boundaries are never completely clear, different people can and most certainly will sincerely disagree on where they should be drawn. A principle of fairness in determining property rights is necessary for any kind of nonaggression principle to be honored. Only when they believe they have lost their case fairly will losers accept a decision as legitimately decided even when they disagree with it. *Yet libertarians have no such principle.* They first assume property and then worry about coercion. In the most basic sense, this position is incoherent.

Understanding Democracy

By uncovering what has been assumed regarding the most basic concepts in most libertarian theorizing we have arrived at several insights. First, far

from being independent of society, individuals are only comprehensible as members of society and in any *human* sense are impossible in its absence. Second, the property rights libertarians rightly identify as necessary for individuals to exercise freedom are socially determined and must exist prior to the market. Third, those rights can often be delineated along different lines, none more objectively real or just than another. As a consequence, if decisions about property rights are to be made without aggression and when sincere disagreements exist as to their content and boundaries, the rules leading to those decisions must be perceived as fair to all sides. Fourth, for those rules to be fair they must at some important point treat everyone equally. Given the nonaggression principle libertarians say they hold dear, some kind of democracy is the unavoidable result.

We can see this issue clearly by examining a controversy arising from the contemporary libertarian strategy to dominate New Hampshire. Because New Hampshire is a small state many libertarians have moved there in hopes of eventually controlling its politics. The results have been interesting.

A libertarian activist was recently sentenced to 100 days in jail for refusing to remove a couch from his back yard in Keene, New Hampshire, and for a series of problems that escalated from his response to the initial charges.³⁸ Libertarians see him as a victim of “tyranny.” Whether or not the fellow is getting treated fairly, there is another issue to explore: the right of democratic government to regulate how property is used.

From a libertarian perspective, why is Keene in the wrong? Let’s consider another example to help clarify the issue. For libertarians, a homeowners’ association can legitimately make similar rules about what is and is not acceptable outside a member’s home. I know outdoor clotheslines are often not acceptable in such associations, so it is easy to imagine them also not accepting a couch. From a libertarian standpoint they are in the right. So why would libertarians think Keene is in the wrong?

Usually, libertarians answer that the two cases are different because the association is contractually based and no one had to buy a home there, whereas Keene has a town government making decisions for its approximately 23,400 citizens. For them, the problem is that Keene is a democratic town.

There are two devastating answers to this argument. First, and least penetrating, libertarians have chosen to move to New Hampshire and to Keene. They did not have to do so. But, having done so, they voluntarily accepted its decisions over property use as much as if Keene had been a homeowners’ association. I think this is a good response but some libertarians

³⁸ Steve Watson, Libertarian Talk Radio Activist jailed for 100 Days for Having a Couch in his Yard, *Alex Jones Infowars.net*. Nov. 17, 2008: <http://infowars.net/articles/november2008/171108Freeman.htm>

will argue that governments have monopolized all land so they have no choice but to live somewhere. The next response is more fatal to their argument.

If the principle of nonaggression is to be honored, democratic procedures are the only way decisions can be made when establishing a community's basic framework of property rights. Further, it must be able to alter those bundles when the community deems it necessary, as in Missoula. The contractual homeowners' association is itself dependent upon there first being democratic decision-making to decide what rights should accompany ownership of private property. Only then can property owners form an association.

The hypothetical homeowners' association as well as Keene's town council objected to couches because they could be seen off the property. Photons depicting these objects crossed boundaries and invaded the vision of un-consenting others. There is no objective line to determine when a photonic trespass has occurred and when it has not. Some will think couches qualify, others will disagree. The issue must therefore be determined by some decision-making authority, be it governmental or contractual. Whatever the decision, it remains a matter of human judgment.

I have already argued that short of a decision-making process that at some important point treats all involved in the issue equally, even with a narrow libertarian interpretation of aggression, there is no non-aggressive means for making the decision. Therefore, a democratic body has the right to make the decisions Keene's town government made. Keene's government may or may not have acted wisely in making the ordinance, but it certainly acted legitimately.

Keene's decision could be criticized by libertarians on two other grounds. First, perhaps the process was not democratic enough. It was not fair to all voters. Second, it was a mistake and should be revisited. Democratic principles provide a way to think clearly about both issues whereas libertarian principles do not.

The first objection can easily be met by improving the democratic quality of Keene's government. Give all citizens a significant point where their views are treated equally. Make it *more democratic*.

The principle of democracy solves the second objection. Citizens unhappy with the initial decision can argue in public to change the council's mind and, failing that, run for election. If they have convinced a majority of residents that they are right and the issue is important, they will win and the incumbents be ousted. Perhaps under current circumstances, reforms need to be made to better enable these processes to take place, but that is arguing while accepting the legitimacy of democracy. Libertarians cannot coherently criticize Keene's decision as illegitimate just because a democratic government made it.

