

But what is the ethics implied in argumentation whose validity cannot be disputed, as disputing it would implicitly have to presuppose it? Quite commonly it has been observed that argumentation implies that a proposition claims *universal* acceptability, or, should it be a norm proposal, that it is “universalizable.” Applied to norm proposals, this is the idea, as formulated in the Golden Rule of ethics or in the Kantian Categorical Imperative, that only those norms can be justified that can be formulated as general principles which are valid for everyone without exception.¹¹⁹ Indeed, as argumentation implies that everyone who can understand an argument must in principle be able to be convinced of it simply because of its argumentative force, the universalization principle of ethics can now be understood and explained as grounded in the wider “a priori of communication and argumentation.” Yet the universalization principle only provides a purely formal criterion for morality. To be sure, checked against this criterion all proposals for valid norms which would specify different rules for different classes of people could be shown to have no legitimate claim of being universally acceptable as fair norms, unless the distinction between different classes of people were such that it implied no discrimination, but could instead be accepted as founded in the nature of things again by everyone. But while some norms might not pass the test

In recognizing the narrower concept of argumentation (instead of the wider one of human nature) as the necessary starting point in deriving an ethic, and in assigning to moral reasoning the status of a priori reasoning, clearly to be distinguished from the role of reason performed in empirical research, our approach not only claims to avoid these difficulties from the outset, but claims thereby to be at once more straightforward and rigorous. Still, to thus dissociate myself from the natural rights tradition is not to say that I could not agree with its critical assessment of most of contemporary ethical theory; indeed I do agree with H. Veatch's complementary refutation of all desire (teleological, utilitarian) ethics as well as all duty (deontological) ethics (see *Human Rights*, Baton Rouge, 1985, Chapter 1). Nor do I claim that it is impossible to interpret my approach as falling in a “rightly conceived” natural rights tradition after all. What I claim, though, is that the following approach is clearly out of line with what the natural rights approach has actually come to be, and that it owes nothing to this tradition as it stands.

¹¹⁹ The universalization principle figures prominently indeed among all cognitivist approaches to morals. For the classical exposition cf. I. Kant, “Grundlegung zur Metaphysik der Sitten” and “Kritik der praktischen Vernunft” in: Kant, *Werke* (ed. Weischedel), vol. IV, Wiesbaden, 1956.

of universalization, if enough attention were paid to their formulation, the most ridiculous norms, and what is of course even more relevant, even openly incompatible norms could easily and equally well pass it. For example, “everybody must get drunk on Sundays or be fined” or “anyone who drinks alcohol will be punished” are both rules that do not allow discrimination among groups of people and thus could both claim to satisfy the condition of universalization.

Clearly then, the universalization principle alone would not provide one with any positive set of norms that could be demonstrated to be justified. However, there are other positive norms implied in argumentation aside from the universalization principle. In order to recognize them, it is only necessary to call three interrelated facts to attention. First, that argumentation is not only a cognitive but also a practical affair. Second, that argumentation, as a form of action, implies the use of the scarce resource of one’s body. And third, that argumentation is a conflict-free way of interacting. Not in the sense that there is always agreement on the things said, but in the sense that as long as argumentation is in progress it is always possible to agree at least on the fact that there is disagreement about the validity of what has been said. And this is to say nothing else than that a mutual recognition of each person’s exclusive control over his own body must be presupposed as long as there is argumentation (note again, that it is impossible to deny this and claim this denial to be true without implicitly having to admit its truth).

Hence, one would have to conclude that the norm implied in argumentation is that everybody has the right of exclusive control over his own body as his instrument of action and cognition. Only if there is at least an implicit recognition of each individual’s property right in his own body can argumentation take place.¹²⁰ Only as

¹²⁰ It might be noted here that only because scarcity exists is there even a problem of formulating moral laws; insofar as goods are superabundant (“free” goods) no conflict over the use of goods is possible and no action-coordination is needed. Hence, it follows that any ethic, correctly conceived, must be formulated as a theory of property, i.e., a theory of the assignment of rights of exclusive control over scarce means. Because only then does it become possible to avoid otherwise inescapable

long as this right is recognized is it possible for someone to agree to what has been said in an argument and hence can what has been said be validated, or is it possible to say “no” and to agree only on the fact that there is disagreement. Indeed, anyone who would try to justify any norm would already have to presuppose the property right in his body as a valid norm, simply in order to say, “This is what I claim to be true and objective.” Any person who would try to dispute the property right in his own body would become caught up in a contradiction, as arguing in this way and claiming his argument to be true, would already implicitly accept precisely this norm as being valid.

Thus it can be stated that whenever a person claims that some statement can be justified, he at least implicitly assumes the following norm to be justified: “Nobody has the right to uninvitedly aggress against the body of any other person and thus delimit or restrict anyone’s control over his own body.” This rule is implied in the concept of justification as argumentative justification. Justifying *means* justifying without having to rely on coercion. In fact, if one formulates the opposite of this rule, i.e., “everybody has the right to uninvitedly aggress against other people” (a rule, by the way, that would pass the formal test of the universalization principle!), then it is easy to see that this rule is not, and never could be, defended in argumentation. To do so would in fact have to presuppose the validity of precisely its opposite, i.e., the aforementioned principle of nonaggression.

With this justification of a property norm regarding a person’s body it may seem that not much is won, as conflicts over bodies, for whose possible avoidance the nonaggression principle formulates a universally justifiable solution, make up only a small portion

and unresolvable conflict. Unfortunately, moral philosophers, in their widespread ignorance of economics, have hardly ever seen this clearly enough. Rather, like H. Veatch (Human Rights, Baton Rouge, 1985, p. 170), for instance, they seem to think that they can do without a precise definition of property and property rights only to then necessarily wind up in a sea of vagueness and adhoceries. On human rights as property rights cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapter 15.

of all possible conflicts. However, this impression is not correct. To be sure, people do not live on air and love alone. They need a smaller or greater number of other things as well, simply to survive—and of course only he who survives can sustain an argumentation, let alone lead a comfortable life. With respect to all of these other things norms are needed, too, as it could come to conflicting evaluations regarding their use. But in fact, any other norm must be logically compatible with the nonaggression principle in order to be justified itself, and, *mutatis mutandis*, every norm that could be shown to be incompatible with this principle would have to be considered invalid. In addition, as the things with respect to which norms have to be formulated are scarce goods—just as a person's body is a scarce good—and as it is only necessary to formulate norms at all because goods are *scarce* and not because they are *particular kinds* of scarce goods, the specifications of the nonaggression principle, conceived of as a special property norm referring to a specific kind of good, must in fact already contain those of a *general* theory of property.

I will first state this general theory of property as a set of rules applicable to *all* goods with the purpose of helping one to avoid *all* possible conflicts by means of *uniform* principles, and will then demonstrate how this general theory is implied in the non-aggression principle. Since according to the nonaggression principle a person can do with his body whatever he wants as long as he does not thereby aggress against another person's body, that person could also make use of other scarce means, just as one makes use of one's own body, provided these other things have not already been appropriated by someone else but are still in a natural, unowned state. As soon as scarce resources are visibly appropriated—as soon as someone “mixes his labor,” as John Locke phrased it,¹²¹ with them and there are objective traces of this—then property, i.e., the right of exclusive control, can only be acquired by a contractual transfer of property titles from a previous to a later owner, and

¹²¹ Cf. J. Locke, *Two Treatises on Government* (ed. P. Laslett), Cambridge, 1970, esp. 2, 5.

any attempt to unilaterally delimit this exclusive control of previous owners or any unsolicited transformation of the physical characteristics of the scarce means in question is, in strict analogy with aggressions against other people's bodies, an unjustifiable action.¹²²

The compatibility of this principle with that of nonaggression can be demonstrated by means of an *argumentum a contrario*. First, it should be noted that if no one had the right to acquire and control anything except his own body (a rule that would pass the formal universalization test), then we would all cease to exist and the problem of the justification of normative statements (or, for that matter, any other problem that is of concern in this treatise) simply would not exist. The existence of this problem is only possible because we are alive, and our existence is due to the fact that we do not, indeed *cannot*, accept a norm outlawing property in other scarce goods next and in addition to that of one's physical body. Hence, the right to acquire such goods must be assumed to exist. Now, if this is so, and if one does not have the right to acquire such rights of exclusive control over unused, nature-given things through one's own work, i.e., by doing something with things with which no one else had ever done anything before, and if other people *had* the right to disregard one's ownership claim with respect to such things which they had not worked on or put to some particular use before, then this would only be possible if one could acquire property titles not through labor, i.e., by establishing some objective, intersubjectively controllable link between a particular person and a particular scarce resource, but simply by verbal declaration; by decree.¹²³ However, acquiring property titles through

¹²² On the nonaggression principle and the principle of original appropriation cf. also M. N. Rothbard, *For A New Liberty*, New York, 1978, Chapter 2; and *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapters 6-8.

¹²³ This, for instance, is the position taken by J. J. Rousseau, when he asks us to resist attempts to privately appropriate nature given resources by, for example, fencing them in. In his famous dictum, he says, "Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody" ("Discourse upon the Origin and Foundation of Inequality among Mankind" in: J. J. Rousseau, *The Social Contract and Discourses* (ed. G. Cole), New York, 1950, p.235). However, it is only possible to argue so if it is assumed that

declaration is incompatible with the above justified nonaggression principle regarding bodies. For one thing, if one could indeed appropriate property by decree, then this would imply that it would also be possible for one to simply declare another person's body to be one's own. Yet this, clearly enough, would conflict with the ruling of the nonaggression principle which makes a sharp distinction between one's own body and the body of another person. And this distinction can only be made in such a clear-cut and unambiguous way because for bodies, as for anything else, the separation between "mine" and "yours" is not based on verbal declarations but on action. (Incidentally, a decision between rival declarative claims could not be made unless there were some *objective* criterion other than declaration.) The separation is based on the observation that some particular scarce resource had in fact—for everyone to see and verify, as objective indicators for this would exist—been made an expression or materialization of one's own will, or, as the case may be, of someone else's will. Moreover, and more importantly, to say that property is acquired not through action but through a declaration involves an open practical *contradiction*, because nobody could say and declare so unless in spite of what was actually said his right of exclusive control over his body as his own instrument of saying *anything* was *in fact* already presupposed.

It has now been demonstrated that the right of original appropriation through actions is compatible with and implied in the nonaggression principle as the logically necessary presupposition of argumentation. Indirectly, of course, it has also been demonstrated that any rule specifying different rights, such as a socialist property theory, cannot be justified. Before entering a more detailed analysis, though, of *why* any socialist ethic is indefensible—a discussion which should throw some additional light on the importance of some of the stipulations of the "natural," capitalist

property claims can be justified by decree. Because how else could "all" (i.e., even those who never did anything with the resources in question) or "nobody" (i.e., not even those who actually made use of it) own something—unless property claims were founded by mere decree?!

theory of property—a few remarks about what is or is not implied by classifying these latter norms as justified seem to be in order.

