# HETEROGENEOUS MORAL VIEWS IN THE STATELESS SOCIETY

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## I. Introduction

PROPONENTS OF FREE MARKETS often push boundaries concerning which social and economic problems can be addressed in the absence of the state. For instance, by extending the work of Ronald Coase and Elinor Ostrom, economists have cast doubt on whether governments are the best institution for resolving important issues, even when markets do not conform to the idealized perfectly competitive model (e.g., Boettke 2010). In the extreme version of this argument, proponents of the purely market-based institutional framework known as anarcho-capitalism attempt to show that eliminating the state altogether will yield the best feasible institutions. While those who are unfamiliar with this position may not find it credible, discussions of how the relevant mechanisms of change would work are common (e.g., Dixit 2004, Leeson 2014; for a literature review, cf. Stringham and Powell 2009).

Traditional criticisms of anarcho-capitalism have centered on whether the Hobbesian war of all against all would arise in the absence of the state (Bush 1972). The literature on anarcho-capitalism has therefore sought to determine under which conditions groups can cooperate with one another. Scholars have been able to identify historical examples of cooperation among

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groups in the absence of the state, regardless of the size and heterogeneity<sup>1</sup> of the group (Bernstein 1992; Greif 1993; Clay 1997), and even regardless of the virtue and temperament of the individuals composing the group (Leeson 2007). If it is true then that the state is not strictly necessary even to maintain law and order, government has little justification at all.

However, this paper presents a different criticism of anarchy. It challenges the primary articulated mechanism that determines the rights of third parties to exchanges. Examples of these third parties include children, animals, and the environment. I do not argue that in an anarcho-capitalist society individuals will fail to pay the costs of enforcing the rights of third parties such as children. Rather, I argue that heterogeneous moral visions may lead to conflicts that will be difficult to resolve in the way anarchocapitalists typically describe, whereas these conflicts are resolved tolerably well under the state (that is, so as to maintain peace, not that one must applaud present day policy choices regarding the rights of third parties).

## II. Rights of Third Parties in Anarcho-Capitalism

One perspective on how anarcho-capitalist society would function in practice is articulated by David Friedman (1989).<sup>2</sup> In place of public police and courts, the rights of individuals would be protected by a wide array of competing security firms, insurance firms, and private arbitrators. The anarcho-capitalist argues the pressures of market competition would diminish the inefficiencies of bureaucracy while unleashing the innovative powers of the market upon them. While renegade firms may arise on occasion, firms generally will find it in their self-interest to use peaceful means of resolving disputes.

One example Friedman offers concerns how firms would determine whether or not drugs would be legal in the stateless society. Some groups

<sup>&</sup>lt;sup>1</sup> "Heterogeneity" refers to differences such as ethnic group. One argument suggests that cooperation would break down if the group is not sufficiently homogenous, as homogeneity helps prevent the Hobbesian outcome. This is not "heterogeneity" in the sense used in this paper, as it is distinct from the Hobbesian war of all against all.

<sup>&</sup>lt;sup>2</sup> There are numerous alternative models and rationales of anarcho-capitalism, most notably Rothbard (1970), which are similar qualitatively to that of Friedman. The objection developed within this paper applies to these alternatives insofar as they make use of the willingness-to-pay mechanism to resolve the conflicts described below.

would want drugs to be legal, others illegal.<sup>3</sup> Each group would be willing to pay a certain sum of money to its firm in exchange for enforcing its favored policy. Under competitive pressures, whichever group is willing to pay more would see the policy enacted and the other group compensated through side payments, with firms acting as intermediaries. In addition to compensating the other group, those who wish that drugs be kept out of the community must be willing to pay for enforcement. Due to all this, Friedman argues drugs would likely be legal in stateless societies, but ultimately, it is an empirical question. However, regardless of which group is willing to pay more, there is a far greater sense that the rule chosen would be efficient.