Democracy and Games

Libertarians continually speak of democracies as “states,” and states have a long history of being oppressive, violent, and corrupt. But this is a flawed framing of democratic reality.³⁹ We need a better framework, one that can separate the essential things a democracy must do if a society is to meet standards for nonaggression. This would be different from the issues of starting wars and killing dissidents that states have specialized in.

If this cannot be done the nonaggression principle is itself radically flawed because we have seen that the democratic principle is essential for private property to justly exist. The principle of a state is sovereign power over subjects. States rule over people. The principle of democracy is self-government. Both states and democracies make rules, but different people with very different statuses in society make the rules and different standards justify them. If we refuse to distinguish between democracies and states because both make rules we may end up doing the equivalent of equating the moon with a grapefruit because both are round.

In important respects the democratic process is analogous to a game. Both democracies and games establish rules that strive to be free from bias, enabling us to determine fair winners in contests where incompatible goals are pursued. Only one side can win a game, and politics often has winners and losers. Importantly, in a game or in a democracy the ultimate loser plays by rules agreed upon in advance. At the outset no one knows who will win. The requirement for fair procedures is necessary because everyone knows they will not agree on all particular outcomes, yet decisions are still essential. No one would accord a heavier weight to another when by doing so they increase their likelihood of losing on future decisions of importance to them. It is easy to imagine a community of people who know that decisions will need to be made where they will sometimes disagree and still *unanimously* adopt rules enabling these decisions to be made.

The claim that democratic government is “rule by a tyrannical majority” is almost always absurd. In almost every case it is akin to saying that the winners of a chess or baseball game have oppressed the losers. Bills of rights, regular elections, recalls, and similar measures are often agreed to unanimously or nearly so in order to minimize cases where a temporary majority will establish rule over others while still enabling work to get done. The importance of these measures is clear when we reflect that during times when a powerful and monolithic majority exists, democracies act *most undemocratically*. The issue is fairness and equality, not majority rule.

Democracy is always a balancing act between the desirability of universal agreement and the reality of inevitable disagreement over decisions that must

³⁹ See in particular Gus diZerega, Spontaneous Order and Liberalism’s Complex Relation to Democracy, *The Independent Review*, 16:2, Fall, 2011.

be made. It need not always lead to rules allowing majority decision. Sometimes what we call a “super majority” is preferred. When people know that decisions must be made where people will sincerely disagree, what often emerges is that day-to-day affairs are decided by majorities, but changes in the basic rules (constitutional amendments) require super-majorities.

In *The Federalist Papers*, James Madison disposed of the libertarian argument against majority rule over 150 years before there were libertarians around to make it. The constitution’s advocates had been asked whether allowing majorities to pass laws might lead to abuses. Might super-majorities of over 50% be better safeguards to our liberty? Madison replied:⁴⁰

That some advantages might have resulted from such a precaution cannot be denied. ... But these considerations are outweighed by ... all cases where justice or the general good might require new laws to be passed, or active measures to be pursued. ... It would be no longer the majority that would rule: the power would be transferred to the minority.

In *Federalist 51*, Madison had already argued that by requiring agreement from the House, Senate, and Executive the potential abuses of majority rule had been much reduced. Three majorities elected in three different ways would serve to protect the nation against partial factions with temporary majorities seeking their own advantage at everyone else’s expense. The House was elected for short terms based on population, the Senate for longer terms, and staggered so it could never be replaced all at once. Senators were also elected by state. The president was elected by an electoral college that equaled the total of House and Senate members from each state. They then elected the President. Though differently constituted, majorities worked fairly well except for the Civil War, at least until the rise of huge fortunes undercut the independence of all branches of government.

Today all branches of government are subordinated to the power of great wealth protected by corrupt judicial rulings as well as bought and paid for politicians. Madison’s warnings about blackmail and rule by minorities have been ignored, and we have repeatedly experienced the kinds of damage small, even tiny, Senate minorities have done to our country by preventing even routine actions to be accomplished by majority vote. Again, libertarians have nothing of interest to say about these problems.

⁴⁰ Publius (James Madison), *Federalist 58*, *Federalist*, Clinton Rossiter, ed. (NY: Penguin 1961). 361.

Equality cannot be separated from freedom

We can now see why the democratic principle of one-person-one-vote is central to a fair political process. It may not be enough, but it must be a part of the process. This principle helps establish fair procedures for discovering the rules applying to all of us. As part of a discovery process neither this principle nor any other can guarantee success in any given instance, but no discovery process – be it in the market or science or anywhere else – can make this guarantee. That is why we call it a discovery process. That is why we seek fair rules for participating. We seek to discover what we do not know. In its absence we have only the oppression of the powerless for the benefit of the powerful, something libertarians claim they oppose.