In making this assertion, one need not claim to have derived an “ought” from an “is.” In fact, one can readily subscribe to the almost generally accepted view that the gulf between “ought” and “is” is logically unbridgeable.¹²⁴ Rather, classifying the rulings of the natural theory of property in this way is a purely cognitive matter. It no more follows from the classification of the principle underlying capitalism as “fair” or “just” that one ought to act according to it, than it follows from the concept of validity or truth that one should always strive for it. To say that this principle is just also does not preclude the possibility of people proposing or even enforcing rules that are incompatible with it. As a matter of fact, with respect to norms the situation is very similar to that in other disciplines of scientific inquiry. The fact, for instance, that certain empirical statements are justified or justifiable and others are not does not imply that everyone only defends objective, valid statements. Rather, people can be wrong, even intentionally. But the distinction between objective and subjective, between true and false, does not lose any of its significance because of this. Rather, people who are wrong would have to be classified as either uninformed or intentionally lying. The case is similar with respect to norms. Of course there are many people who do not propagate or enforce norms which can be classified as valid according to the meaning of justification which I have given above. But the distinction between justifiable and nonjustifiable norms does not dissolve because of this, just as that between objective and subjective statements does not crumble because of the existence of uninformed or lying people. Rather, and accordingly, those people who would propagate and enforce such different, invalid norms would again have to be classified as uninformed or dishonest, insofar as one had explained to them

¹²⁴ On the problem of the deriveability of “ought” from “is” statements cf. W. D. Hudson (ed.), *The Is-Ought Question*, London, 1969; for the view that the fact-value dichotomy is an ill-conceived idea cf. the natural rights literature cited in note 115 above.

and indeed made it clear that their alternative norm proposals or enforcements could not and never would be justifiable in argumentation. And there would be even more justification for doing so in the moral case than in the empirical one, since the validity of the nonaggression principle and that of the principle of original appropriation through action as its logically necessary corollary must be considered to be even more basic than any kind of valid or true statements. For what is valid or true has to be defined as that upon which everyone acting according to this principle can possibly agree. As a matter of fact, as has just been shown, at least the implicit acceptance of these rules is the necessary prerequisite to being able to live and to argue at all.¹²⁵

Why is it, then, precisely, that socialist property theories of any kind fail to be justifiable as valid? First, it should be noted that all of the actually *practiced* versions of socialism and most of its theoretically proposed models as well would not even pass the first formal universalization test, and would fail for this fact alone! These versions all contain norms within their framework of legal rules which have the form “some people do, and some people do not.” However, such rules, which specify different rights or obligations for different classes of people, have no chance of being accepted as fair by every potential participant in an argumentation for simply formal reasons. Unless the distinction made between different classes of people happens to be such that it is acceptable to both sides as grounded in the nature of things, such rules would not be acceptable because they would imply that one group is awarded legal privileges at the expense of complementary discriminations against another group. Some people, either those who are allowed to do something or those who are not, therefore could not agree

¹²⁵ Writes M. N. Rothbard in *The Ethics of Liberty*, Atlantic Highlands, 1982, p.32: “Now, any person participating in any sort of discussion, including one on values, is, by virtue of so participating, alive and affirming life. For if he were really opposed to life he would have no business in such a discussion, indeed he would have no business continuing to be alive. Hence, the supposed opponent of life is really affirming it in the very process of discussion, and hence the preservation and furtherance of one’s life takes on the stature of an incontestable axiom.” Cf. also D. Osterfeld, “the Natural Rights Debate” in: *Journal of Libertarian Studies*, VII, I, 1983, pp.106f.

that these were fair rules.¹²⁶ Since most kinds of socialism, as practiced or preached, have to rely on the enforcement of rules such as “some people have the obligation to pay taxes, and others have the right to consume them” or “some people know what is good for you and are allowed to help you get these alleged blessings even if you do not want them, but you are not allowed to know what is good for them and help them accordingly” or “some people have the right to determine who has too much of something and who too little, and others have the obligation to comply” or even more plainly, “the computer industry must pay to subsidize the farmers,” “the employed for the unemployed,” “the ones without kids for those with kids,” etc., or vice versa, they all can be discarded easily as serious contenders to the claim of being part of a valid theory of norms *qua* property norms, because they all indicate by their very formulation that they are not universalizable.

But what is wrong with the socialist property theories if this is taken care of and there is indeed a theory formulated that contains exclusively universalizable norms of the type “nobody is allowed to” or “everybody can”? Even then—and this, more ambitiously, is what has been demonstrated indirectly above and shall be argued directly—socialism could never hope to prove its validity, no longer because of formal reasons, but because of its material specifications. Indeed, while those forms of socialism that can easily be refuted regarding their claim to moral validity on simple formal grounds can at least be practiced, the application of those more sophisticated versions that would pass the universalization test prove, for material reasons, to be fatal: even if we tried, they simply could never be put into effect.

There are two related specifications in the norms of the natural theory of property with at least one of which a socialist property theory comes into conflict. The first such specification is that according to the capitalistic ethic, aggression is defined as an

¹²⁶ Cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, p.45.

invasion of the *physical* integrity of another person's property.¹²⁷ Socialism, instead, would define aggression as an invasion of the *value* or *psychic integrity* of another person's property. Conservative socialism, it should be recalled, aimed at preserving a given distribution of wealth and values, and attempted to bring those forces which could change the status quo under control by means of price controls, regulations, and behavioral controls. Clearly, in order to do so, property rights to the value of things must be assumed to be justifiable, and an invasion of values, *mutatis mutandis*, must be classified as unjustifiable aggression. Yet not only conservatism uses this idea of property and aggression. Social-democratic socialism does, too. Property rights to values must be assumed to be legitimate when social-democratic socialism allows me, for instance, to demand compensation from people whose chances or opportunities negatively affect mine. And the same is true when compensation for committing psychological or "structural violence"—a particularly dear term in the leftist political science literature—is permitted.¹²⁸ In order to be able to ask for such compensation,

¹²⁷ On the importance of the definition of aggression as physical aggression cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapters 8-9; the same, "Law, Property Rights and Pollution," in: *Cato Journal*, Spring 1982, esp. pp. 60-63.

¹²⁸ On the idea of structural violence as distinct from physical violence cf. D. Senghaas (ed.), *Imperialismus und strukturelle Gewalt*, Frankfurt/M., 1972.

The idea of defining aggression as an invasion of property values also underlies the theories of justice of both J. Rawls and R. Nozick, however different these two authors may have appeared to be to many commentators. For how could he think of his so-called difference-principle—"Social and economic inequalities are to be arranged so that they are ... reasonably expected to be to everyone's—including the least advantaged one's—advantage or benefit" (J. Rawls, *A Theory of Justice*, Cambridge, 1971, pp. 60-83; see also pp.75ff)—as justified unless Rawls believes that simply by increasing his relative wealth a more fortunate person commits an aggression, and a less fortunate one then has a valid claim against the more fortunate person only because the former's relative position in terms of value has deteriorated?! And how could Nozick claim it to be justifiable for a "dominant protection agency" to outlaw competitors, regardless of what their actions would have been like (R. Nozick, *Anarchy, State and Utopia*, New York, 1974, pp.55f)? Or how could he believe it to be morally correct to outlaw so-called nonproductive exchanges, i.e., exchanges where one party would be better off if the other one did not exist at all, or at least had nothing to do with it (as, for instance, in the case of a blackmailee and a blackmailer), regardless of whether or not such an exchange involved physical invasion of any

what was done—affecting my opportunities, my psychic integrity, my feeling of what is owed to me—would have to be classified as an aggressive act.

Why is this idea of protecting the value of property unjustifiable? First, while every person, at least in principle, can have full control over whether or not his actions cause the *physical* characteristics of something to change, and hence also can have full control over whether or not those actions are justifiable, control over whether or not one's actions affect the *value* of someone else's property does not rest with the acting person, but rather with other people and their subjective evaluations. Thus no one could determine *ex ante* if his actions would be classified as justifiable or unjustifiable. One would first have to interrogate the whole population to make sure that one's planned actions would not change another person's evaluations regarding his own property. And even then nobody could act until universal *agreement* was reached on who is supposed to do what with what, and at which point in time. Clearly, for all the practical problems involved, one would be long dead and nobody would argue anything any longer long before this was ever accomplished.¹²⁹ But more decisively still, the socialist position regarding property and aggression could not even be effectively *argued*, because arguing in favor of any norm, socialist or not, implies that there is conflict over the use of some scarce resource, otherwise there would simply be no need for discussion. However, in order to argue that there is a way out of such conflicts, it must be presupposed that actions must be allowed to be performed *prior* to any actual agreement or disagreement, because if they were not, one could not even argue so. Yet if one can do this—and socialism

kind (ibid., pp. 83–86), unless he thought that the right existed to have the integrity of one's property values (rather than its physical integrity) preserved?! For a devastating critique of Nozick's theory in particular cf. M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapter 29; on the fallacious use of the indifference curve analysis, employed both by Rawls and Nozick, cf. the same, "Toward a Reconstruction of Utility and Welfare Economics," Center for Libertarian Studies, Occasional Paper No. 3, New York, 1977.

¹²⁹ Cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, p.46.

too must assume that one can, insofar as it exists as an argued intellectual position—then this is only possible because the existence of *objective borders* of property i.e., borders which every person can recognize as such *on his own*, without having to agree first with anyone else with respect to one's system of values and evaluations. Socialism, too, then, in spite of what it *says*, must *in fact* presuppose the existence of objective property borders, rather than of borders determined by subjective evaluations, if only in order to have any surviving socialist who can make his moral proposals.

The socialist idea of protecting value instead of physical integrity also fails for a second, related reason. Evidently, the value of a person, for example, on the labor or marriage market, can be and indeed is affected by other people's physical integrity or degree of physical integrity. Thus, if one wanted property *values* to be protected, one would have to allow *physical* aggression against people. However, it is only because of the very fact that a person's borders—that is, the borders of a person's property in his body as his domain of exclusive control with which another person is not allowed to interfere unless he wishes to become an aggressor—are physical borders (intersubjectively ascertainable, and not just subjectively fancied borders) that everyone can agree on anything independently (and, of course, agreement means agreement of independent decision-making units!). Only because the protected borders of property are objective then, i.e., fixed and recognizable as fixed prior to any conventional agreement, can there at all be argumentation, and possibly agreement, between independent decision-making units. There simply could not be anyone arguing anything unless his existence as an independent physical unit was first recognized. No one could argue in favor of a property system defining borders of property in subjective, evaluative terms—as does socialism—because simply to be able to say so presupposes that, contrary to what the theory says, one must in fact be a physically independent unit saying it.

