

IMMANENT POLITICS, PARTICIPATORY DEMOCRACY, AND THE PURSUIT OF *EUDAIMONIA*

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Political and economic freedom is not simply the absence of government controls over the economy and of dictatorial authority. It involves the emergence of alternative and more fragmented notions of “authority” in which participants in effect have to earn the always partial authority they have. It depends on the active participation in the polity and in the economy by diverse people who exercise their own initiative.

—Lavoie and Chamlee-Wright, *Culture and Enterprise*, p. 1

Radicalizing [democracy] is too often imagined as moving toward “direct democracy,” voting directly for social outcomes. But there is much more to democratic processes than voting, and much more to politics than government. Wherever human beings engage in direct discourse with one another about their mutual rights and responsibilities, there is a politics. I mean politics in the sense of the public sphere in which discourse over rights and responsibilities is carried on.

—Lavoie, “Democracy, Markets and the Legal Order,” pp. 111–12

Introduction

LIBERALISM, AND THE MARKET FORCES it has traditionally championed, helped to undermine and overthrow the old order of the status

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society which characterized human social existence from the dawn of history up until around the eighteenth century. The old order still continues to exist in some places in the world and is not entirely vanquished even in the West. Still, the liberal revolution that occurred around the time of the eighteenth century promised to usher in a new order, replacing the status society with the contractual society. This revolution achieved significant success that persists to this day.

The liberals were radical champions of liberty, property, equality, limited governments and free markets — the original Left. Their opponents, in contrast, were reactionary conservatives — the original Right — who wanted to preserve rigid hierarchies of status based on heredity, plutocratic monopoly privilege, and the top-down management of society by these elites. It might be wondered at, then, how it came to be in the 1960s that the radical New Left movement saw the liberal-corporatist state as the primary source of modern society's ills, or at least the chief obstacle to fixing them. What relation did this corporatist liberalism have to the radical liberalism of old? Why and how did the new radicals oppose it?

In addressing these questions I seek not to engage primarily in historical reconstruction and analysis but rather to draw from the history of liberalism and the New Left important lessons for the conduct of our private and public affairs. To engage in a bit of foreshadowing, these lessons call for radicalization of how we conceive of democracy and politics and their role in the pursuit of our well-being. The primary purpose of this paper is to build on the burgeoning tradition of Aristotelian liberalism; specifically, it is to develop a non-statist conception of politics grounded in man's natural end — which is to live a life of *eudaimonia* (flourishing, well-being, happiness). To this end, the New Left concept of participatory democracy will be contrasted with the prevailing reality of manipulative democracy. And it will be argued that there is still too much focus on what the state can and should do for us. Rather, the locus of politics ought to be shifted from the state to society — to what we *as members of society* can and should do for ourselves and each other.

A Brief History of Liberalism

Liberalism arose in radical opposition to the status society of the old order. The old order was characterized by rigid status hierarchies based on heredity, plutocratic monopoly privilege, and the top-down management of society primarily to the benefit of those on top. Social and geographic mobility were severely restricted. Feudal lords were given control over tracts of land and the production, commerce, and people within them. Individuals

and companies would be granted monopoly privilege over areas of production and trade, both within and without the country (e.g., the East India Trading Company). The origin of intellectual property in the form of copyrights and patents had its origin in such grants of monopoly privilege. The state controlled the mint. Guilds controlled entire professions with the backing of the state. Tariffs were raised to protect domestic industry, benefiting wealthy and politically-connected elites at the expense of everyone else. Wars were waged to open up new markets and natural resources for exploitation by companies with official government charters.

The market forces of capitalism gradually undermined the institutions of the old order. The growth of international production and trade, the development of new industries and methods of production, the expansion and increasing wealth of the middle class — these phenomena brought change, progress and, most importantly, hope to an otherwise static and stagnant society in which the bulk of the population previously had no hope of significantly bettering their situation and that of their posterity. These socio-economic changes culminated the political revolutions of the seventeenth and eighteenth centuries: the English Revolutions and the later American and French Revolutions. The old order was shaken loose and the way paved for the Industrial Revolution. But those who favored the old order did not go quietly, and the old order was not entirely vanquished. As Murray Rothbard relates the conflict: “Soon there developed in Western Europe two great political ideologies, centered around this new revolutionary phenomenon: one was Liberalism, the party of hope, of radicalism, of liberty, of the Industrial Revolution, of progress, of humanity; the other was Conservatism, the party of reaction, the party that longed to restore the hierarchy, statism, theocracy, serfdom, and class exploitation of the Old Order.”¹ Nevertheless, the eighteenth century and especially the nineteenth century ushered in economic growth, prosperity, and victories for individual liberty that were unprecedented in human history.

Why then did the members of the radical New Left movement come to see liberalism as intimately related to the corporatist welfare-warfare state of the twentieth century? The answer to this lies in dissolving two socialist myths about feudalism and capitalism. Of one of these myths, Rothbard remarks:

The myth held that the growth of absolute monarchies and of mercantilism in the early modern era was necessary for the development of capitalism, since these served to liberate the

1 Rothbard (1965b), p. 5.

merchants and the people from local feudal restrictions. In actuality, this was not at all the case: the King and his nation-State served rather as the super-feudal overlord re-imposing and reinforcing feudalism just as it was being dissolved by the peaceful growth of the market economy. The King superimposed his own restrictions and monopoly privileges onto those of the feudal regime. The absolute monarchies were the Old Order writ large and made even more despotic than before.²

Over time the absolute monarchies gave way to constitutional monarchies and democratic states, culminating in World War I. Even the freest of these countries, the United States, which came closest to approaching the liberal ideal of limited government in its formative years, engaged in the politico-economic policies of the old order at the outset. And this brings us to the second myth, which conflates the radical liberal ideal of free markets (*laissez-faire* capitalism) with state-corporate capitalism. Thus the evils of state-corporate capitalism are identified as the necessary expression and outcome of liberal ideals. State-corporate capitalism has nothing to do with radical liberalism, however, but rather is the result of its abandonment. No sooner did many of the original revolutionary liberals achieve partial success on their immediate goals than they gave up their radical methods and joined the new Establishment, settling at first for merely liberalizing the state and then eventually giving up their radical ideals as well. It was this renunciation of liberalism's radical roots and the concomitant shift to conservative methods of reform, along with the rejection of radical natural law/natural rights philosophy in favor of the philosophy of utilitarianism, much more amenable to *raison d'état* decision-making, that left a radical void into which stepped socialism as a reaction to the then quasi-conservative liberalism and traditional conservatism.³ Communists, social democrats, and most socialists have similarly abandoned socialism's radical roots in favor of conservative means. The modern liberal corporatist state is anything but liberal, being rather a return to methods of the old order in liberal democratic drag.

Participatory Democracy vs. Manipulative Democracy

Passive Citizenship and Representative Democracy

One of the cornerstones of modern liberal democracy, as it is commonly called, is the system of democratic representation, usually seen as

² *Ibid.*, p. 5.

³ *Ibid.*, pp. 6–7.

a superior alternative to direct democracy for a variety of reasons. Many members of the New Left came to see it as a major part of the problem with liberal democracy, however. They identified it strongly with manipulative democracy and juxtaposed it to participatory democracy. One of the few older members of the New Left, Sidney Lens, summarizes the sentiment well in his essay “The New Left and the Establishment”:

The United States is a democracy, all right, but a manipulative one in which we are excluded by and large from the major decisions in our lives. Participative democracy, on the other hand, means participation in the process of decision-making in all areas of life — economic and social, as well as political. Now if you judge the United States by its own standards of political democracy — that is, the right to put an “X” in a box every four years and to speak and write with a degree of tolerance — then the United States ranks very high in the firmament of democracies. But if you put it to the criteria of participative democracy, it ranks rather low. The area of decision-making is extremely narrow, and while we do have elections they are between two parties which stand for much the same thing.⁴

There are other aspects to the charge of manipulative democracy, of course, but the system of representation is a key component.