Democracies exist primarily to discover and establish *public values*. A public value is a value people believe should apply within their society as a whole. It is different from a private value because its advocates believe that it should apply more broadly than would be the case if left to the independent decisions of individuals. Of course proposed public values can be contradictory, as with contemporary claims that gays should be able to marry and receive the legal privileges currently going to married couples, and that gay marriage should be constitutionally banned. Every society has public values, and what they are and how they might be changed is an issue within every community. But not every society has such values decided justly. *Finding, preserving, and modifying public values as determined by equal members of the community is the core of a democratic conception of politics.*

As an economy develops people are linked together with greater intensity into increasingly complex networks. New boundary issues continue to arise (no one wanted to put a muffler on a horse), and new rules must be made while others fall into disuse. This explains another contradiction between libertarian dogma and human reality

There are many more limitations on some kinds of behavior in cities than in the countryside. Taxes are also higher. Yet for most people cities allow for a richer life with more choices than does the countryside. Living alone on a desert island is a libertarian utopia: complete self-sufficiency and no coercion at all. Yet, almost anyone would give up this freedom in order to live in even a poorly governed city. There is no correlation between the amount of liberty a person enjoys and governmentally enforced rules that limit some kinds of actions.

Ayn Rand herself famously chose to live as much of her life as she could in New York City. She had no interest in living in Bird City, Kansas, which is much more lightly regulated. Millions of Americans agree with her. Property values in New York and Bird City reflect people's contrasting desires to live in these places. I just checked real estate values in Bird City, and a three bedroom two bath home is on the market there for \$149,500. In New York City three bedroom two bath homes started at just under \$2,000,000. A lot

more people want to live in New York than in the “freer” environment of Bird City. For some reason more businesses want to locate in New York as well. Are all these people simply passive subjects willing to live as slaves? Does this describe Ayn Rand, who because her income came from royalties, could live anywhere in the U.S.?

Because libertarianism treats democracy as simply one more organized means by which some people coerce others it has no way of solving the most basic issues that need addressing if a society based on nonaggression is to exist beyond the scale of a small tribe. Nor can it understand why most people, including nearly all libertarians, prefer more regulated large cities to the greater “freedom” of small rural communities, as their “dollar votes” abundantly and almost universally confirm.

Blindness to Consequences: the issue of Right Relationships Between People

Ron Paul is probably the best-known libertarian in America. When he stops speaking in broad generalities about why aggression is bad and gets into specifics, and when the individual-as-distinct side of who we are is most relevant, he is often insightful. On the other hand, when our relational side is more important, Paul’s views are often deeply unjust, illuminating the practical and moral disasters justified by the libertarian misunderstanding of the nonaggression principle. For example, while critiquing the idea of enforceable employee rights, Ron Paul said:⁴¹

Employee rights are said to be valid when employers pressure employees into sexual activity. Why don’t they quit once the so-called harassment starts? Obviously the morals of the harasser can’t be defended, but how can the harassee escape some responsibility for the problem? Seeking protection under civil rights legislation is hardly acceptable.

There are many levels of theoretical and moral blindness in Paul’s statement. These weaknesses are found in libertarian arguments in general.

Blindness 1: All exchanges are not equal

Paul writes as if finding jobs is as simple as deciding to buy a toothbrush. The market offers jobs as it offers toothbrushes and we pick the one we like most at a mutually agreeable price. Like toothbrushes, lots of choices are out

⁴¹ Meteor Blades, Got AIDs? Your fault, says Ron Paul. Boss can’t keep his hands off you? Switch jobs, says Ron Paul. *Daily Kos*, Dec. 10, 2011. http://www.dailykos.com/story/2011/12/30/1049973/-Got-AIDs-Your-fault,-says-Ron-Paul-Boss-cant-keep-his-hands-off-you-Switch-jobs,-says-Ron-Paul?via=blog_1

there. If a boss is a jerk just get another one.

But for almost everyone, quitting a job to find another is neither easy nor pleasant. Needed income is abandoned in the hope of getting replacement income before savings run out. If the harassee supports a family, other people, often including children, are dependent on the income. To quit a job threatens their well-being. We also know what can happen when someone falls behind in paying a mortgage. A new job often requires a letter of recommendation from the old employer, and he can use that need to pressure his employees for sexual favors even if they are taking Ron Paul's advice. All of these issues can make it very risky and stressful for a person dissatisfied with current job conditions to seek another one. In all these instances, individuals' relationships with other individuals beyond just the boss are powerful influences in how they choose. This is not like buying a toothbrush.

