Ayn Rand's 'New' (Posthumous) Critique of Anarchism: A Counter-Critique

WORKING PAPER

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Ayn Rand's estate recently republished her 1946 *Textbook of Americanism* along with additional, new material. Most of the new material is by other authors, but the book also includes previously unpublished excerpts from a transcript of Rand's remarks during a seminar on political theory that she led some time between 1969 and 1971.[1] There are a number of points of interest in the excerpts, including a theory of fraud so similar to Murray Rothbard's as to make me wonder who influenced whom,[2] as well as some decidedly (some might say horrifically) un-Rothbardian comments about the ethics of warfare.[3] But my present concern is with those remarks in the excerpts that touch on the question of anarchism.

Until now, the only substantive discussion of anarchism available from Rand has been her 1963 essay "The Nature of Government."[4] Rand's seminar comments contain some new arguments against anarchism that, despite some overlap, are not identical with the competing-security-agencies-will-go-to-war argument that was the centerpiece of her 1963 essay's case against anarchism (indeed, the new material oddly makes no reference to competing security agencies at all), nor again with the final-arbiter objection that is popular nowadays with many of her followers.[5] I take both the war-among-security-agencies argument and the final-arbiter argument to have been adequately answered in the existing anarchist literature;[6] I now want to address the "new" arguments in her seminar remarks.

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1 "Workshop on Ethics and Politics," in Jonathan Hoenig, ed., *A New Textbook of Americanism: The Politics of Ayn Rand* (Chicago: Capitalistpig Pub., 2018), pp. 105-122.

2 Hoenig, p. 108; cf. Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, 1998), pp, 78-79.

3 Hoenig, pp. 118-119.

4 Ayn Rand, "The Nature of Government," *Objectivist Newsletter* 2.12 (December 1963); reprinted in Rand, *The Virtue of Selfishness: A New Concept of Egoism* (New York: New American Library, 1964), pp. 125-134.

5 See, e.g., Robert J. Bidinotto, "The Contradiction in Anarchism" (1994): https://web.archive.org/web/20090224165915/rous.redbarn.org/objectivism/Writing/RobertBidinotto/ContradictionInAnarchism.html

6 On war among security agencies, see, e.g., Roy A. Childs, Jr., "Objectivism and the State," in Joan Kennedy Taylor, ed., *Liberty Against Power: Essays by Roy A. Childs, Jr.* (San Francisco: Fox & Wilkes, 1994), pp. 145-56, and David D. Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism*, 2nd ed. (La Salle IL: Open Court, 1989), and more broadly Edward P. Stringham, ed., *Anarchy and the Law: The Political Economy of Choice* (New Brunswick NJ: Transaction, 2007). On

I begin with two caveats. First, many of Rand's seminar remarks appear to be off-the-cuff comments in which she is "thinking out loud," and so may fairly be held to a less exacting standard than material intended for publication. Second, in light of the Rand estate's well-documented habit of silently rewriting Rand's posthumous work, sometimes substantially, all such material must be used with caution.[7] Subject to these caveats, I'll proceed.

Anarchists often invoke the ideal of the "consent of the governed" to impugn the legitimacy of existing states, noting that none of them do[8] – or perhaps even could[9] – enjoy such consent. Appropriately enough, then, Rand begins by rejecting the "consent of the governed" as a basis for governmental legitimacy, on the grounds that under such a standard

> the base of government's authority would be that it was chosen or elected or sanctioned by the majority of its citizens. And if that is the source of its authority, it comes in principle to be a totalitarian government, because all that would be necessary is that the majority chose it. Why a majority? Well, for strictly practical reasons, because a minority couldn't enforce its will. ... The Founding Fathers, who are the authors of that phrase, made it clear what they mean by the context, but out of the context, "deriving its just powers from the consent of the governed" is enormously dangerous. (pp. 105-106)

To begin with, Rand here assumes that consent of the governed can only mean consent of the *majority*, on the grounds that the only possible alternative is consent of the minority, which she rules out on the grounds that a minority lacks the power to "enforce its will." That's puzzling for a couple of reasons. First, most states throughout history (arguably *all*, but "most" will do to make my point) have been governed by a minority of their populace, so obviously a minority can often be in a position

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the concept of a "final arbiter," see, e.g., Roderick T. Long, "Market Anarchism as Constitutionalism," in Roderick T. Long and Tibor R. Machan, eds., *Anarchism/Minarchism: Is a Government Part of a Free Country?* (London: Routledge, 2016), pp. 133-154.

7 See, e.g., Chris Matthew Sciabarra, "Bowdlerizing Ayn Rand," *Liberty* 11.7 (September 1998), pp. 65-66; Jennifer Burns, *Goddess of the Market: Ayn Rand and the American Right* (Oxford:: Oxford University Press, 2009), pp. 291-293; Robert L. Campbell, "The Rewriting of Ayn Rand's Spoken Answers," *Journal of Ayn Rand Studies* 11.1 (July 2011), pp. 81-151.