Although in principle political offices are open to all citizens of a certain age, the reality is that most will never get into office and will have little if any influence on important decisions that greatly affect their lives. The system of representation has the effect of creating or maintaining a distinction between ruler and ruled, although this distinction is much more blurry and permeable than that created by monarchical and dictatorial regimes due to the electoral process, voting, and the universal franchise. Massimo Teodori, editor of the important book *The New Left: A Documentary History*, offers a pithy summary of the realization of this contradiction between principle and practice that sparked the New Left movement: “The students, who had been raised to believe the myth of the great American democracy, found here — no less than in other aspects of their life — a contradiction between fact and principle, between values their upbringing had taught them to cherish and the exercise of authoritarian power by individuals who professed those same values.”⁵

A libertarian writer, James Bovard, recently compared the act of voting in elections to the feudal act of swearing fealty:

4 Lens (1965), p. 9.

5 Teodori (1969), p. 21.

French historian Marc Bloch noted that, during the Middle Ages, “the notion arose that freedom was lost when free choice could not be exercised at least once in a lifetime.” The only freedom many people sought was to pick whose “man” they would become. Medieval times included elaborate ceremonies in which the fealty was consecrated. With current elections, people are permitted to choose whose pawns they will be. Voting is becoming more like a medieval act of fealty — with voters bowing down their heads and promising obedience to whoever is proclaimed the winner.⁶

Are relatively frequent elections a sufficient safeguard for freedom? And what good are elections when any representative democratic system eventually, and inevitably, becomes rigged to favor incumbents and a class of elites? The present system is dominated by a class of career politicians, increasingly hereditary, who must possess some combination of wealth, influence, insider connections, and official credentials, and who use their offices to acquire more. Generally, the higher the office the more this is the case. It is little wonder that a system such as this would create a mass of passive, easily manipulated citizens and a professional political class increasingly adept at manipulating them.

In an important but neglected work, *An Essay on the History of Civil Society*, Adam Ferguson, a liberal of the Scottish Enlightenment, voices some worries about the increasing division and specialization of labor of modern commercial societies that bear on the topic at hand. He does not repudiate the increasing division and specialization of labor outright and even sees benefits in it, but he finds it particularly problematic with respect to representative democracy. Ferguson preferred small nations; a small nation makes direct democracy possible, allowing all citizens an active role in government. It has been commonly understood by political theorists that beyond a certain extent (ignoring for the moment potential technological advances) a representative or authoritarian system becomes necessary for the state to function. Democratic representation encourages the division and specialization of labor in the realms of politics and security provision. But before going further, let us see what Ferguson has to say on the division and specialization of labor.

⁶ Bovard (2007), p. 4 of the free online pdf version; cf. Mencken (1926), pp. 72–73. Cf. Benjamin Constant (1819 [1988]: 312), “The individual, independent in his private life, is, even in the freest of states, sovereign only in appearance. His sovereignty is restricted and almost always suspended. If, at fixed and rare intervals, in which he is again surrounded by precautions and obstacles, he exercises this sovereignty, it is always only to renounce it.”

Ferguson observes that “By the separation of arts and professions, the sources of wealth are laid open.”⁷ But for Ferguson, “It is in conducting the affairs of civil society, that mankind find the exercise of their best talents, as well as the object of their best affections.”⁸ And so he is concerned about the effects of increasing division and specialization of labor on active man and active citizenship: “This description [active citizenship] does not pertain to any particular craft or profession; or perhaps it implies a kind of ability, which the separate application of men to particular callings, only tends to suppress or to weaken. Where shall we find the talents which are fit to act with men in a collective body, if we break that body into parts, and confine the observation of each to a separate track?”⁹ He sees in the shift from citizen militias to professional and mercenary armies, that even republics have undergone, the cause of a “breach” in “the system of national virtues.”¹⁰ It disarms the populace, removes from most of them an important avenue of active citizenship, promotes a more bureaucratic and obedient sensibility in the soldiers, and is more conducive to offensive wars that are destructive of domestic liberty. Just as excessive division of labor and specialization in security provision and its consequent professionalization is undesirable, so too is such a division of labor and professionalization in politics. Ferguson says of both that it helps “to break the bands of society, to substitute form in place of ingenuity, and to withdraw individuals from the common scene of occupation, on which the sentiments of the heart, and the mind, are most happily employed.”¹¹

So Ferguson was willing to accept an extensive division of labor and specialization in the economic spheres of activity, but he saw the same in the realm of security provision and politics to have a destructive influence on active citizenship and on liberty,¹² for it encourages the bulk of the citizenry to be apathetic about political issues. It also encourages the formation of a professional political class that will make careers out of their political offices, giving them a dangerous amount of power and influence. The concentration of power in the hands of relatively few professional politicians, while the vast bulk of the population remains only vicariously connected to politics and

7 Ferguson (1995), p. 173.

8 *Ibid.*, p. 149.

9 *Ibid.*, p. 32. See, also, pp. 58–59.

10 *Ibid.*, p. 146.

11 *Ibid.*, p. 207. See, also, the paragraph immediately following the quoted passage. Hannah Arendt makes a similar observation; see the discussion below.

12 Some amount of division of labor and specialization in these areas is no doubt desirable and inevitable. It is the formal institutional development of exclusive professional classes in these areas that is problematic.

largely ignorant about important matters pertaining to policy,¹³ is a strong inducement for the continual growth of government, particularly when the professional politicians take advantage of perceived crises to ratchet up its power and scope.¹⁴ The tendency is to consolidate and expand government power, to increasingly centrally plan society and the market which in turn begets more calls for central planning as the people become accustomed to central planning in more and more areas of life and in order to deal with the inevitable unintended consequences of previous policies. For these reasons, and others described here and elsewhere, small nations with direct democracy tend to be more conducive to active citizenship and the preservation of liberty, while large representative democracies tend to be destructive of active citizenship and liberty. A vast multitude of the former will tend to be more conducive to beneficial spontaneous social processes while a relative handful of the latter will decidedly not be.

Gambling with Morality: The Moral Hazards and Inefficacy of Voting

As the New Left movement developed it grew steadily more radical, rejecting the formal democratic process in favor of extra-governmental direct action. Why did they bypass the state? Part of the reason is that it involves moral hazards and is inefficacious. In 1963, John Lewis, then president of the Student Nonviolent Coordination Committee, gave a speech in which he gave voice to both of these concerns:

In good conscience, we cannot support the administration's civil rights bill, for it is too little, and too late. There's not one thing in the bill that will protect our people from police brutality. ... We are now involved in a serious revolution. This nation is still a place of cheap political leaders who build their careers on immoral compromises and ally themselves with open forms of political, economic and social exploitations. ... The party of Kennedy is also the party of Eastland. ... The Revolution is at hand, we must free ourselves of the chains of political and economic slavery. ... We all recognize the fact that if any social, political and economic changes are to take place in our society, the people, the masses, must bring them about. ... Mr. Kennedy is trying to take the revolution out of the street and put it in the courts.¹⁵

13 On the pervasive ignorance of voters, see, e.g., Bryan Caplan, *The Myth of the Rational Voter* (2007).

14 On this last, see, e.g., Robert Higgs, *Crisis and Leviathan* (1987).

15 Teodori (1969), Second Part 1.3, pp. 100–101.

The great majority of the people, and particularly blacks and the poor, had been left out of the decision-making process for too long.¹⁶

The formal process was too slow, too gradual, too prone to compromises not merely on results but on moral principles. Politicians too often proved themselves to be corrupt. Politicians often break campaign promises, for a variety of reasons, and all too often get away with it. The New Left came to recognize that allying with establishment politicians was a mistake, as they were more interested in preserving and furthering their own power.¹⁷

Politically there emerged, through local community work, the contradiction between the strategy of *alliances*, which often ended in co-optation and only marginal improvements, and the strategy of *power*, i.e., beginning to build a movement capable of remaining autonomous, both in its demands and in its control over the institutions in which it participated.¹⁸

They came to recognize the difference “between *those who were part of the movement* and made it autonomous, and *those who wanted to use the movement*, between those involved in its internal dynamics and those who debated its power strategies in magazine columns.”¹⁹ Even Martin Luther King succumbed to the lure of statist politics.²⁰

While members of the New Left did conduct voter-registration campaigns in the early 1960s, even then this was “opposed by some activists, for whom the drive for the vote represented a recourse to old-fashioned and discredited methods.” But the main purpose of the campaign seems not to have been voting but educating “citizens about their rights, catalyz[ing] energy at the base of the most deprived levels of society and encourag[ing] potential local leaders to adopt participatory methods.”²¹ In *SNCC, The New Abolitionists*, Howard Zinn complained about “the ineptitude of parliamentary procedure.”²² Winning the vote was not sufficient. The problems the New Left saw demanded direct moral action in the streets.