The situation is no less dire for socialism when one turns to the second essential specification of the rulings of the natural theory

of property. The basic norms of capitalism were characterized not only by the fact that property and aggression were defined in physical terms; it was of no less importance that in addition property was defined as private, individualized property and that the meaning of original appropriation, which evidently implies making a distinction between prior and later, had been specified. It is with this additional specification as well that socialism comes into conflict. Instead of recognizing the vital importance of the prior-later distinction in deciding between conflicting property claims, socialism proposes norms which in effect state that priority is irrelevant in making such a decision and that late-comers have as much of a right to ownership as first-comers. Clearly, this idea is involved when social-democratic socialism, for instance, makes the natural owners of wealth and/or their heirs pay a tax so that the unfortunate latecomers might be able to participate in its consumption. And this idea is also involved, for instance, when the owner of a natural resource is forced to reduce (or increase) its present exploitation in the interest of posterity. Both times it only makes sense to do so when it is assumed that the person accumulating wealth first, or using the natural resource first, thereby commits an aggression against some late-comers. If they have done nothing wrong, then the late-comers could have no such claim against them.¹³⁰

What is wrong with this idea of dropping the prior-later distinction as morally irrelevant? First, if the late-comers, i.e., those who did not in fact do something with some scarce goods, had indeed as much of a right to them as the first-comers, i.e., those who did do something with the scarce goods, then literally no one would be allowed to do anything with anything, as one would have to have all of the late-comers' consent prior to doing whatever one wanted to do. Indeed, as posterity would include one's children's children—people, that is, who come so late that one could never

¹³⁰ For an awkward philosophical attempt to justify a late-comer ethic cf. J. Rawls, *A Theory of Justice*, Cambridge, 1971, pp.284ff; J. Sterba, *The Demands of Justice*, Notre Dame, 1980, esp. pp.58ff, pp.137ff; On the absurdity of such an ethic cf. M. N. Rothbard, *Man, Economy and State*, Los Angeles, 1972, p.427.

possibly ask them—advocating a legal system that does not make use of the prior-later distinction as part of its underlying property theory is simply absurd in that it implies advocating death but must presuppose life to advocate anything. Neither we, our forefathers, nor our progeny could, do, or will survive and say or argue anything if one were to follow this rule. In order for any person—past, present, or future—to argue anything it must be possible to survive now. Nobody can wait and suspend acting until everyone of an indeterminate class of late-comers happens to appear and agree to what one wants to do. Rather, insofar as a person finds himself alone, he must be able to act, to use, produce, consume goods straightaway, prior to any agreement with people who are simply not around yet (and perhaps never will be). And insofar as a person finds himself in the company of others and there is conflict over how to use a given scarce resource, he must be able to resolve the problem at a definite point in time with a definite number of people instead of having to wait unspecified periods of time for unspecified numbers of people. Simply in order to survive, then, which is a prerequisite to arguing in favor of or against anything, property rights cannot be conceived of as being timeless and non-specific regarding the number of people concerned. Rather, they must necessarily be thought of as originating through acting at definite points in time for definite acting individuals.¹³¹

Furthermore, the idea of abandoning the prior-later distinction, which socialism finds so attractive, would again simply be incompatible with the nonaggression principle as the practical foundation of argumentation. To argue and possibly agree with someone (if only on the fact that there is disagreement) means to recognize each other's prior right of exclusive control over his own

¹³¹ It should be noted here, too, that only if property rights are conceptualized as private property rights originating in time, does it then become possible to make contracts. Clearly enough, contracts are agreements between enumerable physically independent units which are based on the mutual recognition of each contractor's private ownership claims to things acquired prior to the agreement, and which then concern the transfer of property titles to definite things from a specific prior to a specific later owner. No such thing as contracts could conceivably exist in the framework of a late-comer ethic!

body. Otherwise, it would be impossible for anyone to first say anything at a definite point in time and for someone else to then be able to reply, or vice versa, as neither the first nor the second speaker would be independent physical decision-making units anymore, at any time. Eliminating the prior-later distinction then, as socialism attempts to do, is tantamount to eliminating the possibility of arguing and reaching agreement. However, as one cannot argue that there is no possibility for discussion without the prior control of every person over his own body being recognized and accepted as fair, a late-comer ethic that does not wish to make this difference could never be agreed upon by anyone. Simply *saying* that it could implies a contradiction, as one's being able to say so would presuppose one's existence as an independent decision-making unit at a definite point in time.

Hence, one is forced to conclude that the socialist ethic is a complete failure. In all of its practical versions, it is no better than a rule such as "I can hit you, but you cannot hit me," which even fails to pass the universalization test. And if it did adopt universalizable rules, which would basically amount to saying "everybody can hit everybody else," such rulings could not conceivably be said to be universally acceptable on account of their very material specification. Simply to say and argue so must presuppose a person's property right over his own body. Thus, only the first-come-first-own ethic of capitalism can be defended effectively as it is implied in argumentation. And no other ethic could be so justified, as justifying something in the course of argumentation implies presupposing the validity of precisely this ethic of the natural theory of property.

Chapter 8

The Socio-psychological Foundations of Socialism or The Theory of The State

In the preceding chapters it has been demonstrated that socialism as a social system implying a redistribution of property titles away from user-owners and contractors to nonuser-owners and noncontractors necessarily involves a reduction in the production of wealth, since the use and contracting of resources are costly activities whose performance is made even more costly as compared with alternatives available to actors. Secondly, such a system cannot be defended as a fair or just social order from a moral point of view because to argue so, in fact to argue at all, in favor or against *anything*, be it a moral, nonmoral, empirical, or logico-analytical position, necessarily presupposes the validity of the first-use-first-own rule of the natural theory of property and capitalism, as otherwise no one could survive and then say, or possibly agree on, anything as an independent physical unit.

If neither an economic nor a moral case for socialism can be made, then socialism is reduced to an affair of merely socio-psychological significance. What, then, are the socio-psychological foundations on which socialism rests? Or, since socialism has been defined as an *institutionalized* policy of redistribution of

property titles away from user-owners and contractors, how is an institution that implements a more or less total expropriation of natural owners possible?

If an institution exists that is allowed to appropriate property titles other than through original appropriation or contract, it must assumedly damage some people who consider themselves to be the natural owners of these things. By securing and possibly increasing its monetary and/or non-monetary income it reduces that of other people—something categorically different from the situation that exists when there is a contractual relationship among people in which no one gains at the expense of anyone else but everyone profits, as otherwise there simply would not be any exchange. In this case one can expect resistance to the execution of such a policy. This inclination to resist can, of course, be more or less intensive, and it can change over time and become either more or less pronounced and pose a greater or smaller threat to the institution carrying out the policy of redistribution. But as long as it exists at all, the institution must reckon with it. In particular, it must reckon with it if one assumes that the people representing this institution are ordinary people who, like everyone else, have an interest not only in stabilizing their current income which they are able to secure for themselves in their roles as representatives of this institution but also in increasing this income as much as possible. How, and this is precisely the problem, can they stabilize and possibly increase their income from noncontractual exchanges, even though this necessarily creates victims—and, over time, increasing numbers of victims, or victims who are increasingly hurt?

The answer can be broken down into three parts which will be discussed in turn: (1) by aggressive violence; (2) by corrupting the public through letting them or rather parts of them share in the enjoyment of the receipts coercively extracted from natural owners of things; and (3) by corrupting the public through letting them or parts of them participate in the specific policy of expropriation to be enacted.

To assure its very existence, any institution that enforces a socialist theory of property must rely on the continual threat of violence. Any such institution threatens people who are unwilling to accept its noncontractual appropriations of their natural property with physical assault, imprisonment, enslavement, or even death, and it must carry out such threats if necessary, in order to stay ‘trust-worthy’ as the kind of institution that it is. Since one is dealing with an institution—an organization, that is, which performs these actions on a regular basis—it is almost self-explanatory that it refuses to call its own practice of doing things “aggression,” and instead adopts a different name for it, with neutral or possibly even positive connotations. In fact, its representatives might not even think that they themselves are aggressors when acting in the name of this organization. However, it is not names or terms that matter here or elsewhere, but what they really mean.¹³² Regarding

¹³² On the difference between institutional aggression committed by the state as the very incorporation of socialism and common, criminal action cf. L. Spooner, *No Treason*, Colorado Springs, 1973, pp. 19-20.: “...the government, like a highwayman, says to a man: “Your money, or your life.” And many, if not most, taxes are paid under the compulsion of that threat. The government does not, indeed, waylay a man in a lonely place, spring upon him from the roadside, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery on that account; and it is far more dastardly and shameful. The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber. He has not acquired impudence enough to profess to be merely a “protector,” and that he takes men’s money against their will, merely to enable him to “protect” those infatuated travelers, who feel perfectly able to protect themselves, or do not appreciate his peculiar system of protection. He is too sensible a man to make such professions as these. Furthermore, having taken your money, he leaves you, as you wish him to do. He does not persist in following you on the road, against your will; assuming to be your rightful “sovereign,” on account of the “protection” he affords you. He does not keep “protecting” you, by commanding you to bow down and serve him; by requiring you to do this, and forbidding you to do that; by robbing you of more money as often as he finds it for his interest or pleasure to do so; and by brandishing you as a rebel, a traitor, and an enemy to your country, and shooting you down without mercy, if you dispute his authority or resist his demands. He is too much of a gentleman to be guilty of such impostures and insults and villainies as these. In short, he does not, in addition to robbing you, attempt to make you either his dupe or his slave. The proceedings of those robbers and murderers, who call themselves “the government,” are directly the opposite of these of the “single highwayman.”

the content of its actions, violence is the cornerstone of socialism's existence as an institution. And to leave no room for misunderstanding here, the violence on which socialism rests is not the kind of violence that a natural owner of things would use or threaten to use against aggressive intruders of his property. It is not the defensive threat toward a prospective murderer of, let us say, subjecting him to capital punishment, should he in fact murder someone. Rather, it is aggressive violence directed at innocent victims. An institution carrying out socialism literally rests on the threat posed by a prospective murderer against innocent people (i.e., people who have not done any physical harm whatsoever to anyone) to kill them should they not comply with his demands, or even to kill them just for the "fun" of killing.