As it happens even as I write this there is a very concrete illustration of my point happening within the libertarian community. CATO is the most prominent libertarian think tank in the United States. The Koch brothers, Charles and David, who helped start it many years ago, are now seeking to take it over completely. The Kochs have contributed nothing to the organization for years. CATO has survived and prospered on its own. The libertarians who now populate it are fighting back in the name of freedom of thought. One of them, Julian Sanchez, is threatening to quit if the Kochs prevail. Sanchez writes, "I'm in no great hurry to leave a job I enjoy a lot – so I'm glad this will probably take a while to play out either way. But since I'm relatively young, and unencumbered by responsibility for a mortgage or kids, I figure I may as well say up front that if the Kochs win this one, I will."⁴² No better rebuttal to Ron Paul's complete inability to understand people different from himself could have been penned by a liberal. If Sanchez were older, with a family and mortgage, it would be much riskier for him to quit and innocent others could suffer greatly from his choice.

These issues are rendered invisible within the libertarians' impoverished understanding of what it is to be an individual. They cannot distinguish between deciding how much to pay for a toothbrush and getting and keeping a job. A framework that cannot see these differences, so important to us in our daily lives, is pretty useless as a guide to understanding human life.

Blindness 2: All exchanges are not between equals

But there is a still deeper blindness. In many economic texts, exchanges and contracts are described as purchasing "widgets." Widgets are left

⁴² Julian Sanchez, Cato and the Kochs: A Presignation Letter, *Julian Sanchez*, March 5, 2012:
<http://www.juliansanchez.com/2012/03/05/cato-and-the-kochs-a-presignation-letter/>

undefined, so that the student can pay attention to the pure logic of exchange. If something concrete is specified, it is usually akin to trading so much wheat for so many chickens. The text then announces that after the exchange both parties are better off than they were before the exchange. Libertarians inevitably emphasize this aspect of voluntary exchange: when both parties are formally free, all exchanges leave both better off than if they had not made the exchange.

But formal equality does not come close to comprehending the many differences possible in human contractual exchanges. Let's pause a moment to envision an exchange between people who are roughly equal. It would resemble the basic economics text example of my having more wheat than I can use and your having more chickens than you can use. By trading some chickens for some wheat, we are both better off. If our exchange does not happen, neither of us is made worse off. We just do not benefit as we could have had we been able to agree. In a fair exchange, both parties are also honest and have all relevant information about the other's item in order to evaluate the desirability of their offer. Under such circumstances, all voluntary exchanges will indeed leave both parties better off than they were before the transaction.

But, to the extent that these concretely equal conditions disappear, even while the parties' formal equality remains a purely formal description becomes inadequate to understand the relations between them. The classic case is that you are lost in a desert and dying of thirst. I happen upon you and offer you water if you sign your house and car over to me. Your option is to die, and so you sign. We are both better off. You are continuing to live and I have acquired a house and a car in exchange for a gallon of water. But, is it an exchange between equals? No normal person would say it was. Formal equality can conceal a yawning inequality. No sane social order would countenance such a contract. In decent places property rights do not include that particular bundle, they do not honor that particular kind of relationship. Once this point is understood, the adequacy of formal equality as sufficient for judging all "voluntary" contractual exchanges falls apart.

Employer/employee relations are almost never equal ones. Usually, many workers are seeking a few jobs and so a few employers have their choice among many workers. For all too many people, exercising power over subordinates is enjoyable. Were it the other way around, working conditions would be very different. There would be next to no sexual harassment because either it would be very expensive to hire a replacement employee, or leaving would be easy. We see this happening today with movie and music stars and the best professional athletes. These examples of substantial employee power are rare and always will be, and they prove the rule.

Power indeed tends to corrupt, and unequal bargaining power in contracts tends to lead to corrupt contracts; the greater the inequality, the

greater the tendency. The enormously wealthy David and Charles Koch, have funded a great many of libertarianism's most visible organizations. They also defrauded an Indian tribe in a contract over an oil pipeline. Fortunately, the Indians had a reasonably honest government to which they could take their case. The Kochs were fined \$200 million. Appalled by Charles and David's dishonest methods, a younger brother, Bill Koch, agreed with the verdict, observing it "shows they are the biggest crooks in the oil industry."⁴³ Little guys are treated far more harshly than the powerful. Yet, libertarians claim government is the enemy of business. More democracy is the cure, not less.

Blindness 3: What constitutes a contract?