It is a crucial matter that voting is essentially gambling with morality. This insightful observation was made by Henry David Thoreau but has been too little noticed, contemplated, and taken seriously by most. The members

16 Ibid., First Part 3.2, p. 13.

17 Ibid., 3.4, p. 15.

18 Ibid., 5.4, p. 28; cf. 10.1, p. 45.

19 Ibid., 3.4, pp. 16–17.

20 Ibid., 3.6, p. 18.

21 Ibid., p. 3.4, p. 15.

22 Zinn (1965), p. 220.

of the New Left movement understood it and acted on it better than most. Thoreau wrote:

All voting is a sort of gaming, like chequers or backgammon, with a slight moral tinge to it, a playing with right and wrong, with moral questions; and betting naturally accompanies it. The character of the voters is not staked. I cast my vote, perchance, as I think right; but I am not vitally concerned that that right should prevail. I am willing to leave it to the majority. Its obligation, therefore, never exceeds that of expediency. Even voting *for the right* is *doing* nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is but little virtue in the action of masses of men. When the majority shall at length vote for the abolition of slavery, it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote. *They* will then be the only slaves. Only *his* vote can hasten the abolition of slavery who asserts his own freedom by his vote.²³

With this last sentence Thoreau is no longer really speaking of voting, as becomes clear later on when he writes “Cast your whole vote, not a strip of paper merely, but your whole influence.”²⁴ With these two sentences, and some passages that come in between, Thoreau is advocating precisely the radical methods increasingly employed by the New Left movement; he is advocating civil disobedience and participatory democracy.

A moral hazard arises from this gambling aspect of voting and the gulf that the formal, especially representative, democratic process creates between the act of voting and the consequences of said act. Responsibility and costs are diffused among a plurality or majority of voters who do not actually have to carry out or enforce policies themselves. Given the nature of voting, the employment of the coercive power of state agents, and the fact that the benefits of state policies tend to be concentrated while the costs tend to be spread over a large population (including those who did not vote for them), voters have a strong incentive to support policies that they otherwise would not if they had to bear the full cost and risk in money, time, and enforcement themselves. This moral hazard is compounded by the representative system. A democratic representative cannot identify precisely who his real constituents are (those who voted for him). He is not strictly responsible to them; generally the worst he has to fear is a small chance he will be ousted in the next election. Nor is he held strictly responsible for his actions while in

23 Thoreau (1849 [1993]), “Civil Disobedience,” p. 5.

24 *Ibid.*, p. 9.

office. Despite frequently employed social-contract language, this is not a real principal-agent contractual relationship. And the representatives themselves are not the ones who actually have to pay for, carry out, or enforce the policies they enact either. The result of these facts is that both voters and their representatives have strong incentives to support and enact irresponsible legislation, regulations, and policies.

Making Men _____:²⁵ *Corporatist Liberalism and the Bureaucratic Welfare-Warfare State*

Like classical liberals and contemporary libertarians, members of the New Left generally opposed corporate-political partnerships and the bureaucratic welfare-warfare state. Indeed, it is interesting to note that I am not sure of the origin of the term “welfare-warfare state.” Was it coined by the New Left? or by libertarians, who use it frequently? At any rate, Massimo Teodori uses the term in the introduction to his documentary history of the New Left, published in 1969.²⁶ The New left opposed not only interventionist foreign policies, the warfare state, but also the provision of welfare through statist-political means, the welfare state. They were opposed to the bureaucratic administration of society in general, with education, welfare, and war being three of the major battlegrounds.

The New Left recognized the interconnection between social, economic, and political problems. For example,

the activists began to discover that many of the important economic structures of the South were in some way connected to and controlled by those of the North; that the programs for huge military expenditures which supported the most highly developed national industries could be approved only thanks to deals made by Southern representatives in exchange for the installation of military bases in their states; that the welfare programs of preceding decades, just like the civil-rights and poverty programs, had not in fact improved the lives of the people toward whom they had been directed, but had only favored the expansion of a powerful bureaucracy; that the reason there would be no mass unemployment

25 Fill in the blank: e.g., “make” men moral, patriotic, obedient, do this or don’t do that, pursue a unified goal like cogs in a machine, and so forth, but primarily in the sense of constructing them into something. See, for example, recent books like Robert George’s *Making Men Moral: Civil Liberties and Public Morality* (1995), Walter Burns’s *Making Patriots* (2002), and Nancy Bristow’s *Making Men Moral: Social Engineering During the Great War* (1997).

26 Teodori (1969), 9.2, p. 42.

and economic crisis, as had been predicted, was that the war economy continued to expand.²⁷

The bureaucratic welfare-warfare state rests upon the ideology of corporatist liberalism, which, Teodori argues,

promotes internal economic planning, together with increased consumption and planned obsolescence, aims toward the control of distribution and advertising and toward a monopoly over mass communications, finances scientific research applied to the development of technology and social control, requires a liberal policy of coexistence abroad to permit the expansion of markets, supports higher education for the training of experts and consultants, subsidizes rich foundations which patronize cultural and intellectual developments, and is interested in state promotion of public well-being through welfare programs. In other words, it is a system based on power in the hands of an oligarchy which penetrates and controls — directly through ownership, or indirectly through pressure and influence — the life of the entire nation.²⁸

The 1963 SDS document *America and New Era* correctly identified the real source of the problem, i.e., the statist-political forces seeking to maintain and further the system that benefited them — the politicians, corporate officers, union leaders, college administrators, foundation officials, etc.²⁹ These people tended to reduce basic social issues “to problems requiring administrative manipulation.”³⁰

The ideology of corporatist liberalism, Carl Oglesby, president of SDS in 1965, argued in a speech, “performs for the corporate state a function quite like what the Church once performed for the feudal state. It seeks to justify its burdens and protect it from change.”³¹ The revolt of the New Left was “a revolt against paternalistic, indirect authority which hides the hand of power in the glove of verbal idealism.”³² State funded and controlled public education was a part of this system. It substituted a kind of “painless, non-threatening coercion” for overt coercion, indoctrinating children and young adults in the reigning orthodoxy, molding them into “good citizens,” and

27 Ibid., 9.2, p. 41.

28 Ibid., 9.3, pp. 42–43.

29 Ibid., Second Part, Chapter 2, 5.2, “SDS: America and the New Era”; see also the quote on First Part, 9.4, p. 43.

30 Ibid., p.176.

31 Ibid., 5.3, “Trapped in a System,” p. 187.

32 Long (1969), p. 9.

instilling the skills necessary to take their places as cogs or operators of the existing machine.³³

Hannah Arendt's analysis of the differences between action (*praxis*)³⁴ and work — and between politics, which involves action, and fabrication or making (*poiēsis*), which involves work — has negative implications for the central planning of society that is characteristic of modern representative-democratic states. In particular, I have in mind her criticism of Plato, and to a lesser extent Aristotle, regarding their tendency to view society as a sort of organization and politics as the running of society as such an organization — or, in their words, politics as akin to household management. Arendt defines action as “the only activity that goes on directly between men without the intermediary of things or matter”;³⁵ it is directly and intimately related to politics, which Arendt links to Scottish Enlightenment notions of spontaneous order.³⁶ “To act, in its most general sense, means to take initiative, to begin (as the Greek word *archein*, “to begin,” “to lead,” and eventually “to rule,” indicates), to set something into motion (which is the original meaning of the Latin *agere*).”³⁷ Work, on the other hand, is

the activity which corresponds to the unnaturalness of human existence, which is not imbedded in, and whose mortality is not compensated by, the species' ever-recurring life cycle. Work provides an “artificial” world of things, distinctly different from all natural surroundings. Within its borders each individual life is housed, while this world itself is meant to outlast and transcend them all.³⁸

We need not accept in its entirety Arendt's conception of action and work with all its implications and baggage in order to appreciate the difference between dealing with other human beings as ends in themselves (i.e., voluntarily and politically) and treating them like beasts who must be tamed, or raw materials for the shaping, or living tools, or mere parts of the machinery of the state.³⁹ A famous Marxist phrase is apropos here: the formal democratic process of the state, particularly in the form of representative

33 Ibid., p. 9-10; cf. Teodori (1969), First Part, 5.1, p. 26.

34 Arendt uses the term “action” more narrowly than do the praxeologists of the Austrian School.

35 Arendt (1958), p. 7.

36 Ibid., p. 185.

37 Ibid., p. 177.

38 Ibid., p. 7.

39 On the different ways in which the ancients and the moderns viewed men as less-than-human objects of legislation, see p. 188 n. 15.

democracy, amounts to the “replacement of the government of men by the administration of things.”⁴⁰

Arendt identifies an element of violence in all making (fabrication),⁴¹ and observes government foundings and legislation to be a kind of making.⁴² In “legislating and the execution of decisions by vote” men “‘act like craftsmen’: the result of their actions is a tangible product, and its process has a clearly recognizable end.” Plato and Aristotle prefer “making” because “of its greater reliability. It is as though they had said that if men only renounce their capacity for action, with its futility, boundlessness, and uncertainty of outcome, there could be a remedy for the frailty of human affairs.”⁴³ This aversion to spontaneous order and genuine politics is pervasive in political philosophy.