8 See, e.g., William Godwin, *Enquiry Concerning Political Justice and its Influence on Morals and Happiness* (London: G. G. J. and J. Robinson, 1793), Book III, ch. 2; Lysander Spooner, *No Treason, No. VI: The Constitution of No Authority* (Boston: L. Spooner, 1870); Gary Chartier, *The Conscience of an Anarchist: Why It's Time to Say Good-Bye to the State and Build a Free Society* (Apple Valley CA: Cobden Press, 2011), ch. 1.

9 Crispin Sartwell, *Against the State: An Introduction to Anarchist Political Theory* (SUNY Press, 2008), p. 40; Charles W. Johnson, "Can Anybody Ever Consent to the State?," *Rad Geek People's Daily* (8 January 2009): https://radgeek.com/gt/2009/01/08/can_anybody/

to "enforce its will." (Of course its ability to do so depends on the *acquiescence* of the people;[10] but acquiescence is not the same thing as consent, particularly in light of the collective-action problems involved in organising mass disobedience.) And second, if we're discussing whose consent makes a state *morally* legitimate, why is the ability to enforce one's will relevant anyway? If Superman takes Jimmy Olsen's bicycle, that's a transaction that depends for its moral legitimacy on Olsen's consent; the fact that he has no way whatever to enforce his will on Superman (barring a pocketful of kryptonite) is irrelevant.

More importantly, though, Rand is ignoring an obvious third possibility: that "consent of the governed" could mean *unanimous* consent. After all, that is the standard of consent in market transactions; if I want to buy cars from Zachary, Jason, and William in order to complete my sculpture "Three Cars Piled Up," all four of us must consent in order for the transaction to be valid. If all of us except for Jason agree that Jason's car should be one of the three to be utilised in my sculpture, and that 30 bucks and a Snickers bar is a reasonable price for him to be paid in exchange, this agreement among the three of us has no power to bind Jason *morally*, whether or not he is able as a practical matter to enforce his will against our combined might.

Rand also says that the American founders "made it clear what they mean by the context," but that's notoriously untrue. On the one hand, the founders often wrote as though the electoral franchise were the intended vehicle of the "consent of the governed," which would support the majoritarian interpretation; but they also frequently pointed to John Locke's *Second Treatise* as an especially canonical expression of the idea (Jefferson listed Locke's work among the "elementary books of public right" on which he'd relied in composing the Declaration of Independence, and in fact much of the Declaration's wording is lifted from Locke with only slight alteration) – and for Locke the standard for political consent is *unanimity*. Majority rule has a role in Locke's theory, but that role is downstream from the consent that constitutes the formation of a political community, which is a *unanimous* consent to be bound *in future* by the decisions of the majority, on those issues (and only those issues) over which authority has been delegated to the political community. (The unanimous consent has to be explicit, by the way. Contrary to widespread belief, the role of tacit consent in Locke's system is strictly limited to nonmembers of a community while they're temporarily within its territory.)

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[10] Étienne de La Boétie, *Discourse on Voluntary Servitude*, trans. James B. Atkinson and David Sices (Indianapolis: Hackett, 2012); David Hume, "Of the First Principles of Government"; in Hume, *Essays Moral, Political, Literary*, ed. Eugene F. Miller (Indianapolis: Liberty Fund, 1987), Book I, ch. 5.

Of course there are, famously, puzzles about how to implement Lockean unanimity, since Locke also assumed that political association had to be territorial (even though, historically, it often hasn't been), and that committed him to seeking territory-wide unanimity. Once we drop the assumption that the relevant association has to be territorial, however, then the intractable problem of achieving *territory*-wide unanimity resolves into the much more tractable problem of achieving *association*-wide unanimity, since association membership is a more flexible figure than territorial residence.

Rand follows Locke more closely on the issue of which rights we should delegate to the state, and why. Like Locke, Rand holds that what we must give up, most crucially, is the right to be judges in our own case – or, in Rand's words,

> [t]he power to act as your own defender in cases where your rights have been violated: why is that necessary? For the sake of objectivity, so that men are not at the mercy of each other's irrationality, or even honest errors of knowledge. ... I delegate that right to an authority, which then stands by me. And I do it because I don't want to attack you on mere suspicion. And I don't want you to be at the mercy of my possible errors or irrationality either. I'm quite willing to submit to a rational arbiter. (pp. 107-109)

On Rand's view, we (do and should) retain the right to act as judges in our own case whenever submitting disputes to a rational arbiter is not practical, as in emergency situations; but whenever such delegation *is* practical, it is also mandatory:

> [D]on't resort to physical force; turn that over to the government wherever possible. ... [Y]ou're permitted to shoot in self-defense if no policemen are around; that's not illegal. But whenever a process of action is required to right a wrong imposed on you by force, don't retaliate; call on the government. (p. 109)

In "The Nature of Government," Rand had given the impression of taking the position that no private individual's means of determining guilt or innocence could be objective – a position which startled many of Rand's readers, as it seemed to contradict her overall individualist outlook. In her seminar remarks she is more nuanced (which is one of the reasons I find these posthumous transcripts useful for understanding Rand's ideas, despite the two caveats mentioned above). Thus she says:

> That which you know but cannot prove to others, is not objective evidence, even though your knowledge is objective. ... Regardless of the nature of your judgment, if you cannot prove it to others, you cannot demand that others comply with your judgment. (pp. 110-111)

In other words, I – as a direct eyewitness, say – might have objective knowledge that you stole my laptop, but my mere testimony need not constitute objective evidence for others, and so I cannot expect them to take my word for it.