Property rights and relatively free markets arose within societies long dominated by rigid legal hierarchies between the privileged and the rest of us. This legal framework defined relations between "superior" and "subordinate." Many linguistic terms survive to remind us of this past, terms such as "boss," "my employee," "my man," "my subordinate," and so on. Those on top shaped how wage relations evolved to make sure they evolved in their favor. It is not immediately obvious how much authority a purchaser of another's labor gets over the employee, particularly rightful authority. The powerful want it to be everything.

I have heard slavery defended four times in my life. Once was by a drunk Southern Republican, but the other three times were by libertarians. Two of these defenses were made to my face; the other was in print, by the prominent libertarian philosopher, Robert Nozick.⁴⁴ Except for the Republican, their reasoning always went along the same line: so long as one *voluntarily* sold oneself into slavery, no harm was done. They were blind to the circumstances that might lead someone to do that.

In the *Huffington Post* I read of Monique Zimmerman-Stein, who has a rare genetic eye disease that if left untreated, causes blindness. Her daughters also have it. She has decided to forgo treatments that can preserve her sight so she can put those funds into saving her daughters' sight. The injections that might help cost \$380 after insurance, and she needs one every six weeks. If she sold herself into slavery (or perhaps only prostitution) to achieve the same goal she could probably save her vision as well. Her purchaser likely would not want a blind slave. I suspect more than a few libertarians would praise the 'freedom' that made her choice possible.⁴⁵

⁴³ Koch loses oil fraud case:
http://webarchives.net/december_1999/koch_loses_oil_fraud_case.htm

⁴⁴ Robert Nozick, *Anarchy, State, and Utopia*, (Wiley-Blackwell, 2001). 290-2.

⁴⁵ http://www.huffingtonpost.com/2009/09/28/mom-goes-blind-so-her-dau_n_301947.html

These libertarians were also blind to the corrupting influence having slaves would have on the person doing the buying, a point Thomas Jefferson had made long ago, and later echoed in Lord Acton's adage that "power tends to corrupt and absolute power corrupts absolutely." So obsessed were they by the delights of abstract theorizing that they did not oppose arbitrary despotic power of one person over another unless it was by "The State" or by a common criminal. That libertarianism can be so easily and not unfairly linked to such possibilities is a sad commentary on its inability to comprehend the value of freedom, despite its posturing to the contrary.

But there is worse still. Adopting a theory that elevates abstract contract above concrete human beings made it impossible to understand our own founding document. The Declaration of Independence spoke of "inalienable" rights not as a rhetorical flourish, but to make the point that slavery could never be legitimate under any circumstances because a person could not give another responsibility for their life choices and the use they made of their freedom. There were some things that one simply could not do, even if all involved acted in some sense voluntarily.⁴⁶ Libertarians too often honor contract over people. As they do they also honor the arbitrary authority of concrete people over other, weaker, people, and call it freedom. George Orwell would understand.

In 1911, at the Triangle Shirtwaist Factory seamstresses were locked in to their place of work so they could not leave till the workday was done.⁴⁷ The building caught fire and 146 girls and women, most aged from 16 to 23, died horrible deaths. The fire escape was inadequate and collapsed. There were only 27 buckets of water to put out the fire. The owners were not convicted of manslaughter, as they should have been. They did ultimately lose a civil suit in which plaintiffs won \$75 compensation per deceased victim. The company's insurance paid the owners about \$400 per casualty. One owner was later arrested for again locking the door in his factory during working hours. He was fined \$20. Except for the \$20 fine, this outcome, involving as it did insurance companies and financial recompense, seems in perfect keeping with libertarian principles but hardly with humane or even minimally decent ones.

This kind of abuse of employer power was only effectively pushed back against with the rise of unions and the regulations Ron Paul and other libertarians denounce as diminishing their "freedom." Today, among the

⁴⁶ Murray Rothbard grasped this point quite clearly. See his *Ethics of Liberty*, chapter 19: Property Rights and the Theory of Contracts: <https://web.archive.org/web/20140712044415/http://mises.org/rothbard/ethics/nineteen.asp>

⁴⁷ http://en.wikipedia.org/wiki/Triangle_Shirtwaist_Factory_fire
<http://www.ilr.cornell.edu/trianglefire/>

bundle of rights an employer purchases when hiring labor, imprisoning workers during working hours is not included. Today, in large part through libertarian influence, there is a move to return to the good old days of 1911. The laws of contract that are so equal when viewed abstractly can be lethally unequal when actually applied to human beings in the complexity of life as it is really lived.

These problems are rendered *invisible* with the libertarians' very selective interpretation of the non-coercion principle. After all, they might say, those dead employees had the option of quitting. They did not have to agree to the contract.