Escape from the frailty of human affairs into the solidity of quiet and order has in fact so much to recommend it that the greater part of political philosophy since Plato could easily be interpreted as various attempts to find theoretical foundations and practical ways for an escape from politics altogether. The hallmark of all such escapes is the concept of rule, that is, the notion that men can lawfully and politically live together only when some are entitled to command and the others forced to obey.⁴⁴

In applying to “its administration the [then] currently recognized maxims for a well-ordered household,” Plato was quite aware that he was proposing “a revolutionary transformation of the *polis*.”⁴⁵ The treating of society as an organization to be run according to a plan has the effect of “banishing the citizens from the public realm” while they leave the ruler to “attend to public affairs.”⁴⁶ James O’Brien observes of the New Left radicals that the “Federal Government’s liberal bureaucracy, as typified by the Justice Department and the War on Poverty, was viewed with increasing impatience and distrust. The

40 Quoted from Rothbard (1965b), p. 8. Not incidentally, Rothbard relates that this phrase can be traced back ultimately to the radical nineteenth century French liberals Charles Comte and Charles Dunoyer. “And so, too, may the concept of the ‘class struggle’; except that for Dunoyer and Comte the inherently antithetical classes were not businessmen vs. workers, but the producers in society (including free businessmen, workers, peasants, etc.) versus the exploiting classes constituting, and privileged by, the State apparatus.”

41 Arendt (1958), pp. 139–140, 153.

42 Ibid., p. 228.

43 Ibid., p. 195.

44 Ibid., p. 222.

45 Ibid., p. 223. Cf. p. 230.

46 Ibid., p. 221.

new radicals came to regard the liberal style as a series of back-room deals among “leaders,” in which decisions were made without the participation of the governed.”⁴⁷

Arendt calls a delusion the idea “that we can ‘make’ something in the realm of human affairs — ‘make’ institutions or laws, for instance as we make tables and chairs, or make men ‘better’ or ‘worse’ — ... it is conscious despair of all action, political and non-political, coupled with the utopian hope that it may be possible to treat men as one treats other ‘material.’”⁴⁸

In the *Republic*, the philosopher-king applies the ideas as the craftsman applies his rules and standards; he “makes” his City as the sculptor makes a statue, and in the final Platonic work these same ideas have even become laws which need only be executed.

Within this frame of reference, the emergence of a utopian political system which could be construed in accordance with a model by somebody who has mastered the techniques of human affairs becomes almost a matter of course; Plato, who was the first to design a blueprint for the making of political bodies, has remained the inspiration for all later utopias.⁴⁹

Such centrally planned schemes of government must inevitably “break down quickly under the weight of [the] reality ... of the real human relationships they [cannot] control.”⁵⁰ Beyond the impracticability of central planning, of running society like an organization, there is the moral dimension that legislation in both the foundational and general sense, insofar as it rests upon force, treats human beings as means rather than as ends in themselves and thus gives us a *prima facie* reason to condemn it as immoral and unjust.

Participatory Democracy: Direct Moral Action and Voluntary Cooperation

The New Left was a radical and decentralized movement that lacked any coherent ideology. It was born out of an immediate need to confront the many social, political, and economic problems of the day.

47 Priscilla Long (1969), p. 7. Quoted by Staughton Lynd in his introduction, “Towards a History of the New Left.”

48 Arendt (1958), p. 188.

49 Ibid., p. 227. The last phrase in the second quoted passage implies that Plato was the first to actually attempt the feats mistakenly credited to the great Founder-Legislators (e.g., Lycurgus, Solon, Romulus, Numa), and this corresponds to Hayek’s observation that the idea of legislating law in Western civilization saw its first full development in ancient Greece. See Hayek (1973), p. 82.

50 Ibid. On the divine qualities such administration would require, see p. 227.

Dissent and revolt sprang from individual and social malaise; that is, out of a kind of individual and social alienation from prevalent institutions, values and behavior. The spring which set the action into motion ... was the need to reaffirm lost values in the name of ideal objectives and moral standards — freedom, community feeling, right to participate, control of one's own life — rather than a positive vision of society and its structures.⁵¹

Participatory democracy was both a means and an end; its goal was the end of manipulative democracy and the return of freedom, direct participation, and cooperation in pursuit of shared ends. As a means, participatory democracy eschews the top-down administration of things, the voting, the lobbying, the backroom deals, and the coercion in favor of bottom-up change through direct moral action and voluntary cooperation. The organization of the movement reflected its goals and its methods with “no separation between masses and intellectuals, movement and party, those who theorize and those who act; between ‘leaders’ and ‘followers.’”⁵²

Participatory democracy for the New Left involved two distinct sorts of activity: protest and the cooperative development of parallel or alternative institutions. Both types were spontaneous and decentralized, brought about by grass-roots development and leading by example. Members staged sit-ins, picketing, marches, “freedom rides” and other forms of largely nonviolent protest in order to galvanize support, make a statement, and influence the public. Members would also move into local communities and help them organize to solve local problems. “A great many local programs sprang up — neighborhood political groups, local radio stations, bulletins, cooperatives, tenants’ associations, police control committees”⁵³ as well as “free universities” and alternative, voluntary welfare programs,⁵⁴ and so forth. Certain of these had their aim as the formation and development of counter-communities, reflecting “the desire to build values, structures, life-styles and actions which should pre-figure the society of tomorrow.”⁵⁵

Teodori relates how the logic of direct action led directly to the radicalization of the movement.

The two-party structure, as the principle vehicle for participation in the political process, seemed at the time not only a historical reality, but also a mental habit which set limits even for the new modes of

51 Teodori (1969), First Part, 11.1, p. 49.

52 Ibid., 3.2, p. 14.

53 Ibid., 5.4, p. 29.

54 Ibid., 10.3, p. 47.

55 Ibid., 5.4, p. 29.

thinking. But the very logic of direct action and nonelectoral organization of the new grass-roots organizations, as well as the contact with the nation's social and economic realities and power structures, helped evolve the new activists' attitudes toward the ruling class.⁵⁶

For the new radicals, "independent politics" combined with direct action, which rested in the hands of anyone wanting to use it as a means of political participation and intervention in social and economic life. Because of the dispersion of power among complicated institutions and the ever-growing complexity of the organization of post-industrial society, direct action was a form of challenge which could attack the system anywhere. Direct action was a method which returned the initiative to the base and escaped the trap of those ideological disputations over "the necessity of deciding everything in advance" which had paralyzed the traditional left. The method proved successful in at least two respects: it mobilized an ever-growing number of citizens who discovered the possibilities for expression as well as the permanently revolutionary nature of direct action and its possible use as an alternative to both "the bloody futility of civil war and the ineptitude of parliamentary procedure."⁵⁷

Thus participatory democracy goes beyond even Jefferson's wish for a revolution every twenty years but eschews the bloody violence of the American Revolution.⁵⁸

What Happened to the New Left?

The New Left achieved a number of successes in its heyday — from wide-ranging civil rights victories, to ending the Vietnam War, to reviving political activism on campus. What, then, happened to the New Left? For surely there is much left still to be done. After achieving these victories it would seem that the New Left has largely disappeared from the scene, its members retiring from activism and/or allowing themselves to be co-opted into the Establishment. Members of the New Left seem to have given up their radicalism in favor of the status quo and, at best, piecemeal reform; in short, they have returned to the ways of the Old Left, which is not really of the left at all.

⁵⁶ Ibid., 10.2, p. 46.

⁵⁷ Ibid., 10.4, p. 48. The internal quotations are of Howard Zinn, op. cit.

⁵⁸ "Thomas Jefferson to William S. Smith," November 13, 1787, p. 372, in Jefferson (1907).

