

A Non-Libertarian Individualist's Critique

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For A New Liberty, Murray N Rothbard
(New York, 1978)

I set out below an individualist's critique of Murray N. Rothbard's *For a New Liberty*. I intend to show that an individualist is not, as Rothbard argues, necessarily a libertarian. Nevertheless, the book makes a strong impression and its reading can be recommended as a challenge to everyone who advocates the continued existence of the state.

The case for libertarianism is made by Rothbard in two fundamentally different ways. The first of these is to argue that libertarianism is the only morally justified social system. This he does by outlining the case for 'natural rights'. The second way is to examine the consequences of libertarianism. Let these two approaches be considered in turn.

Natural Rights

In establishing a system of rights - a set of rules laying down what people may and may not do - it is necessary to remember that any such system is invented by people. No system of rights exists in nature, independently of man. No such system, therefore, is waiting to be 'discovered'; one has to be chosen. Rothbard identifies three main groups of libertarians - the emotivists, the utilitarians and the natural rightists. In fact, only the emotivists have a complete case. An individual can consider a system of rights to be just only on a subjective, emotional basis. The three groups may have different explanations, and draw on different factual evidence but they ultimately all have to fall back upon subjective value judgements.

The use of the term 'natural rights', however, suggests that such rights do exist in nature - that is, naturally in the same way that, for example, gravity does. Rothbard thus attempts to leave the impression that to

deny the validity of natural rights is as to deny the existence of gravity.

Let us, nevertheless, go on to consider the natural rights. Does the case support the morality of each individual to have an absolute right to his person and property?

Rothbard, I believe, puts forward a good case for the right of each individual to own his person. There are, however some unresolved points. Rothbard appears to consider that there is a clear division between those acts of a person which do affect other people and those which do not. In fact everybody's actions affect other people to a greater or lesser degree. Nevertheless, the actions usually affect the individual much more than other people and it is generally possible to identify the exceptions. It may at least be argued that an individual should have as much ownership of his person as possible. In any event, no obvious moral alternatives to each individual's owning his own person exist.

However, Rothbard's case for the absolute right of each individual to own 'his' property, as opposed to person, is very much weaker. He first puts forward a highly unconvincing suggestion that it is possible to identify who 'created' land by making it useful for the first time. This is seen to be particularly weak when he argues in favour of private ownership of television and radio frequencies. Clearly such frequencies have been created by nobody, and existed before people, or indeed the earth itself ever did. Yet, it is suggested that a person should have an absolute right to control the use of them, obtain the revenue derived, having done absolutely nothing to create them. This example renders ridiculous the second part of Rothbard's claim - "...if the original land is nature - or God-given then so are people's talents, health and beauty. And just as all these attributes are given to specific individuals and not to society, so then are land and natural resources' (p.34). While it is evident that these attributes are in nature-given to specific individuals, it is surely clear that ownership of land and natural resources, such as television and radio frequencies, can only be given to specific individuals by people themselves.

Even if it is held that property and land can be allocated to those who first made them useful, it is often difficult to establish who those people actually are. In Europe, for example, where property rights have existed for some time, tracing back the first ownership of land by people through their ancestors can lead to either inadequate information or to the discovery of dubious and corrupt dealings of the then state-like rulers and people in power. In other parts of the world, the difficulties can be even greater.

For instance, the land which Rothbard asserts can justly be claimed by American homesteaders was in fact first used by American Indians. Similarly, land claimed in Israel today was and is used by the Bedouin, and Australian land by the Aborigines. None of these latter groups had a Western concept of property-ownership and so did not follow such procedures as building fences and drafting legal deeds to certify ownership. I am not arguing in favour of 'handing back' en bloc the three respective lands to these groups or their descendants but instead that absolute ownership of property by anyone is unjust and a more pragmatic approach must therefore be considered.