That seems fair enough – but it doesn't seem like a decisive argument for delegation in all cases. Suppose I'm in a position to steal my laptop back from you with minimal likelihood of being caught. I can't see that Rand has given any reason to think that I'm obligated not to do that. Of course if my action does become known, I may well look like a thief to any potential jury; so I have to weigh carefully the benefits and likelihood of success against the costs and risks of failure. But why assume that a rational calculation will always eventuate in a decision not to recover my unjustly stolen property?

Rand seems correct in saying that no matter how objective my personal evidence for your guilt may be, if I cannot prove your guilt to others, then they are not morally bound to accord with my judgment. Fair enough. But doesn't it equally follow that if those others, however objective *their* evidence may be, cannot prove your innocence to *me*, then I am likewise not morally bound to accord with *their* judgment? Isn't sauce for the majoritarian goose likewise sauce for the individual gander – morally speaking?

Moreover, even if delegating one's right of self-defense to a third-party arbiter were morally obligatory rather than merely generally prudent, how is that an argument for delegating such a right to the state, a *monopoly* (territorial or otherwise)? (I say "territorial or otherwise" because, historically, not all the entities we usually call states have claimed monopoly over a *territory*; many have instead claimed monopoly over a *population*, which is arguably even worse. And of course many have claimed both.)

In other words, how do we get from the claim that *everyone should submit their disputes to a third-party arbitration agency* to the claim that *there should be a single third-party arbitration agency to which everyone should submit their disputes*? Isn't Rand, like Locke before her, guilty of a fallacy of composition here, like sliding from *everyone has someone who's their father* to *there's someone who is everybody's father*?[11]

Rand gratuitously attributes bad motives to anyone who doesn't want to delegate their right of private judgment to the monopoly state:

> [I]f if a man doesn't want to accept a proper government, it means that he wants to infringe the rights of others, at his own discretion, or he wants others to accept his

[11] For further discussion of this Lockean fallacy, see Long, "Market Anarchism as Constitutionalism," *op. cit.*

> judgment, whatever it might be, regardless of the evidence he has to offer. (pp. 113-114)

But mightn't this holdout – let's call her Voltairine – simply prefer competition to monopoly? Given the informational and incentival perversities to which monopolies are known to be prone (something Rand would freely acknowledge in any other context), couldn't Voltairine's unwillingness be prompted by reasonable distrust, rather than being an expression of viciousness of character?

Rand's vilification of our imagined holdout continues:

> Now a man who would refuse to delegate such a right would simply, when he felt himself wronged, go out and "take the law into his own hands," as they call it. So if he thought that you stole his property, and maybe you were never anywhere near him, but for some irrational, dishonest, totally mistaken reason, he thinks that he felt you are guilty, and he marches into your house and starts grabbing your property as damages for what you allegedly stole from him, you call the policeman. (pp. 108-109)

Well, yes, Voltairine might be like that. But she might not. And what about the policeman – what if *he's* like that? The behaviour Rand describes – arbitrarily breaking into the wrong house, grabbing the wrong property, on insufficient evidence – this is something that police officers routinely do, as the news shows us every day; and when they do, unlike private citizens they generally have the whole state apparatus on their side to protect them. Take a look at the lawman, beating up the wrong guy (in the words of a famous astronaut).

In addition to the worry that the monopoly state might not be reliable in protecting her rights – that it might be characterised by bureaucratic incompetence, for familiar informational reasons, or that it might systematically side with certain aggressors (namely its own agents and cronies), for familiar incentival reasons, or that it might prove excessively expensive, for both kinds of reason – another unmentioned worry that Voltairine might have is that the state might successfully protect her rights, but do so in a manner that violates the *criminal's* rights. Suppose you steal Voltairine's laptop and she has a choice between stealing it back herself, along with some money from your wallet as restitution for her inconvenience – *or else* invoking the state machinery which will, if successful, throw you into a nightmarish prison and also ruin your record for life. If Voltairine regards the latter response as excessive and disproportionate, as arguably she should, surely it would be irresponsible for her to invoke the state when she can get her laptop back with a bit of self-help at a lower ethical cost.

At one point Rand actually offers our holdout a loophole, though she doesn't seem to see it as such. She says:

> [I]f you don't want to delegate your right, you can retain the right to self-defense, but the first time you attempt to claim as self-defense a totally irrational or unproven accusation against somebody else, you're going to suffer all the consequences of the law. (p. 109)

The reason Rand doesn't see this as being much of a loophole is that she seems to assume that anyone irrational enough to insist on retaining her right of private judgment will also be irrational enough to exercise that right in arbitrary and unjustified ways. But absent that assumption, Rand technically allows people to be holdouts so long as they act responsibly. It's not clear how far she would allow this concession to be pressed, however.