It is not at all difficult to recognize the truth of this. In order to do so, it is only necessary to assume a boycott of any exchange-relation with the representatives of socialism because such an exchange, for whatever reasons, no longer seems profitable. It should be clear that in a social system based on the natural theory of property—under capitalism—anyone would have the right to boycott at any time, as long as he was indeed the person who appropriated the things concerned by using them before anyone else did or by acquiring them contractually from a previous owner. However much a person or institution might be affected by such a boycott, it would have to tolerate it and suffer silently, or else try to persuade the boycotter to give up his position by making a more lucrative offer to him. But it is not so with an institution that puts socialist ideas regarding property into effect. Try, for instance, to stop paying taxes or to make your future payments of taxes dependent on certain changes or improvements in the services that the institution offers in return for the taxes—it would fine, assault, imprison you, or perhaps do even worse things to you. Or to use another example, try to ignore this institution's regulations or controls imposed on your property. Try, that is to say, to make the point that you did not consent to these limitations regarding the use of your property and that you would not invade the physical integrity of anyone else's property by ignoring such impositions, and hence,

that you have the right to secede from its jurisdiction, to “cancel your membership” so to speak, and from then on deal with it on equal footing, from one privileged institution to another. Again, assumedly without having aggressed against anyone through your secession, this institution would come and invade you and your property, and it would not hesitate to end your independence. As a matter of fact, if it did not do so, it would stop being what it is. It would abdicate and become a regular private property owner or a contractual association of such owners. Only because it does not so abdicate is there socialism at all. Indeed, and this is why the title of this chapter suggested that the question regarding the socio-psychological foundations of socialism is identical to that of the foundations of a state, if there were no institution enforcing socialistic ideas of property, there would be no room for a state, as a state is nothing else than an institution built on taxation and unsolicited, noncontractual interference with the use that private people can make of their natural property. There can be no socialism without a state, and as long as there is a state there is socialism. The state, then, is the very institution that puts socialism into action; and as socialism rests on aggressive violence directed against innocent victims, aggressive violence is the nature of any state.¹³³

But socialism, or the state as the incorporation of socialist ideas, does not rest exclusively on aggression. The representatives of the state do not engage solely in aggressive acts in order to stabilize their incomes, though without it there would not be any state! As long as the relationship between the state and private property

¹³³ On the theory of the state cf. M. N. Rothbard, “The Anatomy of the State,” in: the same, *Egalitarianism As A Revolt Against Nature*, Washington, 1974; *For A New Liberty*, New York, 1978; and *The Ethics of Liberty*, Atlantic Highlands, 1982; H. H. Hoppe, *Eigentum, Anarchie und Staat*, Opladen, 1987; cf. also A. Herbert, *The Right and Wrong of Compulsion by the State* (ed. E. Mack), Indianapolis, 1978; H. Spencer, *Social Statics*, London, 1851; F. Oppenheimer, *The State*, New York, 1926; A. J. Nock, *Our Enemy, the State*, Delevan, 1983; cf. also J. Schumpeter’s remark directed against then as now prevalent views, notably among economists, that “the theory which construes taxes on the analogy of club dues or the purchase of a service of, say, a doctor only proves how far removed this part of the social sciences is from scientific habits of minds” (J. Schumpeter, *Capitalism, Socialism and Democracy*, New York, 1942, p. 198).

owners is exclusively a parasitic one, and the activities of the representatives of the state consist entirely of unsolicited interferences with other people's property rights, designed to increase the income of the former at the expense of a corresponding reduction in income of the latter, and these agents of socialism then do nothing else with their income than consume it for their own private purposes, then the chances for the state's growth and the spread of socialism are at least very limited and narrow. Certainly, one man, or one group of men, possessed with sufficient aggressive energies can inspire enough fear in one and possibly even in a few others, or in another more numerous group of men who, for whatever reason, lack such characteristics, and can establish a stable relationship of exploitation. But it is impossible to explain the fact, characteristic of all states and each and every socialist social system, that the group of men representing the state can hold people ten, a hundred, or even a thousand times more numerous than they themselves in submission, and extract from them the incredibly large amounts of income that they in fact do, only by instilling fear in them.

It might be thought that an increase in the degree of exploitation could explain the size of income. But from the economic reasoning of previous chapters we know that a higher degree of exploitation of natural owners necessarily reduces their incentive to work and produce, and so there is a narrow limit to the degree to which one person (or group of persons) can lead a comfortable life on the income coercively extracted from another person (or a roughly equally sized group of persons) who would have to support this lifestyle through his (their) work. Hence, in order for the agents of socialism to be able to lead a comfortable life and prosper as they do, it is essential that the number of exploited subjects be considerably larger and grow over-proportionally as compared with those of the representatives of the state itself. With this, however, we are back to the question of how the few can rule the many.

There would also be no convincing way around this explanatory task by arguing that the state could simply solve this problem by improving its weaponry; by threatening with atomic bombs

instead of with guns and rifles, so to speak, thereby increasing the number of its subjects. Since realistically one must assume that the technological know-how of such improved weaponry can hardly be kept secret, especially if it is in fact applied, then with the state's improved instruments for instilling fear, *mutatis mutandis* the victims' ways and means of resisting improve as well, and hence, such advances can hardly be thought of as explaining what has to be explained.¹³⁴ One must conclude, then, that the problem of explaining how the few can rule the many is indeed real, and that socialism and the state as the incorporation of socialism must rest in addition to aggression on some sort of active support among the public.

David Hume is one of the classic expositors of this insight. In his essay on "The first principles of government" he argues:

Nothing appears more surprising to those who consider human affairs with a philosophical eye, than the easiness with which the many are governed by the few, and the implicit submission, with which men resign their own sentiments and passions to those of their rulers. When we inquire by what means this wonder is effected we shall find, that as Force is always on the side of the governed, the governors have nothing to support them but opinion. It is, therefore, on opinion only that government is founded, and this maxim extends to the most despotic and most military governments, as well as to the most free and most popular. The soldan of Egypt, or the emperor of Rome, might drive his harmless subjects, like brute beasts, against their sentiments and inclination. But he must, at least, have led his mamalukes or praetorian bands, like men, by their opinion.¹³⁵

¹³⁴ In addition, the use of at least some weaponry, such as atomic bombs, against one's subjects would be prohibitive, since the rulers could hardly prevent that they themselves would be hurt or killed by it, too.

¹³⁵ D. Hume, *Essays, Moral, Political and Literary*, Oxford, 1971, p.19; cf. also E. de La Boetie, *The Politics of Obedience: The Discourse of Voluntary Servitude*, New York, 1975.

How indeed is this support brought about? One important component in the process of generating it is ideology. The state spends much time and effort persuading the public that it is not *really* what it is and that the consequences of its actions are positive rather than negative. Such ideologies, spread to stabilize a state's existence and increase its income, claim that socialism offers a superior economic system or a social order that is more just than capitalism, or claim that there is no such thing as justice at all prior to the state's stepping in and simply declaring certain norms to be just.¹³⁶ And such ideologies, too, less attractive now, but once extremely powerful, are those, for example, of the state being sanctified by religion, or of the rulers not being ordinary people but instead god-like superhumans, who must be obeyed because of their natural superiority. I have gone to great lengths in previous chapters to demonstrate that such ideas are false and unjustified, and I will return to the task of analyzing and unmasking another fashionable ideology in the final chapter of this treatise. But regardless of the falsity of these ideologies, it must be recognized that they certainly do have some effect on people, and that they do contribute—some more so than others—to their submission to a policy of aggressive invasion of the property rights of natural owners.

Yet there is another more important component contributing to public support and this is not verbal propaganda, but rather actions with a clear-cut, tangible impact. Instead of being a mere parasitic consumer of goods that other people have produced, the state, in order to stabilize itself and increase its income as much as

¹³⁶ The classical exposition of the idea that in the "state of nature" no distinction between "just" and "unjust" can be made and that only the state creates justice is to be found in T. Hobbes, *Leviathan*, Oxford, 1946. That this "positivistic" theory of law is untenable has been implicitly demonstrated in Chapter 7 above. In addition, it should be noted that such a theory does not even succeed in doing what it is supposed to do: in justifying the state. Because the transition from the state of nature to a statist system can of course only be called justified (as opposed to arbitrary) if natural (pre-statist) norms exist that are the justificatory basis for this very transition.

For modern positivists cf. G. Jellinek, *Allgemeine Staatslehre*, Bad Homburg, 1966; H. Kelsen, *Reine Rechtslehre*, Wien, 1976; for a critique of legal positivism cf. F. A. Hayek, *Law, Legislation and Liberty*, 3 vols., Chicago, 1973-79.

possible, adds some positive ingredients to its policy, designed to be of use to some people outside the circle of its own personnel. Either it is engaged as an agent of income transfer, i.e., as an organization that hands out monetary or nonmonetary income to B that it has previously taken away from A without A's consent—naturally after subtracting a handling charge for the never costless act of such a transfer—or it engages in the production of goods or services, using the means expropriated earlier from natural owners, and thus contributes something of value to the users/buyers/consumers of these goods. Either way, the state generates support for its role. The recipients of transferred incomes as well as the users/consumers of state-produced goods and services become dependent to varying degrees on the continuation of a given state policy for their current incomes, and their inclination to resist the socialism embodied in state rule is reduced accordingly.

But this is only half of the picture. The positive achievements of the state are not undertaken simply to do something nice for some people, as, for instance, when someone gives somebody else a present. Nor are they done simply to gain as high an income as possible from the exchange for the organization doing them, as when an ordinary, profit-oriented institution engages in trade. Rather, they are undertaken in order to secure the existence and contribute to the growth of an institution that is built on aggressive violence. As such, the positive contributions emanating from the state must serve a *strategic purpose*. They must be designed to break up resistance to or add support for the continued existence of an aggressor as an aggressor. Of course, the state can err in this task, as can any ordinary business, because its decisions about what measures best serves its strategic purposes have to be made *in anticipation* of certain expected results. And if it errs with respect to the responses following its policy decisions, instead of rising its income can fall, jeopardizing its very existence, just as a profit-oriented institution can make losses or even go bankrupt if the public is not **willing** to deliberately buy what it was expected to buy. But only if the peculiar strategic purpose of state transfers and state production as compared with private transfers or production is understood does it

become possible to explain typical, recurring structural patterns of a state's actions, and to explain why states generally and uniformly prefer to go into certain lines of activities rather than others.