It is not possible to establish a moral set of absolute property rights. It does not follow, however, that there are only two possible arrangements, as Rothbard asserts. The two arrangements he cites (namely one class of people having all the rights to property of another class, or perfect equality with each person having equal ownership of everything) are indeed unenviable. However, it is possible instead to have a system of extensive rights for everyone but which is pragmatic and open to change, as we do in the West today. Such a system has the objectives of, for example, facilitating economic markets and providing people with an incentive to look after property and take pride in doing so. Such a system is justified because of its consequences rather than its inherent morality.

A matter not covered by Rothbard's case for natural rights is the position of children. In criticizing compulsory attendance laws for children going to school, for example, he does not state who ought to make decisions about a child's life. Should it be the child

himself? His parents? Few people would consider to be moral, the parents' right to starve or abandon their child, but obviously babies and at least young children cannot assume all the rights and responsibilities of an adult. Consequently, the affairs of a child do morally become at least in part the concern of people other than the child himself and his parents.

The State

The legitimacy of the state can now be considered. As Rothbard himself points out – "if an individual cannot own original land, neither can he in the full sense own any of the fruits of his labour" (p.35). It is this fact and the conclusion that no individual ought to absolutely own land which justify taxation and a limited role for government and the existence of the state. In answer to Rothbard's question to non-libertarians "How can you define taxation in a way that makes it different from robbery?" (p.55). I should reply that I cannot (save to say that taxation is carried out by the state and robbery is not) but that since nobody can own property and wealth absolutely the original owner has no right to assume that he should not be taxed in the first place.

The question also arises as to whether it is possible to have advanced, industrial societies without states. Given that we are not atomists, is it necessary to have a monopoly of power over a given area? If the infinite number of conflicts of interest between people (such as between different uses of land and capital), an order accepted by at least most people is necessary.

Let us take first the provision of the courts and justice. It is of course possible, and perhaps desirable, to have a greater use of the private sector than at present in these fields. However, Rothbard does not show how it is possible to make a system of private courts work without an authority above it to lay down the ground rules. He asserts that the provision of justice should be "in accordance with generally accepted procedures" (p.228) without explaining what would happen if a party did not accept those procedures. He gives an example in which 'Brown' is alleged to have committed a 'crime' in which he claims "If Brown ac-

knowledges his guilt then ... there is no problem and judicial punishment proceeds" (p.228). Who, though, is supposed to decide what is and what is not a crime? If Brown says that although he carried out the action he does not consider it to be a crime and will not be bound by court's decisions, what happens then? What punishment is to be given? How much evidence, is required for a conviction? A single answer to each of these questions would have to be agreed upon by the various courts if justice were to work, but then there would be, as there is today, a monopoly of power after all.

Closely related to the judiciary is the provision of a police service. Here again, common procedures would have to be established even if many private police forces existed. Rothbard claims that even a bandit gang which contained all of the (private) police forces could never gain the legitimacy of a state and would quickly be overthrown. However, such a gang *would* be a state. It is this monopoly of power that constitutes a state and we do not see rulers widely seen as repressive and illegitimate being overthrown in countries such as Chile.

Thus, in modern industrial societies, states spontaneously arise whether people want them or not.

The Economy

It is now possible to move on to consider Rothbard's second approach in justifying libertarianism - a consideration of its consequences as opposed to its morality. Let us begin with the question of wealth and income redistribution. As well as arguing that such government activity is immoral because it is 'theft' of private property, which was dealt with above, Rothbard argues that it is ineffective. A point, which he rightly reminds us of, is that everybody makes his decisions about his role in the economy on the basis of the consequences for himself, not 'society' (that is other people) as a whole. Nevertheless, it is still possible to provide cash benefits to relieve poverty without a great loss of wealth creation. Some welfare schemes can even increase wealth creation. What is required is an integrated system of taxation benefits and national insurance so that an individual is always better off if he

earns more gross income. To that extent, Rothbard's criticisms of guaranteed income schemes are justified but such schemes are not to be confused with a Negative Income Tax scheme which although guaranteeing a minimum income, always results in an individual being better off if he earns more.