And in any case, the concession itself seems to embody an unjustified double standard. You're allowed to act as a holdout until "the first time you attempt to claim as self-defense a totally irrational or unproven accusation against somebody," at which point the state will step in and put a stop to your solo justice act. But what happens the first time the *state* attempts to claim as defense (whether of itself or of its clients) a "totally irrational or unproven accusation against somebody" – an event that cynics might maintain has already happened once or twice? Does the state then have to forfeit *its* solo justice act, i.e. its monopoly status, and allow people either to choose another provider or to fall back on self-help? Or does this one-strike-you're-out policy apply only to individuals, and not to the far more dangerous entity that is the state? And if so, why?

It's also not clear in what social context Rand's intended prohibition on non-delegation is meant to apply. Rand contrasts a "proper government" or "free government," i.e., one devoted to the protection of individual rights, with a "primitive" society, a state of nature evidently more Hobbesian than Lockean:

> A man has the right to act on his judgment, whatever it is. You could say, assuming a rational morality exists on that [primitive] level, morally he should act on an objective judgment. But that's a moral issue. But you're talking about social rights. When there is no authority, socially of any kind, and it's every man for himself, or every tribe, then it is proper for a man to act on his own judgment, and from the aspect of a civilized morality you could say he has the right, except that rights aren't even in existence where there is no formulated morality. But you could say by the nature of man and of existence, he has to act on his own judgment and therefore he has the right to defend himself when he's attacked. You can say that much for him. But you can't say, "act objectively," because objectivity here doesn't enter in a social context. If there are no defined laws, objectively or otherwise he has the right to defend himself. Morally you could say he is justified only when his judgment has been objective. But how would you know? You wouldn't know if he was rational, emotional, neurotic, or what he was. (p. 111)

Rand's rather laboured position here is ironically similar to Immanuel Kant's claim that in the state of nature, people's rights have a mysterious "provisional" status, somehow there and not quite there at the same time. But in any case, learning that delegation is mandatory under a "proper" or "free" government, but not in a Hobbesian state of nature, does little to guide those living in societies with "improper" governments. How improper does a government have to be before non-delegation becomes permissible? Is it permissible or impermissible in, for example, the contemporary United States (and comparable countries)? And why?

Despite having at least acknowledged the existence of the theory of competing security agencies in her 1963 article (where she called it a "recent variant of anarchistic theory," though it dates back to 1849 and our ἥρως ἐπώνυμος, Gustave de Molinari – as well as to Lysander Spooner, Benjamin Tucker, and a number of other later 19th-century figures), in her seminar remarks Rand *mostly* treats solitary self-help as the only alternative to delegating one's rights to a state. For example, she asks: "What would be the practical action of a man who says, 'I don't want to delegate this right to the government?" And she answers her own question:

> "I want to be on my own in cases of physical violence." ... *That's the only form it would take*, [emphasis added] because all that the delegation demands of you is: don't resort to physical force; turn that over to the government wherever possible. (p. 108)

And again:

> [S]upposing somebody robbed you and you can't prove it, well if there were no government, you would be helpless against an organized gang anyway. Therefore, you haven't lost anything by belonging to a civilized society and obeying a free government .... But now observe the advantage if somebody robs you and you can prove it: you have the whole society and organized local, state, and federal forces – including the FBI if the crime is severe enough – working for you to avenge the wrong, to defend you. You couldn't possibly *do it yourself*, in a *pre-social, pre-organized-society stage* [emphases added]. Therefore, if a man does not want to infringe the rights of others in order to protect his own, he has every advantage in delegating that right to a government, and he loses nothing – nothing that he would have had in a state of anarchy. (p. 114)

I'm not sure what kind of robbery is going to be simultaneously a local, a state, and a federal crime. But leaving that aside – notice what an odd choice Rand is offering the anarchist. One of Roy Childs' comments on Rand's 1963 essay seems relevant here too:

> One could just as easily assert that if "society" ... provided no organized way of raising food, it would compel every citizen to go out and raise vegetables in his own backyard,

> or to starve. This is illogical. The alternative is most emphatically not either we have a single, monopolistic governmental food-growing program or we have each man growing his own food, or starving. There is such a thing as the division of labor ....[12]

Likewise, most anarchists see the provision of security as a service to be provided, like most other complex services, by associations rather than by lone individuals. Anarcho-capitalists tend to envision these associations as for-profit security firms; social anarchists tend to envision them as workers' cooperatives; those of us in the left-wing market anarchist tradition tend to envision a panarchic mix of different types of association.[13] But none of them is crying "everyone for themselves!"