Blindness 4: Immorality in the name of morality

In the passage from Ron Paul I quoted above, he refers to “so-called” sexual harassment. In Paul’s statement he admits that the harasser is morally wrong, but the harassment is “so-called.” This is very strange. The only way I can see any coherence at all in it is to assume that, in Paul’s view, harassing a subordinate for sexual favors counts as being rude, of being bad manners, and nothing more. Apparently, this is because the harasser did not threaten physical violence if he did not get his way. Paul simply cannot recognize power that cannot easily be reduced to the use or threat of physical violence. As such, he can neither condemn the immorality of those who abuse many kinds of power, nor can he truly appreciate the situations of those subjected to it.

This is a clear example of what I regard as the chief moral weakness of many libertarians. They appear unable to imaginatively place themselves in the shoes of people unlike themselves. They have a failure in empathy. Paul, a very well-to-do doctor, can easily end connections with annoying or abusive people, so apparently for him, anyone can. Ron Paul has power a waitress or a maid does not, ironically power made all the stronger because of his government protected privileges as a licensed physician. This power prevents him from appreciating what it is like to be relatively powerless.

The failure to recognize the importance of empathy in what makes us human spills over in a failure to recognize the true richness of human relationships in the world. Caught in a kind of theoretical autism, libertarians fall back on abstractions incapable of appreciating basic moral principles. In the process they end up being blind to immorality.

Blindness 5: Missing Possibilities

When people have blinded themselves to concrete problems due to abstract reasoning they also blind themselves to possible solutions to those problems, even solutions in harmony with their abstract reasoning. I will give one example, but there are many. We have seen above that there is a genuine problem in libertarians’ failure to recognize the reality of concrete power

differences between people who are abstractly equal. We have also seen that this theoretical assumption on their part is arbitrary and guarantees their failure to understand their own nonaggression principle.

Ironically, their nonaggression principle combined with free contract and a market economy can effectively address these issues. And, it has already done so spectacularly for over 50 years. But libertarians have been completely uninterested in these developments all the while arguing for greater arbitrary power on behalf of employers.

Consider for example the Mondragon Cooperatives in Spain. They are worker-owned, market based, contractual, and voluntary. They lack the hierarchical and often abusive relationships that forced workers to organize unions in self-defense in the United States and elsewhere. They are also quite profitable and have thrived and expanded for more than 50 years.

The Mondragon co-operatives in Spain have solved or substantially improved upon many of the problems that libertarians are blind to seeing. They have also been a major factor in turning one of Spain's poorest regions into one of its most prosperous, with an unusually low unemployment rate. Further, they have done so within a framework that does not violate libertarian principles! Yet, not a single libertarian to my knowledge has given them any informed attention. The most recent study of the Mondragon co-operatives is by the socialist Carl Davidson. That Davidson can define as socialism what is completely in harmony with libertarian principles is ironic evidence of libertarians not being able to comprehend their own principles and from their not appreciating what constitutes human beings as individuals.⁴⁸

This glaring absence of interest illustrates a breathtaking lack of awareness of the possibilities that can be achieved within the context of voluntary contract and freedom, values libertarians believe in. I suspect this is because the issue of relationships is invisible to them beyond the obvious case of whether or not I point a gun at you. *Their defective understanding of their own principles has caused them to miss some of the most exciting examples of wonderful and sustainable innovations growing from those same principles of respecting individuals, contractual property rights, and the nonaggression principle.*

Returning to Rand

As I bring this discussion to a close I wish to return to Ayn Rand. I have shown that the Rothbardian and Friedmanite versions of libertarianism cannot protect individual freedom. But Rand has always been billed as an absolute defender of individual rights. Many passages in Rand's work seem to

⁴⁸ Carl Davidson, *New Paths to Socialism: Essays on the Mondragon Cooperatives and Workplace Democracy, Green Manufacturing, Structural Reform, and the Politics of Transition* (Pittsburgh, PA: Changemaker Publications, 2011).

support the view that she takes rights as absolute, as in *The Virtue of Selfishness* where she writes:⁴⁹

When one speaks of man's right to exist for his own sake, for his own rational self-interest, most people assume automatically that this means his right to sacrifice others. Such an assumption is a confession of their own belief that to injure, enslave, rob or murder others is in man's self-interest – which he must selflessly renounce. The idea that man's self-interest can be served only by a non-sacrificial relationship with others has never occurred to those humanitarian apostles of unselfishness, who proclaim their desire to achieve the brotherhood of men. And it will not occur to them, or to anyone, so long as the concept "rational" is omitted from the context of "values," "desires," "self-interest" and ethics."

This statement would seem to make Rand a powerful advocate for unalienable rights to individual freedom from coercion by others. Might she be immune to the kinds of criticisms I have given of Rothbard and Friedman? Consider this passage.