In his discussion of the government's role in the economy more generally, Rothbard appears to take the view that government intervention is, in every situation, bound to be less efficient than if the free market had been left to take its course. It would be truly astonishing if this were always so. Let us consider some of the weaknesses of the pure market economy (the economy implied by Libertarianism) that Rothbard does not mention.

Let us start by considering market structures. Rothbard paints a picture of competition in which the consumer is king and resources are allocated smoothly and efficiently by markets which are perfectly competitive. Many markets are very competitive and in those cases Rothbard's picture is reasonably accurate. At the other extreme, however, a consumer is faced with only one supplier-monopoly. In particular, there are 'natural monopolies'. Such a monopoly occurs in an industry where the entire output is most efficiently provided by only one firm. Rothbard questions whether such industries exist, but he must be about the only person to do so.

Consider, for example the railway network. If somebody wants to travel between two given points, he normally has only one line open to him. He then faces all 'take it or leave it' problems of a government monopoly, whether the government actually owns it or not. Even if 'successful' competition were established, the result would be gross inefficiency as various companies each built a line between the two given places. In the absence of government anti-monopoly policies, many non-natural monopoly fuels would collude to form cartels leading to the loss of competition without the benefits of scale economics.

Also to be, considered is the problem of externalities. Rothbard gives a detailed discussion of the problem in relation to pollution

and conservation, which is considered below, but he apparently ignores the problem more generally. He states that government economic activity leads to a fatal split between the provision of a service and the payment for that service but he does not mention that in the free market there is sometimes a fatal split between a person's decisions and the consequences of those decisions. Let us take, for example, education. The main beneficiary of a person's being educated is the person himself. Society - that is other people - also benefits, however. It is obviously possible for education to be provided entirely through the free market but not being able to force everyone who benefits to pay, each individual will choose a level of education on the basis of the benefits to himself alone. This would be inefficient, there being an under-use of education. Of course, in the case, of education a further problem is that the main users of education are children, who are not free to make their own decisions anyway.

Inadequate information can also lead to inefficiencies. Rothbard discusses the functioning of the free market on the basis that consumers always know exactly what they are buying and what alternatives are open to them. In fact, the government has an important role here. For example, by compelling food producers to tell consumers of their products' contents and quantity, competition is improved because consumers know exactly what they are buying.

Rothbard dismisses any role for government in macroeconomic policy, assuming, without providing any evidence, that a pure market economy will always be in equilibrium with no involuntary unemployment. He accuses Keynes of putting forward his economic theories as an underhand method of justifying the state. He also criticises Keynes for considering all government spending to be as one, implying that Keynes himself considered all government-financed goods to be of equal desirability, be they hospitals or torture chambers. The point is that in terms of their effect on the levels of inflation and employment, all government spendings were thought to be as one! By attacking Keynes personally, without considering any of the implications of this theories, Rothbard inspires no confidence that he

has any interest in how the economy works and what the consequences are, therefore, of a given economic system.

Of course, the discovery of inefficiencies in the free market does not mean that governments can necessarily improve the situation. Government actions are also imperfect and the free market is probably the best way of organising most economic activity. However, while it may be possible to argue that there should be no government role in the economy whatsoever because it is immoral, it is scarcely credible that no government intervention ever leads to greater efficiency or utility.

Secondly, if Rothbard's case is taken to its limit, the world would have to be very primitive indeed because virtually every activity might affect somebody else. Let us take the dangers of radiation as an example. Even very small amounts of radiation indeed could kill someone. An X-ray test, for instance, releases far less radiation into the environment than there is naturally but it is still possible, if very unlikely, that somebody will die as a result. Very large releases of radiation, as we all know, are virtually certain to kill people. It is all a matter of degree; the only thing that can be said for certain is that the greater the level of radiation release, the more likely it is people will die from it. There is no cut off point above which radiation is dangerous and below which it is not. So what shall the courts do? If they apply Rothbard's doctrine absolutely, nobody would be able to do anything. Who otherwise is going to set an arbitrary level of danger below which courts should permit pollution?