As regards the first problem: it does not make sense for a state to exploit every individual to the same extent, since this would bring everyone against it, strengthen the solidarity among the victims, and in any case, it would not be a policy that would find many new friends. It also does not make sense for a state to grant its favors equally and indiscriminately to everybody. For if it did, the victims would still be victims, although perhaps to a lesser degree. However, there would then be less income left to be distributed to people who would truly profiteer from state action, and whose increased support could help compensate for the lack of support from victimized persons. Rather, state policy must be and indeed is guided by the motto "divide et impera": treat people differently, play them against each other, exploit one possibly smaller group and favor another possibly larger group at the former's expense, and so counterbalance increased resentment or resistance of some by increased support of others. Politics, as politics of a state, is not "the art of doing the possible," as statesmen prefer to describe their business. It is the art, building on an equilibrium of terror, of helping to stabilize state income on as high a level as possible by means of popular discrimination and a popular, discriminatory scheme of distributional favors. To be sure, a profit-oriented institution can also engage in discriminatory business policies, but to do so and to follow a discriminatory employment policy or not to sell indiscriminately to anyone who is willing to pay the price set for a given service or product is costly, and so an economic incentive to avoid such action exists. For the state, on the other hand, there is every incentive in the world to engage in such discriminatory practices.¹³⁷

Regarding the kinds of services preferably offered by the state: clearly, the state cannot produce everything, or at least not

¹³⁷ For the classical exposition of this view of politics cf. N. Machiavelli, *The Prince*, Harmondsworth, 1961; cf. also Q. Skinner, *The Foundations of Modern Political Thought*, Cambridge, 1978.

everything to the same extent, for if it tried to do so its income would actually fall—as the state can only appropriate what has in fact been produced earlier by natural owners, and the incentive to produce anything in the future would be almost completely gone in a system of all-around socialization. It is of utmost importance in trying to implement socialism, then, that a state engage in and concentrate on the production and provision of such goods and services (and, *mutatis mutandis*, drive private competitors out of competition in such lines of productive activities, thereby monopolizing their provision) which are strategically relevant for preventing or suppressing any actual revolt, rebellion, or revolution.¹³⁸

Thus, all states—some more extensively than others, but every state to a considerable degree—have felt the need to take the system of education, for one thing, into their own hands. It either directly operates the educational institutions, or indirectly controls such institutions by making their private operation dependent on the granting of a state license, thus insuring that they operate within a predefined framework of guidelines provided by the state. Together with a steadily extended period of compulsory schooling, this gives the state a tremendous head start in the competition among different ideologies for the minds of the people. Ideological competition which might pose a serious threat to state rule can thereby be eliminated or its impact considerably reduced, especially if the state as the incorporation of socialism succeeds in monopolizing the job market for intellectuals by making a state license the prerequisite for any sort of systematic teaching activity.¹³⁹

The direct or indirect control of traffic and communication is of similar strategic importance for a state. Indeed, all states have gone to great pains to control rivers, coasts and seaways, streets and

¹³⁸ Cf. on this and the following, M. N. Rothbard, *Power and Market*, Kansas City, 1977, pp. 182f.

¹³⁹ On the role of the intellectuals and teachers as advocates of socialism and statism cf. B. de Jouvenel, "The Treatment of Capitalism by Continental Intellectuals," in: F.A. Hayek, *Capitalism and the Historians*, Chicago, 1954; L. v. Mises, *The Anti-Capitalist Mentality*, South Holland, 1972.

railroads, and especially, mail, radio, television, and telecommunication systems. Every prospective dissident is decisively restrained in his means of moving around and coordinating the actions of individuals if these things are in the hand or under the supervision of the state. The fact, well known from military history, that traffic and communication systems are the very first command posts to be occupied by any state attacking another vividly underlines their central strategic significance in imposing state rule on a society.

A third central concern of strategic relevance for any state is the control and possible monopolization of money. If the state succeeds in this task and, as is the case now all over the world, supplants a system of free banking and metal-based currency—most commonly the gold standard—with a monetary system characterized by a state-operated central bank and paper-money backed by nothing but paper and ink, a great victory has indeed been reached. In its permanent struggle for higher income, the state is no longer dependent on the equally unpopular means of increased taxation or currency depreciation (coin-clipping), which at all times has been unmasked quickly as fraudulent. Rather, it can now increase its own revenue and decrease its own debt almost at will by printing more money, as long as the additional money is brought into circulation before the inflationary consequences of this practice have taken effect or have been anticipated by the market.¹⁴⁰

Fourth and last, there is the area of the production of security, of police, defense, and judicial courts.

Of all the state-provided or controlled goods or services this is certainly the area of foremost strategic importance. In fact, it is of such great significance for any state to gain control of these things, to outlaw competitors, and to monopolize these activities, that “state” and “producer of law and order” have frequently been considered synonyms. Wrongly so, of course, as the state must

¹⁴⁰ On a free market monetary system and the effects of government intervention on this system cf. R. Paul and L. Lehrman, *The Case For Gold*, San Francisco, 1983, Chapters 2, 3; M. N. Rothbard, *What Has Government Done to Our Money?*, Novato, 1973.

be correctly described as an institution of organized aggression attempting only to *appear* as an ordinary producer in order to continue aggressing against innocent natural owners. But the fact that this confusion exists and is widely shared can be explained with reference to the observation that all states must monopolize the production of security because of its central strategic importance, and hence, these two terms, different as they are with respect to their intentional meaning, indeed have the same extensional meaning.

It is not difficult to see why in order to stabilize its existence, a state cannot, under any circumstances, leave the production of security in the hands of a market of private property owners.¹⁴¹ Since the state ultimately rests on coercion, it requires armed forces. Unfortunately (for any given state, that is), other armed states exist which implies that there is a check on a state's desire to expend its reign over other people and thereby increase its revenue appropriated through exploitation. It is unfortunate for a given state, too, that such a system of competing states also implies that each individual state is somewhat limited regarding the degree to which it can exploit its own subjects, as their support might dwindle if its own rule is perceived as more oppressive than that of competing states. For then the likelihood of a state's subjects collaborating with a competitor in its desire to 'take over,' or that of voting with their feet (leaving one's own country and going to a different one) might increase.¹⁴² It is even more important, then, for each individual state to avoid any such unpleasant competition from other potentially dangerous armed organizations at least *within* the very territory it happens to control. The mere existence of a private protection agency, armed as it would have to be to do its job of protecting people from aggression and employing people trained in the use of such arms, would constitute a potential threat to a state's ongoing policy of invading private people's property rights. Hence, such organizations, which would surely spring upon the market

¹⁴¹ On the problem of a free market production of law and order cf. Chapter 10 below.

¹⁴² Cf. on this also Chapter 5, n. 4.

as the desire to be protected against aggressors is a genuine one, are eagerly outlawed, and the state arrogates this job to itself and its monopolistic control. As a matter of fact, states everywhere are highly intent on outlawing or at least controlling even the mere possession of arms by private citizens—and most states have indeed succeeded in this task—as an armed man is clearly more of a threat to any aggressor than an unarmed man. It bears much less risk for the state to keep things peaceful while its own aggression continues, if rifles with which the taxman could be shot are out of the reach of everyone except the taxman himself!

With respect to the judicial system matters are quite similar. If the state did not monopolize the provision of judicial services, it would be unavoidable that, sooner or later (and most likely sooner), the state would come to be regarded as the unjust institution it in fact is. Yet no unjust organization has any interest in being recognized as such. For one thing, if the state did not see to it that only judges appointed and employed by the state itself administered the law, it is evident that public law (those norms regulating the relationship between the state and private individuals or associations of such individuals) would have no chance of being accepted by the public, but instead would be unveiled immediately as a system of legalized aggression, existing in violation of almost everyone's sense of justice. And secondly, if the state did not also monopolize the administration of private law (those norms regulating the relationships among private citizens) but left this task to competing courts and judges, dependent on the public's deliberate financial support, it is doubtful that norms implying an asymmetrical distribution of rights or obligations between different persons or classes of persons would have even the slightest chance of becoming generally accepted as valid laws. Courts and judges who laid down such rules would immediately go bankrupt due to a lack of continued financial assistance.¹⁴³ However, since the state is dependent on a policy of *divide et impera* to maintain its power, it must

¹⁴³ On this point cf. also Chapter 10 below.

stop the emergence of a competitive system of private law courts at all costs.

Without a doubt, all of these state-provided services—education, traffic and communication, money and banking, and, most importantly, security and the administration of justice—are of vital importance to any society whatsoever. All of them would certainly have to be provided, and would, in fact, be produced by the market if the state did not take these things into its own hands. But this does not mean that the state is simply a substitute for the market. The state engages in these activities for an entirely different reason than any private business would—not simply because there is a demand for them, but rather because these areas of activities are of essential strategic importance in assuring the state's continued existence as a privileged institution built on aggressive violence. And this different strategic intent is responsible for a peculiar kind of product. Since the educators, employees of traffic and communication systems, those of central banks, the police and judges, are all paid by taxes, the kind of products or services provided by a state, though certainly of some positive value to some people, can never be of such quality that *everyone* would deliberately spend his own money on them. Rather, these services all share the characteristic that they contribute to letting the state increase its own coercively extracted income by means of benefiting some while harming others.¹⁴⁴

¹⁴⁴ F. Oppenheimer, *System der Soziologie, VoL II, Der Staat*, Stuttgart, 1964. Oppenheimer sums up the peculiar, discriminatory character of state-provided goods, in particular of its production of law and order, in this way (pp.322-323): 'the basic norm of the state is power. That is, seen from the side of its origin: violence transformed into might. Violence is one of the most powerful forces shaping society, but is not itself a form of social interaction. It must become law in the positive sense of this term, that is, sociologically speaking, it must permit the development of a system of 'subjective reciprocity': and this is only possible through a system of self-imposed restrictions on the use of violence and the assumption of certain obligations in exchange for its arrogated rights. In this way violence is turned into might, and a relationship of domination emerges which is accepted not only by the rulers, but under not too severely oppressive circumstances by their subjects as well, as expressing a 'just reciprocity.' Out of this basic norm secondary and tertiary norms now emerge as implied in it: norms of private law, of inheritance, criminal, obligational, and constitutional law, which all bear the mark of the basic norm of power

But there is even more to the socio-psychological foundations of the state as an institution of continued aggression against natural owners than the popular redistribution of strategically important goods and services. Equally important for the state's stability and growth is the decision-making structure which it adopts for itself: its constitution. An ordinary profit-oriented business would try to adopt a decision-making structure best suited to its goal of maximizing income through the perception and implementation of entrepreneurial opportunities, i.e., differences in production costs and anticipated product demand. The state, in comparison, faces the entirely different task of adopting a decision-making structure which allows it to increase maximally its coercively appropriated income—given its power to threaten and bribe persons into supporting it by granting them special favors.