The Question of American Indians

During her 1974 address at West Point when a Native American cadet asked her what she thought of earlier aggression against American Indians, Rand said:⁵⁰

They had no right to a country merely because they were born here and then acted like savages. The white man did not conquer this country. And you're a racist if you object, because it means you believe that certain men are entitled to something because of their race. You believe that if someone is born in a magnificent country and doesn't know what to do with it, he still has a property right to it. He does not. Since the Indians did not have the concept of property or property rights – they didn't have a settled society, they had predominantly nomadic tribal "cultures" – they didn't have rights to the land, and there was no reason for anyone to grant them rights that they had not conceived of and were

⁴⁹ Ayn Rand, *The Virtue of Selfishness* (NY: Signet, 1964). 30.

⁵⁰ Ayn Rand, *Ayn Rand Answers: The Best of Her Q & A*. (NAL Trade, 2005). 103-4.

not using. It's wrong to attack a country that respects (or even tries to respect) individual rights. If you do, you're an aggressor and are morally wrong. But if a "country" does not protect rights – if a group of tribesmen are the slaves of their tribal chief – why should you respect the "rights" that they don't have or respect? The same is true for a dictatorship. The citizens in it have individual rights, but the country has no rights and so anyone has the right to invade it, because rights are not recognized in that country; and no individual or country can have its cake and eat it too – that is, you can't claim one should respect the "rights" of Indians, when they had no concept of rights and no respect for rights. But let's suppose they were all beautifully innocent savages – which they certainly were not. What were they fighting for, in opposing the white man on this continent? For their wish to continue a primitive existence; for their "right" to keep part of the earth untouched – to keep everybody out so they could live like animals or cavemen. Any European who brought with him an element of civilization had the right to take over this continent, and it's great that some of them did. The racist Indians today – those who condemn America – do not respect individual rights.

These sentiments were not a minor part of her thinking. They were republished in 2005 in *Ayn Rand Answers: The Best of Her Q & A*.⁵¹

When push came to shove Rand rejected universal rights. Some people deserve rights and others do not, based on choices they have made regarding the lives they live. Indians made the wrong choices. Rand in the most literal sense did not know what she was talking about regarding Indians, but her error was deeper than ignorance. As with those who reduce human freedom to the market, Rand ultimately had no understanding of human rights.

Factual errors

A great many Indian tribes were in fact agricultural, and private property in resources was hardly unknown among them. Even among hunting tribes, families sometimes owned specific territories or favored positions along a river. The land Europeans thought was unmodified had in fact often been extensively modified by Indians for thousands of years. Even now the extent

⁵¹ Ironically a libertarian think tank offers a telling rebuttal to Rand. See Carlos Rodriguez, Craig Galbraith, and Curt Stiles, *American Indian Collectivism: Past Myth Present Reality*. *Property and Environment Research Center*. Bozeman, MT. 2006. <http://www.perc.org/articles/article802.php>

and genius of those modifications is still being discovered, as with the recent uncovering of the human origins for good topsoil in the Amazon and the importance of biochar in building up good soil.

Far from the picture of Indians living “like animals or cavemen,” many of the world’s most important crops were first domesticated by Indians. A partial list includes corn, squash, tomatoes, potatoes, chocolate, peppers, avocados, blueberries, cranberries, pineapples, peanuts, and many varieties of beans, quinoa, pecans and turkeys. Imagine Italian food without tomatoes, Irish food without potatoes, Valentine’s Day without chocolate, or Halloween without pumpkins.

Indians also often treated one another better than did the European colonists of the time. Missionaries were often shocked (and disturbed) at the respect Indians showed women compared to how Europeans acted. In the Mohawk Confederacy, the most powerful Northeastern tribe, women exercised considerable political power while they were completely excluded from doing so by Europeans. In no tribe of my knowledge was there anything remotely like tribal members being “slaves of their tribal chiefs,” a view more closely resembling European arguments defending absolute monarchy.

There were hundreds of different tribes from hunter-gatherers in the subarctic where agriculture was impossible to cities, sometimes large ones, surrounded by farmland in the southern US and Meso and South America. Some were brutal empires ultimately replaced by brutal European empires, as the Aztecs were by Spain. Others were societies so free and open that European colonies had to pass laws forbidding their members from leaving to join the neighboring Indians. In reality thousands of Europeans voluntarily joined neighboring tribes whereas so far as I know no Indians voluntarily joined Europeans, a fact much commented on at the time. As with the Communists outlawing immigration to the West, English colonies finally had to outlaw Europeans joining the Indians.