These mechanisms, however, would likely also decide the most contentious social issues in Western societies: those concerning the rights of third parties. These include, for example, abortion, animal rights, the environment, and the legality of female circumcision. Regardless of whether we believe these issues *should* be decided this way, the question is, *can* and *would* the traditional anarcho-capitalist solution permit the peaceful reconciliation of different moral visions? That is, can Friedman's mechanism resolve conflict over issues such as transactions bearing on animal rights?<sup>4</sup>

A closely related question worth acknowledging is that many economists and philosophers who support free markets have implicitly argued that a correct understanding of markets and economists would encourage people to accept such repugnant transactions (Brennan and Jaworksi, forthcoming; cf. Munger 2011). That is, individuals *should* be willing to engage even in transactions that many find morally repugnant.<sup>5</sup> To these scholars, failure to accept the legitimacy of such transactions just as any others arises from ignorance or a bias against markets. One classic example of this view concerns the market for human organs. In response to Alvin Roth winning the Nobel Memorial Prize in Economic Sciences in part for figuring out how to effectively get kidneys to those who need them, without using markets, one prominent free-market proponent commented that Roth "[figured] out the best way to allocate kidneys subject to the constraint that you're too damned dumb to use the price system."<sup>6</sup> Another example is

<sup>&</sup>lt;sup>3</sup> Clearly, this is a simplification of the wide array of opinions concerning how society should view drugs; the discussion is meant merely to provide a tangible example.

<sup>&</sup>lt;sup>4</sup> A similar objection to my argument is that it will create significant moral hazard problems. Cf. Buchanan (2000).

<sup>&</sup>lt;sup>5</sup> The issues explored throughout this paper are very special (and extreme) instances of repugnancy costs. Cf. Roth (2007) for the more general problem outlined.

<sup>&</sup>lt;sup>6</sup> Cf. Landsburg (2012).

parents' perception of the amount of risk they expose their children to; parents often selectively—and inconsistently—behave as if exposing children to any risk whatsoever is morally repulsive, as documented and ridiculed at length by journalist Lenore Skenazy (2010). One proponent of markets celebrated Skenazy's book as "the application of the economic way of thinking to parenthood" (Horwitz 2010). Apart from how economists view human behavior, there is a sense among these economists that, if people do not weigh tradeoffs as models of economic rationality predict they will, they err, perhaps even morally.

Again, my argument does not concern whether consumers, voters, organ donors, or parents *should* weigh these tradeoffs as a simple economic model would predict. Rather, as I will show, Friedman's model adopts an important but unstated assumption that actors must view the decision to pay or accept money in exchange for a community's policy on abortion or animal rights as another market transaction. The tenability of the traditional picture of anarcho-capitalism sketched above rests on this assumption.

## III. Equilibrium in the Market for the Rights of Third Parties

Economists typically assume there is a price for everything. When members of the public claim there is no price they would be willing to accept in exchange for a good or service, economists reply by raising counterexamples demonstrating that in real life people do in fact have a price they are willing to pay. Some parents choose a slightly faster, yet slightly more dangerous, commuting route to save time, even if they elsewhere claim they place infinite value on the lives of their children. And it is a standard trope in fiction that even the most moral among us can rationalize unsavory behavior if enough money flashes before our eyes.

Economists' predictions are most apt when rebutting people who claim to have *lexicographic preferences*—meaning, they would trade all their wealth and resources for one more unit of a good (say, their child's safety). Descriptively, nearly any claim of lexicographic preferences is simply false; talk is cheap. The unrealism of this preferences type, however, does not mean individuals do not require a premium to take part in a transaction they view to be immoral. In fact, according to much research in psychology, people do regularly demand such premiums. Transactions for which such a premium is required are known as *taboo tradeoffs* (Fiske and Tetlock 1997).