What can explain this phenomenon? People do tend to grow more conservative as they age, but this is not an inevitable occurrence and is rather relative. There are two related factors that, while they do not exhaust the range of likely influences, I think carry much explanatory power: 1) While the New Left turned away from the formal democratic process in favor of spontaneous participatory democracy over the course of the movement, I do not think most of them ever really rejected the former on principle. It was too slow and corrupt for dealing with urgent problems in all their immediacy. But once the most urgent of these problems were resolved or at least significant progress had apparently been made, once the Establishment had finally begun to take notice and cater to issues important to the activists, and as the activists grew older and became eligible for moving into respectable positions of power, well, then, the formal democratic process probably began to look more attractive as a means for furthering their remaining goals. As so often happens with radical movements, the New Left was co-opted by or rejoined the Establishment. Staughton Lynd, in the introduction to Priscilla Long's *The New Left: A Collection of Essays*, writes: "Among white radicals ... As participatory democracy, like nonviolence, came to seem the product of a naïve early stage of protest before the magnitude of the Movement's task was fully recognized, white radicals drifted back toward the political style of the Old Left."⁵⁹ Lynd describes this trend beginning in the second half of the 1960s. 2) The New Left lacked a systematic and consistent ideology with which to resist the lure of statist politics. One example of this lack can be found in Thomas Hayden's essay "The Politics of the Movement," in which he looks forward to the formation of a sort of counter-Continental Congress that "might even become a kind of second government, receiving taxes from its supporters, establishing contact with other nations, holding debates on American foreign and domestic policy, dramatizing the plight of all groups that suffer from the American system."⁶⁰

And what of the New Left's successes? Arguably little or no lasting progress was made. With regard to civil rights, the plight of ethnic minorities and the poor remains a live issue — and government social-welfare policies and intervention in the economy are largely to blame, policies and interventions that former members of the New Left continue to advocate today. What of war? The American empire overseas continues to grow. Presidents continue to get us involved in entangling alliances and conflicts that inevitably spur more conflicts, and Congress and the Judiciary continue to acquiesce to the expansion of executive power. The New Left played a key

⁵⁹ Long (1969), p. 10.

⁶⁰ Teodori (1969), Second Part, Chapter 2, 6.2, p. 208.

role in stopping one unnecessary, un-Constitutional and unjust war, but there have been more such wars since. Universities continue to be bureaucratic factories of good corporate citizens. Political activism on campus has largely been co-opted into the status quo, while the process of student government elections serve as early training grounds for our future rulers. The New Left was not radical enough. And it lacked a systematic, consistent anti-statist ideology to sustain it.

Direct Democracy vs. Representative Democracy: Is There an Important Difference?

It might be thought that the various problems plaguing the formal democratic process that we have been discussing are peculiar to a particular form of democracy, that is, representative democracy. Representative democracy, we have seen, distances the bulk of the population from direct moral and political action on important public matters. It encourages the formation of a professional political class. It is conducive to a top-down bureaucratic management of society by a technocratic and plutocratic elite. The masses have every incentive in this system to be increasingly ignorant of their representatives and of important public issues. It might be thought, then, that democracy can be radicalized in the direction of direct democracy and that this will fix its problems. Direct democracy would seem at least superficially to be a form of participatory democracy, for in direct democracy the entire population is supposed to be able to be directly involved in deciding important public matters. But not so fast. Is direct democracy really all that different from representative democracy? Is direct democracy really just a formalized participatory democracy?

Direct democracy is not really a form of participatory democracy and there are certain important respects in which direct democracy and representative democracy are not so different. Participatory democracy is extra-governmental and involves discourse and deliberation culminating in direct action; it is decentralized and spontaneous, dynamic and flexible. Both direct democracy and representative democracy transform democratic processes into a rigid, formalized, procedural instrument of the state. The result is a centralization and monopolization of democratic decision-making processes.

The focus in direct democracy on voting is still vulnerable to the Thoreauvian objection of gambling with morality, i.e., that you must gamble on getting enough votes to get done what you believe to be right. The very existence of this centralized voting system for deciding public matters of moral importance encourages citizens to focus their energies on this formal democratic process, which is to say that it encourages the wasting of time and

money on vote getting (or buying), at the expense of getting anything actually productive done in a timely fashion. The result is the incentive increasingly to use the system to centrally plan society from the top-down.⁶¹ And a gulf is opened up between discourse and action. As Benjamin Constant remarks: “Lost in the multitude, the individual can almost never perceive the influence he exercises. Never does his will impress itself upon the whole; nothing confirms in his eyes his own cooperation.”⁶² This is not participatory democracy. Participatory democracy is about taking spontaneous direct action, in voluntary cooperation with likeminded fellows, to do what one can to substitute a more satisfactory state of affairs for a lesser one.

Finally, as H.L. Mencken argues, both direct democracy and representative democracy are usually “led and dominated by a few men of unusual initiative and determination, some of them genuinely superior, but most of them simply demagogues and fanatics.”⁶³ He goes on to add:

The truth is that the difference between representative democracy and direct democracy is a great deal less marked than political sentimentalists assume. Under both forms the sovereign mob must employ agents to execute its will, and in either case the agents may have ideas of their own, based upon interests of their own, and the means at hand to do and get what they will. Moreover, their very position gives them a power of influencing the electors that is far above that of any ordinary citizen: they become politicians *ex officio*, and usually end by selling such influence as remains after they have used all they need for their own ends. Worse, both forms of democracy encounter the difficulty that the generality of citizens, no matter how assiduously they may be instructed, remain congenitally unable to comprehend many of the problems before them, or to consider all of those they do comprehend in an unbiased and intelligent manner. Thus it is often impossible to ascertain their views in advance of action, or even, in many cases, to determine their conclusions *post hoc*.⁶⁴

This might seem like an equally good indictment of participatory democracy, but two things can be said to this objection: 1) I am not quite so cynical and

61 Cf. Teodori (1969), Second Part, Chapter 2, 5.2, “SDS: American and New Era,” p. 180: “At present, the major liberal organizations devote their political energies to various kinds of lobbying operations, usually in support of policies emanating from the administration. Proposals are offered to the President or the Congress, with only rare efforts to organize popular support of them; blame for the failure of liberal programs is usually accorded to the Congress or occasionally to the Administration.”

62 Constant (1819 [1988]), p. 316.

63 Mencken (1926), p. 74.

64 *Ibid.*, pp. 75–76.

pessimistic about the abilities of the common man as was Mencken. 2) People are far better at dealing with personal, local, smaller matters alone and in voluntary cooperation with others than they are at directing the vast coercive power of the state. When they are misled by fanatics and demagogues in control of the state apparatus (and even on the rare occasions when they are not misled), the consequences are usually disastrous; when they are misled by similar types not in control of the state, the harm caused pales in comparison and is more easily corrected. And when it comes to the larger issues, well, these are usually imaginary or greatly exaggerated (recall the fanatics and demagogues), or they are the direct result of previous state action in which case more state action would only compound the error.

Fundamentally though, both representative democracy and direct democracy are statist forms of democracy. Hans-Hermann Hoppe's incisive critique of statist democracy, while primarily directed at modern representative democracy, given its contemporary prevalence, is also applicable to direct democracy. In his book, *Democracy: The God That Failed*, Hoppe makes a distinction between private ownership of government and public ownership of government. The characteristic historical example of the former is monarchy, of the latter, statist democracy. A privately-owned government is one in which the government is considered to be the personal property of an individual(s). In contrast,

democratic rule — in which the government apparatus is considered “public” property administered by regularly elected officials who do *not* personally own and are not viewed as owning the government but as its temporary *caretakers* or *trustees* — typically only follows personal rule and private government ownership.⁶⁵

These two forms of government have systematically different effects on social time preference.

The Austrian theory of time preference holds that, *ceteris paribus*, people prefer satisfaction of wants sooner rather than later. An individual with a higher degree of time preference will be more present-oriented, while a person with a low degree of time preference will be more future-oriented or far-sighted. Under a privately-owned government, the ruler and the people will tend to have relatively lower degrees of time preference than they would under publicly-owned or democratic government.

Hoppe offers two interrelated structural/institutional factors that drive the tendency towards higher time preference in democracies: public ownership of the government and free entry into it.