Now elsewhere in her seminar remarks, Rand does occasionally acknowledge the possibility of security provision by organised associations – though when she does, she invariably calls them "gangs" or "tribes," tendentiously building an assumption of their irrationality and brutality into the description. For example, she advises:

> The answer to an anarchist is: just project what it would be like if you had to live in an armed camp. What would you do if you had to constantly have bodyguards or your gang to defend you against some gangs who decided to attack you? It's not worth living in that kind of world. (p. 114)

But what is Rand herself offering if not a giant armed gang called the state to defend us against all other gangs both foreign and domestic? The main advantage she seems to claim for her favoured gang is that unlike other gangs, it is too large to be successfully opposed by rival gangs. But if it is that powerful, why won't it be a serious threat to the individuals it is supposed to protect? If a small security association becomes oppressive, one can turn to a rival security association for oppression; but if one security association is vastly more powerful than all the other associations, whence cometh our salvation? In Locke's words, "he [is] in a much worse condition, who is exposed to the arbitrary power of one man, who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men ...."[14] Rand's answer, as we'll see, is that we need to structure our One Big Association so as to make it difficult for it to abuse its power. Fine; but why couldn't members of the Many Little Associations structure them in the same way?

In any case, this superiority in strength of the One Big Association over all other associations is one that applies only domestically. Turning to the international sphere, if each state were to strive

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12 Childs, *op. cit.*

13 See, e.g., Philip E. Jacobson, "Three Voluntary Economies," *Formulations* 2.4 (Summer 1998).

14 John Locke, *Second Treatise of Government* (1689), ch. 11, § 137.

endlessly for decisive superiority over all other states, the result would be constant warfare, which Rand doesn't want – unless one state were actually to *achieve* such superiority, but then it would effectively have become a world government, which Rand *also* doesn't want.

If the prospect of conflict among private associations is supposed to necessitate a state to regulate them, one might wonder why the prospect of conflict among *states* doesn't, by the same logic, necessitate a *world* state to regulate conflicts among *them* – especially since states are *more* likely than private associations to choose war over arbitration, since (in virtue of their monopoly status) they are more easily placed to externalise the costs of warfare onto their populations while pocketing the benefits. Hence anarchist critics of Rand, from Childs onward, have wondered why her argument for government isn't equally an argument for world government.

Rand's answer is that world government is to be rejected "on the grounds of checks and balances":

> [A] government has a very dangerous kind of monopoly, the monopoly on the principle of force, and in administering the use of physical force. ... [The American founders] knew well enough that you cannot have a system of government that depends on nothing but the integrity of the particular men who happen to be in power ....
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> Any principle has to be implemented practically. It's not enough to say, "Well we all agree on the principle; therefore we'll run [the government] properly." ... The principle of checks and balances is an insurance against the practical actions of men who are the representatives of government ....
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> A government has to be so structured that if a scoundrel happened to be elected, [Just imagine, if this "happened" to occur! – RTL] he wouldn't have a chance to do much, because there are balances and checks on him from the non-scoundrels. So [even] within one country, it is necessary to have counterbalances between various branches, in order to guarantee against arbitrary rule and tyranny .... Just project the consequences if there is only one government in the world. ... What do any dissenters do? And who can effectively prevent such a government from turning in to [spacing *sic*] a total dictatorship? ... Man is not omnipotent and omniscient, so, save us from one authority. (pp. 117-118)

Well, yes. Exactly. The anarchist will certainly agree that these are good arguments against a world-wide monopoly state. But the anarchist will insist that they are also good arguments against a *regional* monopoly state. To be sure, it's easier to escape from a regional monopoly state turned bad than from a global one turned bad – but escaping from a regional monopoly state turned bad can be awfully difficult too, as Rand herself knew well from her own experience growing up in Soviet Russia. And even if the regional monopoly state is not quite so bad as to restrict emigration as tightly as the

Soviets did, still physical emigration can be very costly, both financially and emotionally, meaning that the state may have to become *very* bad before large numbers of taxpayers decide to leave – which makes the threat of emigration a fairly weak check on abuse of power. Contrast the situation under anarchy, where security associations are non-territorial (or anyway are not required to be territorial) and people can switch freely from one association to another, or form a new association, without having to change their geographical location. The lowered cost, under anarchy, of withdrawing membership and support from a given association, makes the threat of such withdrawal a far more powerful check than under a territorial system.

In David Friedman's words:

> Consider our world as it would be if the costs of moving from one country to another were zero. Everyone lives in a housetrailer and speaks the same language. One day, the president of France announces that because of troubles with neighboring countries, new military taxes are being levied and conscription will begin shortly. The next morning the president of France finds himself ruling a peaceful but empty landscape, the population having been reduced to himself, three generals, and twenty-seven war correspondents.[15]

Friedman's point is that allowing people to switch political jurisdictions without switching locations gives us the functional equivalent of the situation he describes. As I've put it elsewhere: "Competition among jurisdictions would be higher, and the amount of state interference that people would tolerate without switching would be lower, than in a political system where jurisdiction and geographic location are linked."[16] Anarchism is not an *alternative* to checks and balances; it is the purest form of the checks-and-balances approach, proliferating checks and balances by allowing free entry into the checking and balancing business. A monopoly state, by contrast – even one with checks and balances built into its structure – courts disaster by placing an artificial ceiling on the number of checking and balancing agencies, thus allowing little recourse when those agencies find it in their interest to collude rather than checking each other. As Rand herself writes in another context, without "closed entry – the barring of all competing producers from a given field .... by an act of government intervention," would-be monopolists are unable to "set and maintain ... prices and production policies independent of the rest of the economy," since if they "attempted to set ... prices and production at a level that would yield profits to new entrants significantly above those available in other fields, competitors would be

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15 Friedman, *op. cit.*, p. 123.