Individuals tend to compartmentalize sacred values—distinguishing values one "cannot put a price on" from ordinary market values. Tetlock et al. (2000) test the implications of the Sacred-Value-Protection Model, which sees individuals as taking costly actions to compartmentalize values rather than maximize utility, narrowly defined. The model implies that, when asked to consider trading money off against goods that "should" have infinite worth, individuals respond emotionally to prevent any consideration of tradeoffs (or at least to maintain the illusion that they never consider such payoffs). In the words of Tetlock et al., to maintain their true identity (or at least their perceived identity), "people who function like intuitive scientists or economists in one setting can be quickly transformed into intuitive moraliststheologians when provoked by assaults on sacred values."

These authors established in a laboratory environment that asking individuals to make the types of decisions private insurance and security firms would make leads them to moral outrage, and furthermore, to undertaking costly activities to affirm their values. After asking participants to contemplate legalizing various taboo transactions (e.g., selling adoption rights or organs), experimenters asked participants to sign up to help a fictitious political action group fight against legalization. Participants were more than willing to volunteer.

Elsewhere, McGraw et al. (2003) explicitly calculate differentials in willingness-to-pay associated with the psychology of the taboo. They calculate ratios of willingness-to-accept to willingness-to-pay (WTA/WTP), by the social relationship the economic transaction is impinging upon. The median increase in these ratios varied from 1.50 to 2.07 depending on the social relationship, while the ratio for exchanges normally determined by markets was 1.25 (i.e., for endowment effects alone).<sup>7</sup> This means the premium consumers required to violate the norm was 50-107 percent greater than the price they would be willing to pay for the same physical good.

An even more pertinent experiment is performed by Ginges et al. (2007). The authors consider one of the most controversial issues of modern times, the Israeli-Palestinian dispute: "Our experiments tested the general hypothesis that, when reasoning about sacred values, people would not apply instrumental (cost-benefit) calculations but would instead apply deontological (moral) rules or intuitions." Ginges et al. measured levels of outrage and propensity for violence among 601 Jewish Israelis and 535 Palestinian refugees (including members of Hamas), given a set of compromises. While individuals in practice do not attach infinite monetary worth to sacred values, attempts at offering monetary incentives tend to backfire. Rather, the experiment determined it is symbolic gestures—hardly within the realm of hard economic calculation—that improve the ability of the groups to compromise.

<sup>7</sup> Cf. McGraw and Tetlock (2005) for further extensions of this research.

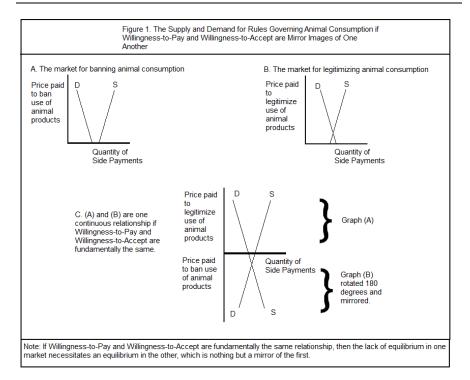
Research in psychology has established that, when confronted with a taboo tradeoff, consumers need additional financial incentives to engage in a transaction that violates values they believe to be sacred. Non-economists may find this intuitive, but it creates serious issues for the Friedmanite solution to the problem of heterogeneous moral perspectives. To see precisely why this is the case, let us briefly set aside concerns about taboo tradeoffs.

If tradeoffs are not taboo,<sup>8</sup> there is a continuous relationship between supply and demand. As argued by Philip Wicksteed, in such cases demand and supply are mirror images of one another (1933: 797-798). Those who demand (express a willingness to pay) become those who supply (express a willingness to accept), depending on the reservation price of others. Under these conditions, if those who wish to pay to ban consumption of animal products are unable or unwilling to compensate those who wish to consume them, it necessarily implies those who wish to consume animal products (for example) can afford to compensate those who wish to ban this practice. Figure 1 demonstrates why. In graph A, the demand curve does not intersect the supply curve at a positive price. In graph B, those who wish to ban it. Per Wicksteed, this is necessarily true because the demand curve in graph A is really just the supply curve in graph A. This is made explicit in graph C.