I submit that the best *decision-making* structure for doing so is a democratic constitution, i.e., the adoption of majority rule. In order to realize the validity of this thesis, only the following assumption need be made. Not only the persons actually representing the state have the desire (which *they*, incidentally, are always permitted to satisfy) to increase their income at the expense of a corresponding income reduction of natural owners, producers, and contractors; this lust for power and the desire to rule others also exists among the people governed. Not everyone has this desire to the same extent; indeed some people might never have it. But most people have it quite normally on recurring occasions. If this is so (and experience informs us that this *is* indeed the case), then the state must reckon with resistance from two analytically distinct sources. On the one hand there is resistance by the victims which any state policy creates. The state can try to break this up

and domination, and which are all designed to influence the structure of the state in such a way as to increase economic exploitation to the maximum level which is compatible with the continuation of legally regulated domination.” The insight is fundamental that “law grows out of two essentially different roots (...): on the one hand, out of the law of the association of equals, which can be called a ‘natural’ right, even if it is no ‘natural right,’ and on the other hand, out of the law of violence transformed into regulated might, the law of unequals.”

by making supportive friends; and indeed it will succeed in doing so to the extent that people can be corrupted through bribery. On the other hand, if lust for power exists among the victims and/or the persons favored by a given state policy, then there must also be resistance or at least discontent originating from the fact that any given policy of expropriation and discriminatory distribution automatically excludes any other such policy with its advocates in the state-ruled population, and hence must frustrate their particular plan of how power should be used. By definition, no change in the expropriation-redistribution policy of the state can eliminate this sort of discontent, as any change would necessarily exclude a different policy. Thus, if the state wants to do something to reduce the resistance (stemming from the frustration of one's lust for power) that any one particular policy implies, it can only do so by adopting a decision-making structure which minimizes the disappointment of potential power wielders: by opening up a popular scheme of participation in decision making, so that everyone lusting for his particular power policy can hope to have a shot at it in the future.

This, precisely, is the function of a democracy. Since it is based on a respect for the majority, it is by definition a popular constitution for decision making. And as it indeed opens up the chance for everyone to lobby for his own specific plan of wielding power at regular intervals, it maximally reduces current frustrated lust for power through the prospect of a better future. Contrary to popular myth, the adoption of a democratic constitution has nothing to do with freedom or justice.¹⁴⁵ Certainly, as the state restrains itself in its

¹⁴⁵ Only the fact that democracy has become a sacred cow in modern politics can explain why the extent to which the idea of majority rule is ridden with inner contradictions is almost generally overlooked: first, and this is already decisive, if one accepts democracy as justified, then one would also have to accept a democratic abolishment of democracy and a substitution of either an autocracy or a libertarian capitalism for democracy—and this would demonstrate that democracy as such cannot be regarded as a moral value. In the same way it would have to be accepted as justified if majorities decided to eliminate minorities until the point at which there were only two people, the last majority, left, for which majority rule could no longer be applied, for logico-arithmetic reasons. This would prove once again that democracy cannot in itself be regarded as justifiable. Or, if one did not want to accept these consequences and instead adopted the idea of a constitutionally limited, liberal

use of aggressive violence when engaging in the provision of some positively valued goods and services, so it accepts additional constraints when the incumbent rulers subject themselves to the control of the majority of those being ruled. Despite the fact, though, that this constraint fulfills the positive function of satisfying certain desires of certain people by reducing the intensity of the frustrated lust for power, it by no means implies the state's forsaking its privileged position as an institution of legalized aggression. Rather, democratizing the state is an organizational measure undertaken for the strategic purpose of rationalizing the execution of power, thereby increasing the amount of income to be aggressively appropriated from natural owners. The form of power is changed, but majority rule is aggression, too. In a system based on the natural theory of property—under capitalism—majority rule does not and cannot play any role (apart from the fact, of course, that if accepted, anyone could join an association adopting majority rule, such as a sports club or an association of animal lovers, whose jurisdiction is deliberately accepted by members as binding for the duration

democracy, one would at the same time have to admit that the principles from which these limitations are derived must then be logically more fundamental than the majority rule—and this again would point to the fact that there can be nothing of particular moral value in democracy. Second, by accepting majority rule it is not automatically clear what the population is to which it should be applied. (The majority of which population is to decide?) Here there are exactly three possibilities. Either one applies the democratic principle once again with regard to this question, and decides to opt for the idea that greater majorities should always prevail over smaller ones—but then, of course, there would be no way of saving the idea of national or regional democracy, as one would have to choose the total, global population as one's group of reference. Or, one decides that determining the population is an arbitrary matter—but in this case, one would have to accept the possibility of increasingly smaller minorities seceding from larger ones, with every individual being his own self-determining majority, as the logical end point of such a process of secession—and once again the unjustifiability of democracy as such would have been demonstrated. Third, one could adopt the idea that selecting the population to which the majority principle is applied is neither done democratically nor arbitrarily, but somehow differently—but then again, one would have to admit that whatever this different principle that would justify such a decision might be, it must be more fundamental than the majority rule itself, and majority rule in itself must be classified as completely arbitrary. Cf. on this M. N. Rothbard *Power and Market*, Kansas City, 1977, pp. 189ff., H. H. Hoppe, *Eigentum, Anarchie und Staat*, Opladen, 1987, Chapter 5.

of one's membership). In such a system, only the rules of original appropriation of goods through use or contractual acquisition from previous owners are valid. Appropriation by decree or without a previous user-owner's consent regardless of whether it was carried out by an autocrat, a minority, against a majority, or by a majority against a minority is without exception an act of aggressive violence. What distinguishes a democracy from an autocracy, monarchy, or oligarchy is not that the former means freedom, whereas the others mean aggression. The difference between them lies solely in the techniques used to manage, transform, and channel popular resistance fed by the frustrated lust for power. The autocrat does not allow the population to influence policy in any regular, formalized way, even though he, too, must pay close attention to public opinion in order to stabilize his existence. Thus, an autocracy is characterized by the lack of an institutionalized outlet for potential power wielders. A democracy, on the other hand, has precisely such an institution. It allows majorities, formed according to certain formalized rules, to influence policy changes regularly. Accordingly, if disappointed lust for power becomes more tolerable when there is a regular outlet for it, then there must be less resistance to democratic rule than to autocratic power. This important socio-psychological difference between autocratic and democratic regimes has been described masterfully by B. de Jouvenel:

From the twelfth to the eighteenth century governmental authority grew continuously. The process was understood by all who saw it happening; it stirred them to incessant protest and to violent reaction.—In later times its growth has continued at an accelerated pace, and its extension has brought a corresponding extension of war. And now we no longer understand the process, we no longer protest, we no longer react. This quiescence of ours is a new thing, for which Power has to thank the smoke-screen in which it has wrapped itself. Formerly it could be seen, manifest in the person of the king, who did not disclaim being the master he was, and in whom human passions were discernible. Now, masked in anonymity, it claims to have no existence of

its own, and to be but the impersonal and passionless instrument of the general will.—But that is clearly a fiction.—... Today as always Power is in the hands of a group of men who control the power house All that has changed is that it has now been made easy for the ruled to change the personnel of the leading wielders of Power. Viewed from one angle, this weakens Power, because the wills which control a society's life can, at the society's pleasure, be replaced by other wills, in which it feels more confidence.—But by opening the prospect of Power to all the ambitious talents, this arrangement makes the extension of Power much easier. Under the “ancien regime,” society's moving spirits, who had, as they knew, no chance of a share in Power, were quick to denounce its smallest encroachment. Now, on the other hand, when everyone is potentially a minister, no one is concerned to cut down an office to which he aspires one day himself, or to put sand in a machine which he means to use himself when his turn comes. Hence, it is that there is in the political circles of a modern society a wide complicity in the extension of Power.¹⁴⁶

Given an identical population and an identical state policy of the discriminatory provision of goods and services, a democratic state has more opportunities for increasing its own aggressively appropriated income. And *mutatis mutandis*, an autocracy must settle for a relative lower income. In terms of the classics of political thought, it must rule more wisely, i.e., rule less. Since it does not allow any will other than that of the autocrat, and perhaps his immediate advisors, to gain power or influence policy on a regular basis, its execution of power appears less tolerable to those ruled. Thus, its stability can only be secured if the overall degree of exploitation enacted by the state is relatively reduced.

¹⁴⁶ B. de Jouvenel, *On Power*, New York, 1949, pp. 9-10; on the social psychology of democracy cf. also the same, *On Sovereignty*, Cambridge, 1957; G. Mosca, *The Ruling Class*, New York, 1939; H. A. Mencken, *Notes on Democracy*, New York, 1926; on the tendency of democratic rule to “degenerate” to oligarchic rule cf. R. Michels, *Zur Soziologie des Parteiwesens in der modernen Demokratie*, Stuttgart, 1957.

The situation over the last two centuries vividly illustrates the validity of this thesis. During this time we have experienced an almost universal substitution of relatively democratic regimes for relatively autocratic-monarchical systems.¹⁴⁷ (Even Soviet Russia is notably more democratic than czarist Russia ever was.) Hand in hand with this change has gone a process never experienced before regarding its speed and extent: a permanent and seemingly uncontrollable growth of the state. In the competition of different states for exploitable populations, and in these states' attempts to come to grips with internal resistance, the democratic state has tended to win outright over the autocratic one as the superior power-variant. *Ceteris paribus*, it is the democratic state—and the democratic socialism incorporated in it—which commands the higher income and so proves to be superior in wars with other states. And *ceteris paribus*, it is this state, too, that succeeds better in the management of internal resistance: it is, and historically this has been shown repeatedly, easier to save the power of a state by democratizing it than by doing the opposite and autocratizing its decision-making structure.

Here, then, we have the socio-psychological foundations of the state as the very institution enacting socialism. Any state rests on the monopolization or the monopolistic control of strategically important goods and services which it discriminately provides to favored groups of people, thereby breaking down resistance to a policy of aggression against natural owners. Furthermore, it rests on a policy of reducing the frustrated lust for power by creating outlets for public participation in future changes in a policy of exploration. Naturally, every historical description of a state and its specific socialist policy and policy changes will have to give a more detailed account of what made it possible for socialism to become established and to grow. But if any such description is supposedly complete and is not to fall prey to ideological deception, then all measures taken by the state must be described as embedded in this

¹⁴⁷ Cf. on this process, R. Bendix, *Kings or People*, Berkeley, 1978.

very institutional framework of violence, *divide et impera*, and democratization.

Whatever any given state does in terms of positively evaluated contributions to society, and however great or small the extent of such contributions might be; whether the state provides help for working mothers with dependent children or gives medical care, engages in road or airport construction; whether it grants favors to farmers or students, devotes itself to the production of educational services, society's infrastructure, money, steel or peace; or even if it does all of these things and more, it would be completely fallacious to enumerate all of this and leave it at that. What must be said in addition is that the state can do *nothing* without the previous non-contractual expropriation of natural owners. Its contributions to welfare are never an ordinary present, even if they are given away free of charge, because something is handed out that the state does not rightfully own in the first place. If it sells its services at cost, or even at a profit, the means of production employed in providing them still must have been appropriated by force. And if it sells them at a subsidized price, aggression must continue in order to uphold the current level of production.