16 Roderick T. Long, "Virtual Cantons: A New Path to Freedom?," *Formulations* 1.1 (Autumn 1993).

sure to invade [their] industry."[17] Rand evidently understands the vital role of competition and free entry in checking abuse of power – in every field but one.

Rand offers a second, distinct argument against world government:

> Do you know what Frank Lloyd Wright once said about marriage? He said that marriage properly is for those who don't need it – meaning those who are in love and honorable and would live together anyway. If they had to be held together only by legal courts, then something is wrong. Same here. If the governments of the world are free, no world government is necessary. ... If a world government is necessary, it's going to be a bad one. If people are disunited to that extent, and are all in effect broken up into different gangs nationally (or geographically, racially, *etc.*), uniting them under one government is going to aggravate things, [it will] only lead to a state of civil war. (pp. 117-118)

Suppose that's right. Again, doesn't it cut just as much against regional government as against world government? If all or most of the private associations in a given territory are inclined toward peace and freedom (and those that are otherwise inclined are held in check by competitive pressure from the rest), then by Rand's own logic no overarching government is necessary; whereas if most of them are *not* inclined toward peace and freedom, then, again by Rand's own logic, no overarching government will be successful.

Rand's remarks on secession are also relevant here, since although Rand has territorial secession in mind, many of the same issues apply to the non-territorial form of secession characteristic of free-market anarchism. Rand holds that "in a free society, there's no reason for a right of secession." (p. 116). For Rand, when one region, committed to freedom, seeks independence from a larger state likewise committed to freedom, it may "peaceably secede, by mutual agreement" (p. 115) – but the agreement must indeed be *mutual*, that is, secession of one free region from another is permissible as a matter of right only if the larger political entity consents. There is thus no right of *unilateral* separation. Her reasoning is as follows:

> If there is a free government, that is, a government based on the recognition and protection of individual rights, on what grounds would a group of people want to secede? ... The only [rational] reason they could possibly, conceivably want [to do this], is to implement the same principle, but better. Well, in order to have that right, they would have to demonstrate that their proposed government is really better at implementing the basic principle, than the government of the parent body, which is not really likely. ... They would not have a right merely because they want it .... [They would have to demonstrate] that their rights were being infringed in some way. But if

[17] Ayn Rand, *Capitalism: The Unknown Ideal* (New York: New American Library, 1967), p. 68.

> it's just an issue of technical implementation, it wouldn't really be an issue of right; it would be an issue of a disagreement over the implementation of a right. (pp. 114-115)

Rand doesn't say *why* she thinks it's "not really likely" that the would-be secessionists might have come up with a better way of implementing the principle of individual rights than the larger state has done. Would she say this about any other field of human endeavour? "Sorry, Mr. Roark, but our One Big Architectural Firm is already committed to the principles of modern architecture, and it's not really likely that you've come up with a better way of implementing those principles than we have, so your request to form your own independent architecture firm is hereby denied." Surely part of the value of a right to secession is that allowing us to compare multiple coexisting ways of doing things facilitates our understanding of which ways are best. As I've written elsewhere:

> We do not suppose that the way to get objective science is to put all scientific research into the hands of a single governmental monopoly; on the contrary, we recognize that it is only through allowing competition among scientific theories and scientific research programs that scientific objectivity is possible. ... [W]e learn the worth of our ideas by seeing how well they can withstand challenge, whether in the form of intellectual arguments or in the form of alternative experiments in action. A view that is insulated from critique is less well grounded, since we cannot tell whether it would have survived had critique been permitted. Nothing would be more deadly to scientific objectivity than monopoly control. ... [T]his argument applies to the market for goods and services just as much as to the market for ideas; competition is a discovery procedure, a crucial source of information, but one whose data grow steadily less reliable as it falls under the direction and control of a centralized state. If this is true for ideas, goods, and services, why not for law as well?[18]

But the value of a right to secession – whether territorial or non-territorial – is not exhausted by the value of actually exercising it. A right of secession can be valuable as a check on abuse of power, simply in virtue of the *threat* of exercising it. (Similarly, I have no plans to cancel my Netflix subscription; but if I *couldn't* cancel my Netflix subscription, Netflix's economic incentive to keep quality high and prices low would be significantly undermined.) Mere territorial secession is admittedly rather more costly than the non-territorial secession that anarchists favour; but it is less costly than physical emigration, and so serves as a more reliable check on power. Why have a right of secession? Sometimes, in order to secede; sometimes, in order to render actual secession unnecessary.[19] Rand assumes that there is no reason for a right of secession so long as the larger society is free; but she

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[18] Roderick T. Long, "Why Objective Law Requires Anarchy," *Formulations* 6.1 (Autumn 1998).