If we reintroduce the premium required to secure agreement in a taboo tradeoff, the situation becomes decidedly less optimistic. Figure 2 introduces the discontinuity between supply and demand when the firms' customers are asked whether they are willing to take a side payment in exchange for accepting the fact that the community will not reflect the moral beliefs of the customer. Otherwise, the situation is identical to that in Figure 1. As it is drawn, there is no equilibrium in the market for legitimizing or banning the consumption of animal products. In other words, we should not expect that side payments will prevent conflict.<sup>9</sup>

<sup>&</sup>lt;sup>8</sup> We assume also that there are no other endowment or similar effects obfuscating the analysis. It should be noted that taboo tradeoffs do not involve traditional endowment effects, though in some ways they appear similar.

<sup>&</sup>lt;sup>9</sup> One additional simplifying assumption is that the taboo tradeoff will inhibit willingness to accept but not willingness to pay. It is not difficult to imagine consumers willing to pay an agency promising to protect pets in the community. Rather, the taboo tradeoff arises, for example, when consumers are asked to accept money in exchange for allowing certain pets in their community to be tortured. It does not appear that dropping



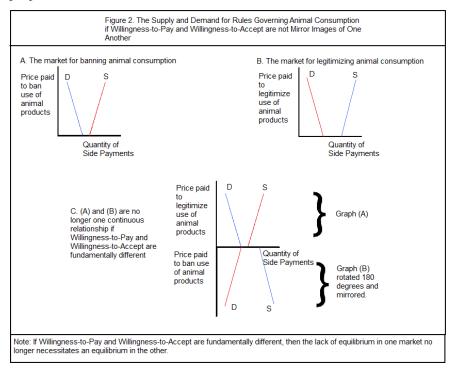
Equilibria for these markets are still possible. That supply and demand curves are shaped as Wicksteed describes is a sufficient, but not a necessary condition. The question is how contrasting positions are to be reconciled when there is no equilibrium. Civil society and social norms are two possible answers. Yet civil war could result instead. Regardless, the literature on anarchy is centered almost entirely on whether the narrow Hobbesian war of all against all will arise, and has neglected whether behavioral responses will raise confounding issues if markets radically displace government.

A further point should be made about especially contentious moral disputes such as those involving abortion. I note emphatically that one cannot simply claim abortions are legal by default in an anarcho-capitalist community, and that the above analysis is therefore superfluous. The market mechanism would clearly be the driving force protecting, for instance, children within the community who are not part of one's own family. In this

the assumption, such that consumers would feel the taboo tradeoff on both sides of the market, would improve the functioning of the market; indeed, it would further inhibit it. Relaxing this assumption would strengthen the case, not weaken it.

case, it seems fairly obvious there would be sufficient demand to protect the rights of all children. The hard cases are precisely those that are more contentious. But the only sense (besides a moral one) in which abortions are legal by default is that those wishing to make them illegal would need to pay for enforcement.<sup>10</sup>

Moreover, there is no reason that rejecting a transaction such as this must be thought of as irrational. The idea that one is not the type of person to put a dollar amount on certain things may illustrate what Akerlof and Kranton (2010) call *identity economics*, and identity may well enter the utility function of many individuals.<sup>11</sup> Perhaps economists are correct to argue that consumers should be less skeptical of how markets deal with taboo subjects, but that would return us to normative analysis. Descriptively, consumers *do* require a premium for engaging in these types of transactions, and for the purposes here, that is what matters.



<sup>10</sup> It is worth noting that those who claim these issues would settle to a default position often normatively support said positions.

<sup>11</sup> A more cynical (though not clearly incorrect) view might see this as a social signaling problem. If it is, the analysis remains unchanged.