The situation is similar with respect to a state's decision-making structure. Whether a state is organized autocratically or democratically, has a centralized or decentralized decision-making structure, a single or multi stage representational structure; whether it is organized as a system of parties or as a corporate state, it would be delusory to describe it in these terms and leave it at that. In order to be exhaustive, what must be added is that first and foremost, the constitution of a state is an organizational device for promoting its existence as an institution of aggression. And insofar as its stability rests on constitutionally guaranteed rights to participate in the inauguration of policy changes, it must be stressed that the state rests on an institutionalized appeal to motivational energies that people in their private lives would regard as criminal and accordingly would do everything to suppress. An ordinary business enterprise has a decision-making structure that must adapt

to the purpose of enabling it to secure as high a profit as possible from sales to deliberately supportive customers. A state's constitution has nothing in common with this, and only superficial sociological "studies in organization" would engage in investigations of structural similarities or differences between the two.¹⁴⁸

Only if this is thoroughly understood can the nature of the state and socialism be fully grasped. And only then can there be a complete understanding of the other side of the same problem: what it takes to overcome socialism. The state cannot be fought by simply boycotting it, as a private business could, because an aggressor does not respect the negative judgment revealed by boycotts. But it also cannot simply be fought by countering its aggression with defensive violence, because the state's aggression is supported by public opinion.¹⁴⁹ Thus, everything depends on a change in public opinion. More specifically, everything depends on two assumptions and the change that can be achieved regarding their status as realistic or unrealistic. One such assumption was implied when it was argued above that the state can generate support for its role by providing certain goods and services to favored groups of people. There, evidently, the assumption involved was that people can be corrupted into supporting an aggressor if they receive a share, however small, of the benefits. And, since states exist everywhere, this assumption, happily for the state, must indeed be said to be realistic everywhere, today. But then, there is no such thing as a law of nature stating that this must be so forever. In order for the state to fail in reaching its objective, no more and no less than a change

¹⁴⁸ On the fundamental difference between private business organizations and the state cf. L. v. Mises, *Bureaucracy*, New Haven, 1944.

¹⁴⁹ L. Spooner describes the supporters of the state as falling into two categories: "1. Knaves, a numerous and active class, who see in the government an instrument which they can use for their own aggrandizement or wealth. 2. Dupes—a large class, no doubt—each of whom, because he is allowed one voice out of millions in deciding what he may do with his own person and his own property, and because he is permitted to have the same voice in robbing, enslaving, and murdering others, that others have in robbing, enslaving and murdering himself, is stupid enough to imagine that he is a 'free man,' a 'sovereign,' that this is a 'free government,' 'the best government on earth,' and such like absurdities" (L. Spooner, *No Treason. The Constitution of No Authority*, Colorado Springs, 1973, p. 18).

in general public opinion must take place: state-supportive action must come to be regarded and branded as immoral because it is support given to an organization of institutionalized crime. Socialism would be at its end if only people stopped letting themselves be corrupted by the state's bribes, but would, let us say, if offered, take their share of the wealth in order to reduce the state's bribing power, while continuing to regard and treat it as an aggressor to be resisted, ignored, and ridiculed, at any time and in any place.

The second assumption involved was that people indeed lust for power and hence can be corrupted into state-supportive action if given a chance to satisfy this lust. Looking at the facts, there can hardly be any doubt that today this assumption, too, is realistic. But once again, it is not realistic because of natural laws, for at least in principle, it can deliberately be made unrealistic.¹⁵⁰ In order to bring about the end of statism and socialism, no more and no less must be accomplished than a change in public opinion which would lead people away from using the institutional outlets for policy participation for the satisfaction of power lust, but instead make them suppress any such desire and turn this very organizational weapon of the state against it and push uncompromisingly for an end to taxation and regulation of natural owners wherever and whenever there is a chance of influencing policy.¹⁵¹

¹⁵⁰ Writes E. de la Boetie (*The Politics of Obedience: The Discourse of Voluntary Servitude*, New York, 1975, pp. 52-53): "He who domineers over you ... has indeed nothing more than the power that you confer upon him to destroy you ... Resolve to serve no more, and you are at once freed. I do not ask that you place hands upon the tyrant to topple him over, but simply that you support him no longer; then you will behold him, like a great Colossus whose pedestal has been pulled away, fall of his own weight and break into pieces."

¹⁵¹ On a strategy for liberty, and in particular on the importance of a libertarian movement for the achievement of these goals, cf. M. N. Rothbard, *For A New Liberty*, New York, 1978, Chapter 15; and *The Ethics of Liberty*, Atlantic Highlands, 1982, part 5.

Chapter 9

Capitalist Production and The Problem of Monopoly

The previous chapters have demonstrated that neither an economic nor a moral case for socialism can be made. Socialism is economically and morally inferior to capitalism. The last chapter examined why socialism is nonetheless a viable social system, and analyzed the socio-psychological characteristics of the state—the institution embodying socialism. Its existence, stability, and growth rest on aggression and on public support of this aggression which the state manages to effect. This it does, for one thing, through a policy of popular discrimination; a policy, that is, of bribing some people into tolerating and supporting the continual exploitation of others by granting them favors; and secondly, through a policy of popular participation in the making of policy, i.e., by corrupting the public and persuading it to play the game of aggression by giving prospective power wielders the consoling opportunity to enact their particular exploitative schemes at one of the subsequent policy changes.

We shall now return to economics, and analyze the workings of a capitalist system of production—a market economy—as the alternative to socialism, thereby constructively bringing my argument against socialism full circle. While the final chapter will be devoted to the question of how capitalism solves the problem of

the production of so-called “public goods,” this chapter will explain what might be termed the normal functioning of capitalist production and contrast it with the normal working of a system of state or social production. We will then turn to what is generally believed to be a special problem allegedly showing a peculiar economic deficiency in a pure capitalist production system: the so-called problem of monopolistic production.

Ignoring for the moment the special problems of monopolistic and public goods production, we will demonstrate why capitalism is economically superior as compared to its alternative for three structural reasons. First, only capitalism can rationally, i.e., in terms of consumer evaluations, allocate means of production; second, only capitalism can ensure that, with the quality of the people and the allocation of resources being given, the quality of the output produced reaches its optimal level as judged again in terms of consumer evaluations; and third, assuming a given allocation of production factors and quality of output, and judged again in terms of consumer evaluations, only a market system can guarantee that the value of production factors is efficiently conserved over time.¹⁵²

As long as it produces for a market, i.e., for exchange with other people or businesses, and subject as it is to the rule of nonaggression against the property of natural owners, every ordinary business will use its resources for the production of such goods and such amounts of these goods which, in anticipation, promise a return from sales that surpasses as far as possible the costs which are involved in using these resources. If this were not so, a business would use its resources for the production of different amounts of such goods or of different goods altogether. And every such business has to decide repeatedly whether a given allocation or use of its means of production should be upheld and reproduced, or if, due to a change in demand or the anticipation of such a change, a reallocation to different uses is in order. The question of whether or not resources have been used in the most value-productive (the most profitable) way, or if a given reallocation was

¹⁵² Cf. on this also Chapter 3 above and Chapter 10 below.

the most economic one, can, of course, only be decided in a more or less distant future under any conceivable economic or social system, because invariably time is needed to produce a product and bring it onto the market. However, and this is decisive, for every business there is an objective criterion for deciding the extent to which its previous allocational decisions were right or wrong. Bookkeeping informs us—and in principle anyone who wanted to do so could check and verify this information—whether or not and to what extent a given allocation of factors of production was economically rational, not only for the business in total but for each of its subunits, insofar as market prices exist for the production factors used in it. Since the profit-loss criterion is an *ex post* criterion, and must necessarily be so under any production system because of the time factor involved in production, it cannot be of any help when deciding on future *ex ante* allocations. Nevertheless, from the consumers' point of view it is possible to conceive of the process of resource allocation and reallocation as rational, because every allocational decision is constantly tested against the profit-loss criterion. Every business that fails to meet this criterion is in the short or long run doomed to shrink in size or be driven out of the market entirely, and only those enterprises that successfully manage to meet the profit-loss criterion can stay in operation or possibly grow and prosper. To be sure, then, the institutionalization of this criterion does not insure (and no other criterion ever could) that all individual business decisions will always turn out to be rational in terms of consumer evaluations. However, by eliminating bad forecasters and strengthening the position of consistently successful ones, it does insure that the structural changes of the whole production system which take place overtime can be described as constant movements toward a more rational use of resources and as a never-ending process of directing and redirecting factors of production out of less value-productive lines of production into lines which are valued more highly by the consumer.¹⁵³

¹⁵³ On the function of profit and loss cf. L. v. Mises, *Human Action*, Chicago, 1966, Chapter 15; and "Profit and Loss," in: the same, *Planning for Freedom*, South Holland, 1974; M. N. Rothbard, *Man, Economy and State*, Los Angeles, 1970, Chapter 8.

The situation is entirely different and arbitrariness from the point of view of the consumer (for whom, it should be recalled, production is undertaken) replaces rationality as soon as the state enters the picture. Because it is different from ordinary businesses in that it is allowed to acquire income by noncontractual means, the state is not forced to avoid losses if it wants to stay in business as are all other producers. Rather, since it is allowed to impose taxes and/or regulations on people, the state is in a position to determine unilaterally whether or not, to what extent, and for what length of time to subsidize its own productive operations. It can also unilaterally choose which prospective competitor is allowed to compete with the state or possibly outcompete it. Essentially this means that the state becomes independent of cost-profit considerations. But if it is no longer forced to test continually any of its various uses of resources against this criterion, i.e., if it no longer need successfully adjust its resource allocations to the changes in demand of consumers in order to survive as a producer, then the sequence of allocational decisions as a whole must be regarded as an arbitrary, irrational process of decision making. A mechanism of selection forcing those allocational “mutations” which consistently ignore or exhibit a maladjustment to consumer demand out of operation simply no longer exists.¹⁵⁴ To say that the process of resource allocation becomes arbitrary in the absence of the effective functioning of the profit-loss criterion does not mean that the decisions which somehow have to be made are not subject to any kind of constraint and hence are pure whim. They are not, and any such decision faces certain constraints imposed on the decision maker. If, for instance, the allocation of production factors is decided democratically, then it evidently must appeal to the majority. But if a decision is constrained in this way or if it is made autocratically, respecting the state of public opinion as seen by the autocrat, then it is still arbitrary from the point of view of voluntarily buying or

¹⁵⁴ On the economics of government cf., esp. M. N. Rothbard, *Power and Market*, Kansas City, 1977, Chapter 5.