65 Hoppe (2001), p. 17. Emphasis in original.

A democratic ruler can use the government apparatus to his personal advantage, but he does not own it. He cannot sell government resources and privately pocket the receipts from such sales, nor can he pass government possessions on to his personal heir. He owns the *current use* of government resources, but not their capital value. In distinct contrast to a king, a president will want to maximize not total government wealth (capital values and current income) but current income (regardless and at the expense of capital values). Indeed, even if he wished to act differently, he *could not*, for as public property, government resources are unsaleable, and without market prices economic calculation is *impossible*. Accordingly, it must be regarded as unavoidable that public-government ownership results in continual capital consumption. Instead of maintaining or even enhancing the value of the government estate, as a king would do, a president (as distinct from a king) has no interest in not ruining his country. For why would he *not* want to increase his confiscations if the advantage of a policy of moderation — the resulting higher capital value of the government estate — *cannot* be reaped privately, while the advantage of the opposite policy of higher taxes — *can* be so reaped? For a president, unlike for a king, moderation offers only disadvantages.⁶⁶

This, of course, applies not only to presidents or prime ministers in a democracy but also to members of congress or parliament as well as to bureaucrats. Obviously not all politicians act in the manner described above, or at least do not intentionally pursue policies with such effects, but public-government ownership has the effect of encouraging such tendencies; it creates an incentive.

Moreover, in a modern democracy, entry into government is in principle open to everyone. In contrast, entry into government in a monarchy is restricted to the ruler and his family and friends. This has the effect of stimulating “the development of a clear ‘class consciousness’ on the part of the governed public and promotes opposition and resistance to any expansion of the government’s power to tax.”⁶⁷ Also, “government attempts at territorial expansion tend to be viewed by the public as the ruler’s private business, to be financed and carried out with his own personal funds. The added territory is the king’s, and so he, not the public, should pay for it. Consequently, of the two possible methods of enlarging his realm, war and

⁶⁶ Ibid., p. 24. Emphasis in original.

⁶⁷ Ibid., p. 21.

military conquest or contractual acquisition [e.g., marriage], a private ruler tends to prefer the latter.”⁶⁸

Free entry into government blurs the distinction between the rulers and the ruled. Anyone, in theory, can become part of the ruling class. The “class-consciousness” of the ruled is blurred. Pressure groups will inevitably attempt to influence politicians and get representatives elected in order to use the coercive power of the government apparatus to satisfy their short-run interests at the expense of others. Consequently, “public resistance against government power is systematically weakened.”⁶⁹

The combined effect of these two factors — public ownership of government and free entry into it — is conducive to a state of affairs, commonly used to refer to environmental issues, that can best be characterized as a tragedy of the commons.^{70,71} Of course, the tendency of a higher social time preference under publicly-owned governments relative to privately-owned governments should be understood in conjunction with the tendency of government growth. The Jacobin-style, statist democracies obviously won out over Jeffersonian-style democracy in the twentieth century.⁷² The transition from monarchy to democracy in the West has been characterized by rising public debt, high levels of taxation and inflation, and the advent of total war. Representative democracy, particularly as it matures, develops a clearer demarcation line between ruler and ruled, but so long as it remains a democracy the line is far less clear and rigid than in a monarchy or dictatorship. Direct democracy only serves to blur the line even further.

Direct democracy, then, is not the radical antidote to the evils of representative democracy. As Don Lavoie observes:

Radicalizing [democracy] is too often imagined as moving toward “direct democracy,” voting directly for social outcomes. But there is much more to democratic processes than voting, and much more to politics than government. Wherever human beings engage in direct discourse with one another about their mutual rights and responsibilities, there is a politics. I mean politics in the sense of the

68 Ibid., p. 23.

69 Ibid., pp. 25–26.

70 See, for example, *Managing the Commons*, Garret Hardin and John Baden, eds., San Francisco: W.H. Freeman, 1977.

71 It should be noted that neither Hoppe nor the present author advocate a return to monarchy or deny that monarchy suffers from serious flaws as well.

72 Paul Gottfried, “Is Modern Democracy Warlike,” in Denson (2001), pp. 425–431.

public sphere in which discourse over rights and responsibilities is carried on, much in the way Hannah Arendt discusses it.⁷³

When democracy is but the handmaid of the state, relegated merely to the instrumental process of its functioning, as direct democracy still is, it cannot be truly radical and participatory. It cannot help but be inefficacious and coercive. The problem, then, is not democracy but the state itself. As Edmund Burke wisely observed in his radical youth:

Parties in Religion and Politics make sufficient Discoveries concerning each other, to give a sober Man a proper Caution against them all. The Monarchic, Aristocratical, and Popular Partizans have been jointly laying their Axes to the Root of all Government, and have in their Turns proved each other absurd and inconvenient. In vain you tell me that Artificial Government is good, but that I fall out only with the Abuse. The Thing! the Thing itself is the Abuse! Observe, my Lord, I pray you, that grand Error upon which all artificial legislative Power is founded. It was observed, that Men had ungovernable Passions, which made it necessary to guard against the Violence they might offer to each other. They appointed Governors over them for this Reason; but a worse and more perplexing Difficulty arises, how to be defended against the Governors? *Quis custodiet ipsos custodes?* In vain they change from a single Person to a few. These few have the Passions of the one, and they unite to strengthen themselves, and to secure the Gratification of their lawless Passions at the Expence of the general Good. In vain do we fly to the Many. The Case is worse; their Passions are less under the Government of Reason, they are augmented by the Contagion, and defended against all Attacks by their Multitude.⁷⁴

Burke rightly recognized the source of the state's evil in its very nature, viz., that it subordinates the rest under the will of the one, the few or the majority, that the state is necessarily supported by violence and injustices, and that these amount to tyranny. One can also see in the last sentence an anticipation of Hoppe's insight that blurs the line between ruler and ruled, providing an ideological, democratic cover for the actions of state'smen and for the growth of government.

⁷³ Don Lavoie (1993), pp. 111–112. Lavoie is here referring to Arendt's *Between Past and Future: Eight Exercises in Political Thought* (1954; New York: Penguin, 1977).

⁷⁴ Edmund Burke (1757 [1982]), p. 22 (p. 13 of the ebook edition). The question in Latin is from Juvenal, *Satires* VI.347, and can be translated as "Who watches the watchmen?" Italics and archaic spellings and capitalizations in the original.

Toward an Aristotelian-Liberal Radicalization of Politics and Democracy

I have presented a brief overview of the history of liberalism and examined the history and beliefs of the New Left movement in thematic fashion in order to illustrate some lessons about democracy and radical movements. These lessons call for radicalization of how we conceive of democracy and politics and their role in the pursuit of our well-being. The primary purpose of this paper is to develop a non-statist conception of politics grounded in man's natural end — which is to live a life of *eudaimonia* (flourishing, well-being, happiness). And it will be argued that there is still too much focus on what the state can and should do for us. Rather, the locus of politics ought to be shifted from the state to society — to what we *as members of society* can and should do for ourselves and each other.

Aristotle on Politics and Democracy, and on the Good Man vs. the Good Citizen

Before elaborating the aforementioned neo-Aristotelian theory of non-statist politics it will first be useful to briefly explicate and critique Aristotle's views on politics and certain matters pertaining to it, such as his conception of the *polis*, liberty, the good citizen and the good man. The aim here is to distill from Aristotle's ideas the essence of the political. We may begin with Aristotle's conception of the *polis*.

What is Aristotle's conception of the *polis*? Aristotle says

Every *polis* is a community of some kind, and every community is established with a view to some good; for everyone always acts in order to obtain that which they think good. But, if all communities aim at some good, the *polis* or political community, which is the highest of all, and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good.⁷⁵

A *polis* is a political community, i.e., a community aimed at the highest good, which encompasses all the others. But of whom is this community comprised and what is the highest good at which they aim in common?

A *polis* is a community of equals, aiming at the best life possible. Now, whereas *eudaimonia* [flourishing, well-being, happiness] is the highest good, being a realization and perfect practice of excellence, which some can attain, while others have little or none of it.⁷⁶

75 Aristotle, *Nicomachean Ethics* (hereafter *NE*) I.1 1252a1–7. Emphasis added.

76 *NE* VII.8 1328a36–40. Emphasis added.

The *polis* is comprised of equals and the highest good at which they aim in common is *eudaimonia*.