[19] See John Tomasi, "Secession, Group Rights and the Grounds of Political Obligation," *Humane Studies Review* 8.1 (Fall 1992); cf. Tomasi, "Individual Rights and Community Virtues," *Ethics* 101.3 (April 1991), pp. 521-536.

fails to consider the possibility that the right of secession may be part of the checks-and-balances structure that explains why the larger society is free in the first place.

In her 1974 article "Egalitarianism and Inflation," Rand quotes some comments from the management of Dow Chemical Company upon an inspection tour after one of their factories had been nationalised by the Chilean government:

> What we found was unbelievable to us .... Safety went to pot. ... The fire-sprinkler system was disconnected and the valves taken away for some other use outside. Then they were smoking in the most dangerous areas. They told us, "You didn't have any fires while you were here before, so it must not be as dangerous as you said."

Rand comments: "I submit that the mentality represented by this last sentence, a mentality capable of functioning in this manner, is the loathsomely evil root of all human evils."[20]

But isn't there an uncomfortable similarity between the attitude of the factory managers she so deplores, and Rand's own attitude toward secession? Just as the new factory managers took the lack of fires under the previous management as evidence that the former safety precautions were unnecessary, rather than considering the possibility that those safety precautions were (part of) the *reason* for the lack of fires, so Rand takes a government's being reliably respectful of individual rights as evidence that a guaranteed ability to secede is not needed, rather than considering the possibility that such an ability is (part of) the *reason* the government is in fact reliably respectful of individual rights. This is to treat the goal as a substitute for the means of maintaining it.

As with the right of non-delegation, it's unclear to what sorts of society Rand's opposition to secession is intended to apply. Rand has made clear that in her view there are no grounds for a right to secession under a "proper" or "free" government, one that respects and protects individual rights. By contrast, Rand is all for the right of secession from governments are the opposite. Thus she says:

> Now, when a government isn't on the premise of defending rights, if it's on the premise of the public good, social welfare, [then] anybody has the right to secede. Then it is only an issue of, "Can you get away with it? ..." If the parent government doesn't recognize rights, it has no authority, no moral legitimate authority, and then the right is with anyone who wants to object. (p. 115)

But where are we supposed to draw the line? Rand mentions the American Revolution as an instance of justified secession, so apparently 18th-century Britain was bad enough to secede from. (p. 116). But

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[20] Ayn Rand, "Egalitarianism and Inflation," p. 123; in Rand, *Philosophy: Who Needs It* (New York: New American Library, 1984), pp. 120-136.

what about *contemporary* Britain? or the contemporary United States? or comparable countries? And what would Rand have said about Brexit, a movement in which motivations she would have liked (such as opposition to top-down micromanaging bureaucratic control) and motivations she would have disliked (such as aggressive nativist nationalism) seem so intermingled? It's difficult to extract from her seminar remarks, as published, any clear way of applying her strictures on secession to what she would think of as countries of mixed principles. But if it should turn out that on her view secession is justified as a matter of right under any and all presently existing governments, and is forbidden only under an ideal future Randian state, then the overall anti-secessionist tone of her remarks is seriously misleading.

Continuing Rand's seminar remarks:

> [Suppose] one majority is in one province, and they say, "We want our own language and therefore our own country." What does it mean to the minority living in that country? Why then would the majority have the right to impose their language on the minority ...? (pp. 115-116)

But the answer, of course, from a libertarian standpoint, is that such a minority within the seceding country should have the right to counter-secede – and so on down.

Rand further declares, loftily: "And such an issue as: 'We want to speak Slovak instead of Czechoslovak' [*sic*] – who cares? So let them speak at home." (p. 116) But surely when the political levers of power operate according to one language, this has a differential effect on those who are or are not adept at navigating in that language. There was a time when the language of the lawcourts of England was an arcane mixture of English, French, and Latin that the average working person had no spare time to learn; didn't this make it harder for those of the non-dominant language to contribute effectively to the checking and balancing business? And Jacob Levy, in his book *The Multiculturalism of Fear*, has documented the many ways in which particular ethnic and linguistic political choices that may strike a rationalist liberal or libertarian as trivial, like whether a city is to be called Bombay or Mumbai, can gain moral weight by being caught up in attempts by members of a dominant ethnicity to humiliate, subordinate, or threaten those of another ethnicity.[21]

That said, I agree with Rand (see, e.g., her essay on "Global Balkanization")[22] that territorial secession for ethnic or linguistic reasons is all too often entangled with dubious tribalist and frankly

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21 Jacob T. Levy, *The Multiculturalism of Fear* (Oxford: Oxford University Press, 2000).