not-buying consumers.¹⁵⁵ Hence, the allocation of resources, whatever it is and however it changes over time, embodies a wasteful use of scarce means. Freed from the necessity of making profits in order to survive as a consumer-serving institution, the state necessarily substitutes allocational chaos for rationality. M. Rothbard nicely summarizes the problem as follows:

How can it (i.e. the government, the state) know whether to build road A or road B, whether to invest in a road or in a school—in fact, how much to spend for all its activities? There is no rational way that it can allocate funds or even decide how much to have. When there is a shortage of teachers or schoolrooms or police or streets, the government and its supporters have only one answer: more money. Why is this answer never offered on the free market? The reason is that money must be *withdrawn* from some other uses in consumption or investment . . . and this withdrawal

¹⁵⁵ Regarding democratically controlled allocations, various deficiencies have become quite evident. For instance J. Buchanan and R. Wagner write (The Consequences of Mr. Keynes, London, 1978, p. 19), “Market competition is continuous; at each purchase, a buyer is able to select among competing sellers. Political competition is intermittent; a decision is binding generally for a fixed number of years. Market competition allows several competitors to survive simultaneously Political competition leads to an all-or-nothing outcome . . . in market competition the buyer can be reasonably certain as to just what it is that he will receive from his purchase. In political competition, the buyer is in effect purchasing the services of an agent, whom he cannot bind Moreover, because a politician needs to secure the cooperation of a majority of politicians, the meaning of a vote for a politician is less clear than that of a ‘vote’ for a private firm.” (Cf. on this also J. Buchanan, “Individual Choice in Voting and the Market,” in: the same, Fiscal Theory and Political Economy, Chapel Hill, 1962; for a more general treatment of the problem J. Buchanan and G. Tullock, The Calculus of Consent, Ann Arbor, 1962.)

What has commonly been overlooked, though—especially by those who try to make a virtue of the fact that a democracy gives equal voting power to everyone, whereas consumer sovereignty allows for unequal “votes”—is the most important deficiency of all: that under a system of consumer sovereignty people might cast unequal votes but, in any case, they exercise control exclusively over things which they acquired through original appropriation or contract and hence are forced to act morally. Under a democracy of production everyone is assumed to have something to say regarding things one did not so acquire, and hence one is permanently invited thereby not only to create legal instability with all its negative effects on the process of capital formation, but, moreover, to act immorally. Cf. on this also L. v. Mises, Socialism, Indianapolis, 1981, Chapter 31; also cf. Chapter 8 above.

must be justified. This justification is provided by the test of profit and loss: the indication that the most urgent wants of the consumers are being satisfied. If an enterprise or product is earning high profits for its owners and these profits are expected to continue, more money will be forthcoming; if not, and losses are being incurred, money will flow out of the industry. The profit-and-loss-test serves as the critical guide for directing the flow of productive services. No such guide exists for the government, which has no rational way to decide how much money to spend, either in total, or in each specific line. The more money it spends, the more service it can supply—but where to stop?¹⁵⁶

Besides the misallocation of factors of production that results from the decision to grant the state the special right to appropriate revenue in a noncontractual way, state production implies a reduction in the quality of the output of whatever it decides to produce. Again, an ordinary profit-oriented business can only maintain a given size or possibly grow if it can sell its products at a price and in such quantity that allow it to recover at least the costs involved in production and is hopefully higher. Since the demand for the goods or services produced depends either on their relative quality or on their price—this being one of many criteria of quality—as perceived by potential buyers, the producers must constantly be concerned about “perceived product quality” or “cheapness of product.” A firm is dependent exclusively on voluntary consumer purchases for its continued existence, so there is no arbitrarily defined standard of quality for a capitalist enterprise (including so-called scientific or technological standards of quality) set by an alleged expert or committee of experts. For it there is only the quality as perceived and judged by the consumers. Once again, this criterion does not guarantee that there are no low-quality or overpriced products or services offered on the market because production takes time and the sales test comes only after the products have appeared on the market. And this would have to be so under

¹⁵⁶ M. N. Rothbard, *Power and Market*, Kansas City, 1977, p. 176.

any system of goods production. Nonetheless, the fact that every capitalist enterprise must undergo this sales test and pass it to avoid being eliminated from the market guarantees a sovereign position to the consumers and their evaluations. Only if product quality is constantly improved and adjusted to consumer tastes can a business stay in operation and prosper.

The story is quite different as soon as the production of goods is undertaken by the state. Once future revenue becomes independent of cost covering sales—as is typically the case when the state produces a good—there is no longer a reason for such a producer to be concerned about product quality in the same way that a sales-dependent institution would have to be. If the producer's future income can be secured, regardless of whether according to consumer evaluations the products or services produced are worth their money, why undertake special efforts to improve anything? More precisely, even if one assumes that the employees of the state as a productive enterprise with the right to impose taxes and to regulate unilaterally the competitiveness of its potential rivals are, on the average, just as much interested or uninterested in work as those working in a profit-dependent enterprise,¹⁵⁷ and if one further assumes that both groups of employees and workers are on the average equally interested or uninterested in an increase or decrease in their income, then the quality of products, measured in terms of consumer demand and revealed in actual purchases, must be lower in a state enterprise than in private business, because the income of the state employees would be far less dependent on product quality. Accordingly, they would tend to devote relatively less effort to producing quality products and more of their time and effort would go into doing what they, but not necessarily the consumer, happen to like.¹⁵⁸ Only if the people working for the state were superhumans or angels, while everyone else was simply

¹⁵⁷ This is a very generous assumption, to be sure, as it is fairly certain that the so-called public sector of production attracts a different type of person from the very outset and boasts an unusually high number of inefficient, lazy, and incompetent people.

¹⁵⁸ Cf. L. v. Mises, *Bureaucracy*, New Haven, 1944; Rothbard, *Power and Market*, Kansas City, 1977, pp. 172ff; and For A New Liberty New York, 1978, Chapter

an ordinary, inferior human being, could the result be any different. Yet the same result, i.e., the inferiority of product quality of any state-produced goods, would again ensue if the human race in the aggregate would somehow improve: if they were working in a state enterprise even angels would produce a lower quality output than their angel-colleagues in private business, if work implied even the slightest disutility for them.

Finally, in addition to the facts that only a market system can ensure a rational allocation of scarce resources, and that only capitalist enterprises can guarantee an output of products that can be said to be of optimal quality, there is a third structural reason for the economic superiority, indeed unsurpassability of a capitalist system of production. Only through the operation of market forces is it possible to utilize resources efficiently over time in any given allocation, i.e., to avoid overutilization as well as underutilization. This problem has already been addressed with reference to Russian style socialism in Chapter 3. What are the institutional constraints on an ordinary profit-oriented enterprise in its decisions about the degree of exploitation or conservation of its resources in the particular line of production in which they happen to be used? Evidently, the owner of such an enterprise would own the production factors or resources as well as the products produced with them. Thus, his income (used here in a wide sense of the term) consists of two parts: the income that is received from the sales of the products produced after various operating costs have been subtracted; and the value that is embodied in the factors of production which could be translated into current income should the owner decide to sell them. Institutionalizing a capitalist system—a social order based on private property—thus implies establishing an incentive structure under which people would try to maximize their income in both of these dimensions. What exactly does this mean?¹⁵⁹ Every

10; also M. and R. Friedman, *The Tyranny of the Status Quo*, New York, 1984, pp. 35-51.

¹⁵⁹ On the following cf. L. v. Mises, *Human Action*, Chicago, 1966, Chapter 23.6; M.N. Rothbard, *Man Economy and State*, Los Angeles, 1970, Chapter 7, esp. 7.4-6;

act of production evidently affects both mentioned income dimensions. On one hand, production is undertaken to reach an income return from sales. On the other hand, as long as the factors of production are exhaustible, i.e., as long as they are scarce and not free goods, every production act implies a deterioration of the value of the production factors. Assuming that private ownership exists, this produces a situation in which every business constantly tries not to let the marginal costs of production (i.e., the drop in value of the resources that results from their usage) to become greater than the marginal revenue product, and where with the help of book-keeping an instrument for checking the success or failure of these attempts exists. If a producer were not to succeed in this task and the drop in the value of capital were higher than the increase in the income returns from sales, the owner's total income (in the wider sense of the term) would be reduced. Thus, private ownership is an institutional device for safeguarding an existing stock of capital from being overexploited or if it is, for punishing an owner for letting this happen through losses in income. This helps make it possible for values produced to be higher than values destroyed during production. In particular, private ownership is an institution in which an incentive is established to efficiently adjust the degree of conserving or consuming a given stock of capital in a particular line of production to anticipated price changes. If, for instance, the future price of oil were expected to rise above its current level, then the value of the capital bound up in oil production would immediately rise as would the marginal cost involved in producing the marginal product. Hence, the enterprise would immediately be impelled to reduce production and increase conservation accordingly, because the marginal revenue product on the present market was still at the unchanged lower level. On the other hand, if in the future oil prices were expected to fall below their present level, this would result in an immediate drop in the respective capital values and in marginal costs, and hence the enterprise would immediately

"Conservation in the Free Market," in: *Egalitarianism As A Revolt Against Nature*, Washington, 1974; and *For A New Liberty*, New York, 1978, Chapter 13.

begin to utilize its capital stock more intensively since prices on the present market would still be relatively higher. And to be sure, both of these reactions are exactly what is desirable from the point of view of the consumers.

If the way in which a capitalist production system works is compared with the situation that becomes institutionalized whenever the state takes care of the means of production, striking differences emerge. This is true especially when the state is a modern parliamentary democracy. In this case, the managers of an enterprise may have the right to receive the returns from sales (after subtracting operation costs), but, and this is decisive, they do not have the right to appropriate privately the receipts from a possible sale of the production factors. Under this constellation, the incentive to use a given stock of capital economically over time is drastically reduced. Why? Because if one has the right to privately appropriate the income return from product sales but does not have the right to appropriate the gains or losses in capital value that result from a given degree of usage of this capital, then there is an incentive structure institutionalized not of maximizing total income—i.e., total social wealth in terms of consumer evaluations—but rather of maximizing income returns from sales at the expense of losses in capital value. Why, for instance, should a government official reduce the degree of exploitation of a given stock of capital and resort to a policy of conservation when prices for the goods produced are expected to rise in the future? Evidently, the advantage of such a conservationist policy (the higher capital value resulting from it) could not be reaped privately. On the other hand, by resorting to such a policy one's income returns from sales would be reduced, whereas they would not be reduced if one forgot about conserving. In short, to conserve would mean to have none of the advantages and all of the disadvantages. Hence, if the state managers are not super-humans but ordinary people concerned with their own advantages, one must conclude that it is an absolutely necessary consequence of any state production that a given stock of capital will be overutilized and the living standards of consumers impaired in comparison to the situation under capitalism.