#### **IV.** Objections and Caveats

Proponents of anarcho-capitalism may point to historical examples of stateless societies as evidence that the types of issues raised here were not significant enough to prevent law, order, and peace from arising. However, I do not claim that other mechanisms or institutions can allow a stateless society to overcome the problem of heterogeneous beliefs over the rights of third parties. Rather, the point raised here is that a potentially important cause of contention within stateless societies has been glossed over.

Still, there are two key theoretical objections to my argument that are worth addressing, not because they are well-established in the existing literature on anarchy, but because they seemingly give anarcho-capitalists license to dismiss my approach out of hand. First, one could object by asking why an institution as inefficient as the state would be able to resolve conflicts arising from heterogeneous perspectives on the rights of third parties, while the dynamic market process would not. Second, it could be argued that if consumers truly feel strongly about issues like abortion or animal rights, they would already be engaging in private efforts to exclude those they disagree with from the community, even in the presence of the state. In some ways, these types of arguments prove too much, as they make any criticism of anarcho-capitalism impossible (besides, perhaps, the Hobbesian criticism). Nevertheless, I will discuss both in the context of the rights of third parties.

#### a. Taboo Tradeoffs under the State

Free-market proponents are not inclined to believe in special social or economic roles only the state can fulfill. Governments are by and large remarkably inefficient, addressing seemingly any problem by providing poorer information and incentives than their private counterparts. The anarcho-capitalist proponent may ask, with some justification, why it is that the state can reconcile contentious social issues better than private institutions can, when governments are notorious for little more than corruption.

The first point to recognize is that taboo tradeoffs appear very different when voting than when entertaining the possibility to accept a side payment. A vote for a candidate rarely demonstrates willingness to trade, say, \$500 for the chance to live in a community that shares your values, even if that is what it means in practice. Choosing between two politicians may at times mean choosing the lesser of two evils, but it rarely requires voters to *perceive* themselves as accepting a cash payment in exchange for betraying their moral values.

Still, the anarcho-capitalist can hypothesize that even if the state is able to mitigate these violations of sacred values, an innovative private sector could surpass the state through marketing and sales techniques. However, this is most true when voting is viewed instrumentally, that is, as if it were intended to attain specific goals like wealth maximization. By contrast, the theory of expressive voting tells us that under democratic government these issues will rarely if ever cross voters' minds (Brennan and Lomasky 1993; cf. Caplan 2007). Citizens vote to express the type of person they believe themselves to be, not to advance their own narrow self-interest. While we cannot discount altogether the notion that consumers make expressive consumption decisions on the market, this is not the point. Anarchocapitalist institutions would need to be artful in avoiding communicating that they are asking customers to engage in a taboo tradeoff. In contrast, voters believe they are never making taboo tradeoffs when voting to begin with. One may not like one's chosen candidate's record on abortion, but rarely does one perceive voting to be tantamount to accepting a side payment in exchange for shutting down abortion clinics.

Similarly, identity economics should give us pause in considering which incentives are salient when people act as voters versus as consumers. Of course, people do not become more angelic when they are voters. But identity economics reminds us of the significance of whether people see themselves as acting inside or outside the law. Violent conflict cannot occur without the permission of the state without people acting outside the law, by definition. And while it is possible for an analogous norm to evolve in an anarcho-capitalist community, it is hardly obvious that we should see as acting outside the law those who establish firms to enforce their own perspective on the rights of third parties. Under democracy, we certainly should.

An additional criticism of the public's attitude toward government and collective action gives credence to the idea that taboo tradeoffs are perceived differently in societies governed by states. Klein (2005) argues that the public accords far too much power to explicit collective action under the state. In what he calls "the people's romance," the public romanticizes the actions of government while giving it the right to perform certain actions not authorized for any other group. Klein aims to demonstrate that this fact helps explain why the public supports many catastrophic policies while excusing actions that all would be condemned as morally reprehensible if an individual or nonstate group performed them. This may explain why the public accords the state the right to declare what the law is while obviating the need for individuals to make taboo tradeoffs explicitly.