In a careful study of America’s early “White Indians,” James Axtell concludes:⁵²

The great majority of white Indians left no explanations for their choice. Forgetting their original language and their past, they simply disappeared into their adopted society. But those captives who returned to write narratives of their experiences left several clues to the motives of those who chose to stay behind. They stayed because they found Indian life to possess a strong sense of community, abundant love, and un-common integrity – values that the English colonists also

⁵² James Axtell, *The White Indians of Colonial America*, *The William and Mary Quarterly*, Third Series, Vol. 32, No. 1 (Jan., 1975), 88.

honored, if less successfully. But Indian life was attractive for other values – for social equality, mobility, adventure, and, as two adult converts acknowledged, ‘the most perfect freedom, the ease of living, [and] the absence of those cares and corroding solitudes which so often prevail with us.’ [A]s Crèvecoeur said, there must have been in the Indians’ ‘social bond something singularly captivating.’ Whatever it was, its power had no better measure than the large number of English colonists who became, contrary to the civilized assumptions of their countrymen, white Indians.

Rand’s statement reveals a powerful if hidden continuity between the Rand libertarians adore and the Nietzschean praise of the strong sacrificing the weaker to fulfill their desires that she had carried with her to America. In the first edition of *We the Living*, her first American novel, Rand presents an argument between Kira, her heroine, and a communist. Kira denounces the communist sacrifice of the distinguished for the good of the “masses.” Her own view is different: “What are your masses but mud to be ground under foot, fuel to be burned for those who deserve it? What is the people but *millions of puny, shriveled, helpless souls* that have no thoughts of their own, no dreams of their own, no will of their own, who eat and sleep and chew helplessly the words others put into their mildewed brains. ... *I know of no worse injustice that justice for all.*”⁵³ These disturbing passages were excised from her second edition, and are almost unknown today. Many think she overcame her Nietzschean contempt for most people. Rand’s ‘reasoning’ about Indians demonstrates this contempt colored her thought throughout her life in America.

Rand erred on the side of the powerful dominating the less powerful. A true friend of rights would have erred in the other direction. Rand justified theft and murder to create *Lebensraum* against people she knew nothing about. (This word is fair as the Nazis cited America’s example of killing Indians in justifying their own policies)

For a woman who claimed all moral issues were “a code of black and white” and “objective,” how can this be?⁵⁴ What could be more relativistic than recognizing rights only when people acted in a way she approved, and had proven it to her? Clearly, Rand was blinded by confusions that lurked at the heart of her philosophy. Those confusions were her inability to recognize the central importance of empathy and relationships in making the individuals

⁵³ Ayn Rand, *We the Living*, quoted in Chris Matthew Sciabarra, *Ayn Rand: The Russian Radical*. (University Park, PA: University of Pennsylvania Press 1995). 101.

⁵⁴ Ayn Rand, *The Cult of Moral Grayness*, *The Virtue of Selfishness*, op. cit., 92.

she admired possible and in sustaining them. Had she fully integrated this she would have recognized the weakness of building a moral philosophy on abstractions far removed from human beings, abstractions to which she could then sacrifice real human beings if she judged them not sufficiently “rational.” Small wonder that libertarianism in its many forms has had such a mixed and often extraordinarily negative impact upon our country and upon the individuals and freedom it claims to honor.

Conclusion

We have reversed the libertarians’ criticisms of many progressives being ‘collectivists’ who support aggression against peaceful people. We argue it is they who do not understand what an individual is. It is they who do not understand many truly terrible forms of coercion, and can only perceive it when a gun is pointed at them. And, as Ayn Rand showed, not always even then. Apparently, it is also they who do not understand what it is to be a human being of moderate to low income and subordinate to another, anywhere in the United States, now or in the past. In the name of individualism and freedom they would subordinate real individuals and concrete freedoms to the collective power of capitalism. Libertarianism has become an apology for a form of collectivism that reflects only a portion of what it is to be a human being, and sacrifices the rest of who we are to it.

We agree with libertarians that the United States’ corrupt collusions of government and wealth, of the military and defense industries, is bad and should end. But that does not mean the government’s tasks should not be performed at all. Tasks such as civil rights protection, including protection against sexual harassment or bad employment conditions, are means for ending or reducing coercion in relationships brought about by systemically unequal power. There are many such examples with respect to both people and the environment. We need more than slogans and vague promises about the “magic of the market” when the entire past history of the market in real societies suggests our worries are very well founded.

When libertarians choose to broaden their understanding of what an individual really is and what property really is, they will be in a position to contribute importantly to this vital task. Until then, libertarianism in theory praises what is voluntary while in practice defends authoritarian relations in business, praises enormous inequalities between people seeking to enter into equal relationships, demonstrates blindness to ecological questions not easily reduced to property rights and money profit, and demonstrates still more blindness to abuses of the powerless by the powerful through their greater ability to twist society’s rules and practices in their favor.