Political community is, to our current knowledge, unique to human beings. Human beings are, according to Aristotle, *logikon* and *politikon* animals. Aristotle explains thusly:

Now, that man is more of a political animal than bees or any other gregarious animals is evident. Nature, as we often say, makes nothing in vain, and man is the only animal who has the gift of speech [*λόγον; logon*]. And whereas mere voice is but an indication of pleasure or pain, and is therefore found in other animals (for their nature attains to the perception of pleasure and pain and the intimation of them to one another, and no further), the power of speech [*λόγος; logos*] is intended to set forth the expedient and inexpedient, and therefore likewise the just and the unjust. And it is a characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like, and the association of beings who have this sense makes a family and a polis.⁷⁷

Philosopher Roderick Long elaborates on Aristotle's explanation here by pointing out that while the best translation for these terms *logikon* and *politikon* in English are "rational" and "political," respectively, the close links between the two are somewhat lost in translation.

λόγος [*logos*] does mean "reason," but its more basic meaning is "speech," or "language," or indeed anything that is *spoken*. By extension, it has two derivative meanings: first, that which is expressed or explained in speech — in other words, the intelligible nature of something; and second the capacity or faculty of speech — in other words, reason. However, even when *λόγος* [*logos*] is used to mean "reason," it nevertheless retains a connotation of "language" and "discourse," and accordingly a social dimension, that the English word lacks. To be a rational animal is to be a language-using animal, a conversing animal, a discursive animal; and to live a human life is to live a life centered around discourse.

Our nature as rational animals is thus closely allied to our nature as political animals. To be a political animal is not simply to be an

⁷⁷ NE I.2 1253a7–1253a18. Aristotle is ambiguous here when he says that man is *more* of a political animal than bees or any other gregarious animal. It would be more precise and clear to say that man is the only political animal while he and many others are also social, while allowing that a political nature may be ascribed to bees and such animals loosely by way of analogy rather than by a strictly correct usage of the term. For man is the only animal capable of rational thought, speech, and comprehension of right and wrong, and therefore of pursuing shared ends on this basis.

animal that lives in groups or sets up governments (after all, sheep do the former and barbarians do both; but neither, in Aristotle's view, are political — or at least not in the fullest and highest sense); rather, it is to cooperate with others on the basis of discourse about shared ends.

For Aristotle, being political is an expression of being rational; just as rational animals naturally conduct their private affairs through reason rather than through unreflective passion, so they naturally conduct their common affairs through public discourse and rational persuasion, rather than through violence. ... A fully human life, then, will be a life characterized by reason and intelligent cooperation. (Bees may cooperate after a fashion, but not on the basis of discourse about shared ends.) To a discursive (*λογικόν* [*logikon*]) animal, reason's value is not solely as an instrumental means to other goals, but as an intrinsic and constitutive part of a fully human life; and the same is true for the value of cooperation. The *λογικόν* [*logikon*] animal, to the extent that it truly expresses *λόγος* [*logos*] will not deal on cooperative terms with others merely because doing so makes others more likely to contribute instrumentally to the agent's good; rather, the agent will see a life of cooperation with others as an essential part of his own good.⁷⁸

We might then sum up Aristotle's conception of politics as discourse and deliberation between equals in joint pursuit of *eudaimonia*.

To fully understand the nature of the *polis* and of the *polis* members' relations to each other it is necessary to explore the role that liberty plays in Aristotle's ethical and political thought. Long argues that liberty is an external good for Aristotle. He distinguishes between two different meanings of external, however: "An external₁ good is one that is external to body and soul; that is, one that consists largely or solely in facts about the agent's environment. By contrast, an external₂ good is one that is external to the agent's well-being; that is, its value is purely instrumental."⁷⁹ Philosopher Fred Miller, in *Nature, Justice, and Rights in Aristotle's Politics*, seems to concede to communitarians that liberty is an external₂ good for Aristotle with these remarks: "Aristotle ... evidently relegated liberty to the status of a mere external good" and "freedom is only instrumentally valuable."⁸⁰ Long argues that, to the contrary, Aristotle treats liberty as an external₁ good but not also as an external₂ good.

⁷⁸ Long (1996), pp. 781–82. Emphasis, except on the Greek words, in original. See, also, Aristotle's *Politics* 1253a7–18 & 1280b6–35 and his *NE* 1097b7–11, cf. 1169b17–19.

⁷⁹ Long (1996), p. 787.

⁸⁰ Miller (1995), p. 356 and 356 n. 46, respectively.

Like friendship, liberty is an external₁ good but is not merely of instrumental value. It is a constitutive part of *eudaimonia*. Voluntary action for Aristotle is that in which “the moving principle is in the agent himself”⁸¹ and actions done under compulsion are involuntary.⁸² When one is physically coerced the moving principle is not in the agent himself.⁸³ For actions to be considered virtuous or vicious, and by implication for someone to achieve *eudaimonia*, the agent must act voluntarily and not under compulsion.⁸⁴ Additionally, Long makes the following points: He observes that Aristotle says in the *Politics* that “slavery is inconsistent with self-sufficiency (*ἀντάρχεια* [*antarchia*]).”⁸⁵ In the *Nicomachean Ethics*, we see that self-sufficiency is a formal requirement of *eudaimonia*,⁸⁶ and that “subordination to another person, being slavish, is inconsistent with greatness of soul.”⁸⁷ We are also told in the *Politics* that “virtuous people must be spirited and that spiritedness involves an inclination toward freedom.”⁸⁸ Moreover, Aristotle argues that deviant constitutions are despotic whereas a *polis* “is a community of freemen.”⁸⁹ Finally, in the *Metaphysics*, Aristotle anticipates Kant when he says “the man is free ... who exists for himself and not another.”⁹⁰

As the foregoing analysis implies, liberty and individual autonomy are intimately interrelated with group political autonomy. Miller argues that group “political autonomy (political rule according to law) requires some measure, at least, of individual autonomy (self-governance of the soul): that is, a city-state is (politically) autonomous only if the citizens are (individually) autonomous to some degree.”⁹¹ The individual citizens must be able to rule themselves rationally before being fully able politically to rule and be ruled in turn. Group political autonomy also requires, among other things, the consent of the governed to the constitution of the *polis*.⁹² Miller argues that consent is merely evidence of a just constitution for Aristotle: “Aristotle gives no indication of ... treating the consent of the governed as a justification for political authority. Rather, his view is that the voluntary compliance of the

81 *NE* III.1 1111a23–24.

82 See *NE* III.1 1111a22–23.

83 See *NE* III.1 1110a1–5.

84 See *NE* III.5 1114b21–25.

85 Long (1996), p. 788; cf. *Politics* IV.4 1291a10. Emphasis added.

86 See *NE* I.7 1097b7–21.

87 Long (1996), p. 788; cf. *NE* IV.3 1124b31–1125a2, *EE* III.7 1233b36–37.

88 *Ibid.*; cf. *Politics* VII.7 1327b19–1328a7.

89 *Politics* III.6 1279a21; see, also, 1279a17–21.

90 *Meta.* I.2 982b26.

91 Miller (2002), p. 390.

92 See *Politics* II.11 1272b30–31, III.14 1285a27–b21, IV.10 1295a15–24, V.10 1313a5–10, VII.2 1324b22–26.

subjects to political rule is evidence that the political rule is justified.”⁹³ But as Long points out, Aristotle suggests otherwise:

Yet it would, like as not, seem highly absurd to those willing to reflect, if this should be the task of the πολιτικοῦ [*politikou*]: to be attending to how he can rule and despotize (δεσπόζει [*despozē*]) over his neighbors, both those who are willing and those who are not willing. For how can that be πολιτικόν [*politikon*], or appropriate to a lawgiver, which at any rate is not even lawful? Now to rule not only rightly but wrongly is unlawful, and to dominate is not also to do so rightly. Nor yet do we see this in the other sciences; for it is not the task (ἔργον [*ergon*]) of a healer, nor of a steersman, to either persuade or coerce, the one his patients and the other his passengers [but only to persuade them]. But most people seem to think despotic art is πολιτικῆν [*politikēn*]. And precisely what they each will say is neither right nor advantageous with regard to themselves, this they are not ashamed to practice toward others; for they seek rightful rule for themselves, but toward others they have no concern for the things that are right.⁹⁴

Long argues that this passage is a reply to Plato’s argument in the *Politicus* that, analogous to a good physician, the “true πολιτικός [*politikos*] ... is not one who rules over willing subjects, but rather one who rules wisely, be his subjects willing or unwilling.”⁹⁵ Aristotle here turns Plato’s argument on its head by denying his “assumption that the consent of the patient is irrelevant to the ἔργον [*ergon*; function, task] of medicine; and he insists that to rule against the will of the ruled is a violation of [natural] law and [natural] justice.”⁹⁶

This consent of the governed is no mere consent of the majority but must be unanimous consent. This is the case because, as Miller convincingly argues in *Nature, Justice, and Rights*,

Aristotle implies that the best polis is a group of individuals co-operating for *mutual* [not the overall] advantage, when he characterizes it as “a community of similar persons for the sake of the best possible life” ([VII.8] 1328a35–7). It is implied that all members of the polis must take part in the good life, since the

93 Miller (1995), p. 273.

94 *Politics* VII.2 1324b22–36; Long’s (1996: 790) translation. Emphasis added. These words — “but only to persuade them” — in brackets are his; the rest are mine. Cf. *Politics* VII.14 1333B5–1334a10.