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Some of these points are speculative, but pointing out such a quandary as how the rights of third parties are protected under anarcho-capitalism hardly demonstrates a failure to understand the limits and danger of state power. The simple reason why democracies need not confront the issue as they would under anarcho-capitalism may be that voters romanticize themselves as law-abiding, altruistic citizens, to the detriment of nonpolitical solutions. This blindness often causes democracies to enact bad policies, but it may also make voters blind to the taboo choices that must be made in a pluralist society. For a private entity to be similarly successful, it must somehow cultivate the same romance that most individuals readily accord the state.

#### b. Current Private Institutions

One argument made frequently in response to criticisms of anarchocapitalism, though rarely in print, is what I call the *condo association argument*.<sup>12</sup> This argument states that we can test whether anarcho-capitalist institutions engage in certain behaviors by observing the actions of private associations as they exist today. While some restrictions on private agreements exist (e.g., laws restricting housing covenants), generally in modern societies individuals may choose how they associate with one another. The classic example is the condo association. In many ways, these private contractual relationships are similar to those anarcho-capitalists expect to see under their favored system.

If individuals really were willing to pay to enforce their moral views, the condo association argument claims that something *like* a condo association would exist requiring those who live in the community to agree to live by their rules. For example, this could mean abstaining from consuming animal products or ever undergoing an abortion. That people are unwilling to organize their communities in this way is taken to be strong evidence that, when confronted with the costs of enforcement, individuals would be unwilling to pay for it.

What makes this argument perplexing is that it destabilizes other freemarket arguments. For example, it undercuts the argument that the FDA should be replaced by private institutions (cf. Klein 1998). There are no (or few) institutions evaluating the safety of food and drugs today in private markets. This, however, obviously does not provide evidence that private institutions would fail to fill the gap if the FDA were to be eliminated. In

<sup>&</sup>lt;sup>12</sup> For an allusion to this type of argument, cf. Stringham (1999).

other words, the government is currently crowding out good private institutions.

But if it is possible that the government crowds out *good* private institutions, why can it not crowd out *bad* private institutions too? A condo association or other similar private institution presently available is a clumsy way of curtailing abortion or the consumption of animal products. Those who believe a fetus is an unborn child likely want to use the police—whether public or private—to protect the rights of children generally. In the presence of the state, attempts to do so are either crowded out or declared illegal. It is hard to imagine that anyone arguing in good faith would believe the most logical and efficient way to address the issue in the absence of the state is to file a complaint with the condo association manager.

The condo association argument offers a reasonable sanity check for some criticisms of anarcho-capitalism, but if applied as a trump card to issues to which it is inapplicable, it only squelches honest criticisms. Such is the claim that the lack of condo associations and similar institutions privately regulating abortions or animal products provides evidence that these issues would be minor difficulties in the absence of the state.

## V. Conclusion

The literature on anarcho-capitalism has effectively challenged the Hobbesian idea that society will degenerate into a war of all against all in the absence of a state. But it addresses only one particular form of conflict. This paper has argued that taboo tradeoffs will prevent anarcho-capitalism, as typically described, from mitigating conflict regarding the rights of third parties. There is no guarantee that markets will be capable of finding answers to questions such as whether abortions or the consumption of animal products will be legal in a community. This is not to argue that individual actors are irrational, but that for certain types of questions they need to receive a premium in exchange for engaging in a transaction. Ironically, the reason states might be capable of dealing with such issues is closely related to one reason they perform poorly in other respects: individuals romanticize collective action, and do not perceive tradeoffs in the same way when acting in the political sphere. The reason we do not observe individuals privately enforcing their beliefs today is simply that the mechanisms to enforce them are crowded out by the state. Proponents of anarcho-capitalism must study more how anarcho-capitalist institutions can resolve non-Hobbesian conflicts, including conflicts regarding differing beliefs over the rights of third parties.

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