Conservation and the Environment

Rothbard's consideration of conservation and the environment makes a very strong impression. He takes an admirably firm stance against anyone's doing anything which might have adverse consequences for anybody else. He further states that existing problems are due to some land being government-owned or unowned and the courts' failure to prevent the activities of polluters. Two problems arise however.

First the conclusion of Rothbard's analysis must also be that somebody can pollute as much as he wants if he owns the land and nobody else is affected. For those of us who do not accept natural rights, the destruction of a unique rainforest or an area of outstanding beauty is unjustified, even if the 'owner' does give his consent. These are natural assets and as such are the concern of us all.

I am not suggesting that modern industrial society is a dangerous and undesirable thing; few people, for instance, would worry about the very small chance of one person's death in the world brought about by x-ray tests which save perhaps millions of lives. Strict controls can lead to a very clean and safe environment. However, Rothbard's absolute doctrine requires elaboration to make it workable here.

National Defence

In contrast to the section on conservation and the environment, Rothbard's discussion of national defence makes a poor impression. It is certainly true that, as Rothbard says, it is necessary to consider the desirability of a political system before considering how to bring it about. A non-libertarian cannot justify his case on the basis of the requirement for national defence alone. It may also be the case that war is caused entirely by the existence of states and that in a wholly libertarian world national defence would therefore be unnecessary (although if, as I argued, states would spontaneously reappear, this point is not very helpful). However, Rothbard goes on to consider the need for national defence in a world in which other states, specifically the Soviet Union, do exist. In doing so, he appears to forget what he reminds us of in the rest of his book - namely, that governments are run by individuals. He analyses whether 'Russia' might want to invade the US and whether that would be in 'Russia's' interest to do so, as though, if the Soviet Union were to go to war, the entire population would have a conference and collectively as one society, decide to invade. In fact, a decision to invade would be taken by a handful of people - perhaps only one person. They would not necessarily be concerned with the long-term interest of the Soviet Union but with their own futures. In a situation in which their

political power - perhaps even their lives - was in danger, such people have little to lose in going to war if there is a good chance of success. Such thinking saved the fortunes of President Hussein of Iraq when, in 1979, he started the war against Iran - a war which in turn saved the Iranian rulers from downfall when they rallied the Iranians to defend themselves. The 1982 invasion of the Falklands was undertaken by General Galtieri's party as a diversion from his political difficulties.

So, while every effort must be made to ensure political stability to lessen the incentive for a war, strong national defence is necessary even when other countries obviously have nothing to gain from war. This can be financed only through taxation. Rothbard suggests that some people would buy defence privately; perhaps a few would, but this could not possibly suffice for the West's defence. In short, Rothbard fails to answer the question he quotes, namely "how could a libertarian society defend us against the Russians?" (p248).

So what political philosophy does an individualist have? The foregoing suggests, I believe, that he advocates libertarianism only if he is an atomist. In the event of people's living as separate entities, there would be no place for states, taxation or government power. For us remaining individualists it is necessary to have a mixed economy with limited governmental powers; governmental powers to manage a just system of property rights; to provide, or ensure the provision of, basic requirements (such as health care, education, food and shelter, police protection and national defence) for all; to provide protection of genuine national interests by, for instance, instituting suitable immigration controls; and to improve situations, if possible, where economic markets are ineffective. The individualist advocating such governmental powers accepts individual responsibility for doing so, saying that it is his wish, not 'society's' wish that governments exist.

Such an individualist however, recognises that everybody has the right to do whatever he wants so long as nobody else is affected. Accordingly, governmental power must not be extended beyond these areas to, for ex-

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ample, prohibit drug use/abuse and prostitution or to limit pub licensing hours. There are no crimes against 'society' which do not affect individuals, no 'victimless crimes'. Nobody must be prevented from doing something merely 'for his own good'. This does not mean that a government should not take action to prevent people accidentally harming themselves by, for example, preventing food manufacturers using harmful agents in their products. The individualist recognises that everything man does is done by individuals - by men and women as separate entities. However, the non-libertarian individualist also realizes that they all live on one planet.

Free Life