22 Ayn Rand, "Global Balkanization," in Rand, *The Voice of Reason: Essays in Objectivist Thought*, ed. Leonard Peikoff (New York: Penguin, 1990), pp. 115-129; cf. Rand, "The Missing Link," in *Philosophy: Who Needs It?*, op. cit., pp. 35-45.

neofascist projects. One reason I don't call myself a pan-secessionist, despite my support for a universal right of secession, is that the term has become a rallying cry for ethnonationalists, some even calling themselves libertarians or anarchists, who favour subdividing society into autonomous, ethnically homogeneous territorial enclaves, a goal that I regard as both unwholesome in itself and unlikely to prove favourable to liberty. And while it's easier to sympathise with ethnonationalism when it takes the form of indigenous independence movements than when it takes the form of white separatism, even in its more benign forms it remains problematic. In the very Randian words of the very un-Randian William Gillis:

> Nationalism is bad at root because it is defined by collectivism and segregationism. These can be oppressive even without anything remotely like colonial exploitation and expansionism. Nationalism encourages us to subdivide all minds in the world into arbitrary groups, to identify with, to prioritize, and to reify these groups. One doesn't have to conquer an out-group in order for that division to do harm. Further the mechanisms by which nationalism usually functions are the valorization of traditions, collective narratives, and ossified relations over the agency of actual individuals.[23]

But this is simply one more reason why non-territorial secession is preferable to territorial secession: it allows people to withdraw from onerous legal and political arrangements without thereby retreating into cultural isolation – just as I can switch my phone service provider from Verizon to AT&T without changing who I socialise with. All the same, Rand's assumption that if ethnic and linguistically based territorial secession movements cannot point to a definite violation of rights on the part of the parent government, then they cannot have any legitimate grievances and must be motivated solely by tribalism, is unwarranted – and often such movements may be territorial simply because the notion of non-territorial secession is not yet well established in our culture.

Drawing a link between her remarks on secession and those on world government, Rand notes:

> [P]rior to World War I ... there were no foreign passports, no trade barriers, and no searches at the frontier .... The whole of Europe and America, the better part of the Western world ... were almost as one government already. Not that they didn't have different languages and different laws, but for practical purposes of travel, trade, exchange, and social fraternizing, there were no differences. ... And if England had wanted to be a colony of America, or America returned back to a colony of England, if England had the same Constitution, it truly wouldn't make any difference. (p. 116)

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[23] William Gillis, "The Continuing Obfuscation of Nationalism," *Center for a Stateless Society* (16 October 2018): https://c4ss.org/content/51379

This vision of a pre-World-War-I Western world with "no trade barriers" and "no searches at the frontier" is a rather rosier picture than history warrants. Our eponymous patron Gustave de Molinari, in an 1886 memoir, describes a recent train journey in which his luggage

> was opened in Brussels by the Belgian customs inspectors; in Cologne, by the German customs inspectors; in Sosnowiec, by the Russian customs inspectors; in Stockholm, by the Swedish customs inspectors; in Copenhagen, by the Danish customs inspectors; in Hamburg, for the second time by the Germans; in Venlo, by the Dutch; between Maastricht and Liège, by the Belgians again; and finally in Paris by the French. If I had had any articles subject to duties, they would have discharged them nine times over![24]

And the trade barriers of the Austro-Hungarian Empire were notorious enough to be satirised by Jaroslav Hašek in a 1912 story that tells of a Czech traveler who, while visiting Germany, has a serious accident requiring emergency surgery; he ends up with a silver plate in his skull, and a pig's kidney transplanted to replace his own. When he tries to return to Bohemia, he is denied reentry by the Austrian customs officials, on the grounds that the importation of silver and of swine are both prohibited.[25] Molinari was an anarcho-capitalist (more or less), and Hašek an anarcho-communist (again, more or less) – so, neither of them precisely the flavour of left-wing market anarchist whose flag I fly – but they both had a clear and jaundiced view of the reality of border controls in late 19th and early 20th century Europe. As for the United States, Rand seems to be forgetting, *inter alia*, the Chinese Exclusion Act of 1882, the McKinley tariff of 1890, and the Immigration Act of 1891.

But whether this open-borders world Rand describes is a historical reality or not doesn't matter for her point, which is that a network of political communities with "different languages and different laws" can be a legitimate case of something approaching a common government, so long as all the communities share a commitment to basic liberal principles and permit free entry and exit of people and goods.

This vision of international harmony and fluidity needs only one stipulation added, however – namely, that the political communities in question need not be defined *territorially* – to become a tolerable depiction of what Rand's anarchist *opponents* advocate. And then it turns out to be Rand, with her insistence on enforcing the state's territorial monopoly, that emerges as the unknowing opponent of free entry and exit.

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[24] Gustave de Molinari, *Au Canada at aux Montagnes Rocheuses; en Russie; en Corse; à l'Exposition Universelle d'Anvers* (Paris: C. Reinwald, 1886), p. 225; translation mine.

[25] Jaroslav Hašek, "The Austrian Customs"; in Hašek, *The Bachura Scandal and Other Stories and Sketches*, trans. Alan Menhennet (London: Angel Books, 1991), pp. 97-99.