95 Long (1996), p. 790. Emphasis added. Cf. Plato’s *Politicus* [*Statesman*] 276d–277a and 291e–293e, in Plato (1997).

96 Ibid. Emphasis added.

inhabitants who play a merely functional role in promoting the end without partaking are adjuncts rather than members (cf. IV.4 1291a24–8).⁹⁷

As evidence Miller cites the following passage, among others, from Aristotle's *Politics*:

But a *polis* is excellent due to the fact that the citizens who partake in the constitution are excellent; but in our case all the citizens partake in the constitution. We must therefore enquire as to how a man becomes excellent; for even if all the citizens could be excellent without each of the citizens [being excellent], the latter would be more choiceworthy; for “all” follows from “each.”⁹⁸

In other words, a *polis* that does not have the consent of every citizen or does not promote the *eudaimonia* of every citizen is not a just *polis*. Consent, of course, is not enough by itself to establish group political autonomy and justify political rule. As the foregoing has suggested, it is also necessary that the constitution of the *polis* be in accord with natural justice and, more generally, that it promotes the *eudaimonia* of each and every one of its citizens.

An important qualification needs to be made regarding the role of consent in Aristotle's political theory, however. Long remarks that “Aristotle's focus is on consent *to* the political framework, rather than on consent *within* the political framework. Liberalism, of course, has traditionally been concerned with both.”⁹⁹ Long points out that it is important to take note of the different uses to which Aristotle put the terms *ἐλευθερία* (*eleutheria*) and *ἐξουσία* (*exousia*). Both can be translated as “freedom” or “liberty,” but *ἐλευθερία* (*eleutheria*) “represents the condition of not being ruled against one's interest and without one's consent” and “is for the most part a matter of consent to the constitution as a whole” while *ἐξουσία* (*exousia*) “are specific freedoms one is allowed under that constitution.”¹⁰⁰ The following passage from the *Metaphysics* is evidence that Aristotle did not think *ἐλευθερία* (*eleutheria*) necessarily implied any and all *ἐξουσία* (*exousia*):

For all things are ordered together in relation to one end; but, just as in a household, to those who are free (*ἐλευθέρους* [*eleutherois*]) it is least open {*ἤκιστα ἔξεστιν* [*ēkista exestin*]; note that *ἔξεστιν* [*exestin*] is the verb form of *ἐξουσία* [*exousia*]} to act as chance dictates, but rather, all or most things are ordained, whereas for slaves and beasts

97 Miller (1995), p. 219. Emphasis in original.

98 *Politics* VII.13 1332a32–38; Miller's (1995: 222) translation. Emphasis added. The brackets are his.

99 Long (1996), p. 795. Emphasis mine.

100 Ibid., p. 794.

little is ordained toward the common end, and most is as chance dictates.¹⁰¹

For liberals and for the Athenian democrats, *ἐλευθερία* (*eleutheria*) is not separable from *ἐξουσία* (*exousia*); but Aristotle rejects this conception of *ἐλευθερία* (*eleutheria*): “It is thought that ... doing whatever one wishes counts as being free (*ἐλεύθερον* [*eleutheron*]). Thus, in democracies of this sort, each person lives as he wishes. ... But this is base; for one should not deem it slavery, but rather salvation, to live according to the constitution.”¹⁰² Hence, the door to paternalistic legislation is open.

However, there are at least two rights in particular, highly valued by (classical) liberals, that Aristotle also recognizes and values: the right to bear arms and the right to private property. According to Aristotle, the “constitution must be confined to those who bear arms.”¹⁰³ Indeed, ancient Athens possessed no standing army or police force. It relied on a citizen militia. Aristotle’s reasons for advocating an armed citizenry are the same as the reasoning for the Second Amendment of the United States Constitution, viz., so that the citizens could ward off both threats from abroad and tyranny at home.¹⁰⁴ An unarmed citizenry is virtually an enslaved one.¹⁰⁵ It is tyrannies and oligarchies, but certainly not the best *polis*, that do not trust the general population with arms.¹⁰⁶

In *Politics* II.5, Aristotle claims that private property is necessary for virtuous actions: for example, generosity.¹⁰⁷ Miller correctly observes that Aristotle does not explicitly “endorse a Locke-style labour theory of acquisition,”¹⁰⁸ but Long argues that Aristotle does do much to lay the

101 *Meta.* XII.9 1075a18–23; Long’s (1996: 795) translation. The {} brackets are Long’s; the [] brackets are mine. Emphasis added.

102 *Politics* V.9 1310a30–36; Long’s (1996: 795) translation. Emphasis added.

103 *Politics* IV.13 1297b2; Long’s (1996: 799) translation. Cf. *Politics* IV.13 1297a30–b2 and VII.9 1329a10–12. It does not appear as if this is an optional right, however; that is, it is not clear whether citizens have a right *not* to bear arms.

104 See *Politics* III.15 1286b33–40, IV.4 1291a7–9, VII.8 1328b7–10.

105 See *Politics* II.8 1268a16–20.

106 See *Politics* V.10 1311a6–13.

107 Herein lies one case in which Aristotle recognizes at least implicitly a right to do wrong. He defends private property rights as a necessary precondition of the virtue of generosity. Generous giving differs from just giving in that the former involves giving what one has a right to withhold: “Aristotle’s point is that without private property rights, no act of giving could count as generous; generosity would simply collapse into justice. Thus, in Aristotle’s eyes, generosity presupposes the right to act ungenerously.” (Long 1996: 779)

108 Miller (1995), p. 328.

groundwork for such a theory.¹⁰⁹ Long points out that “Aristotle, like the Lockean liberal,¹¹⁰ insists that one’s property is an extension of oneself;¹¹¹ it is for this reason that our property is so precious to us, as something that is our own.”¹¹² Most significantly, Long adds, property comes to have this relationship to and importance for us precisely because we have produced it.¹¹³ Aristotle states:

The cause of this is that existence is to all men a thing to be chosen and loved, and that we exist by virtue of activity (i.e., by living and acting), and that the handiwork *is* in a sense, the producer of activity; he loves his handiwork, therefore, because he loves existence. And this is rooted in the nature of things; for what he is in potentiality, his handiwork manifests in activity.¹¹⁴

It remains to discuss Aristotle’s conceptions of the good citizen and the good man, and to do that we must also consider in more detail his conception of political rule. To begin with, Aristotle distinguishes political rule from other forms of rule such as kingly, despotical, and household management.¹¹⁵ “When the government is personal, the ruler is a king; when, according to the rules of the political science, the citizens rule and are ruled in turn, then he is called a statesman” and there is political rule.¹¹⁶ Those who know only how to rule and not how to be ruled as well as those who know only how to be ruled and not how to rule are not capable of political rule.¹¹⁷

Aristotle remarks that “there are different kinds of citizens; and he is a citizen in the fullest sense who shares in the honours of the state. Compare Homer’s words ‘like some dishonoured stranger’;¹¹⁸ he who is excluded from the honours of the state is no better than an alien.”¹¹⁹ A *polis* “ought to be composed, as far as possible, of equals and similars.”¹²⁰ It is the virtuous who possess individual autonomy, or the greatest measure of it, and in the best

109 Long (1996), pp. 800–801.

110 See Locke, *Second Treatise*, 5.26–27.

111 See *NE* V.6 1134b10–14, *Politics* I.6 1255b11; cf. *Politics* I.4 1254a7–18.

112 Long (1996), p. 800. See also *Politics* II.4 1262b22–23, II.5 1263a40–b5; *Rhetoric* I.11 1371b12–28.

113 *Ibid.*

114 *NE* IX.7 1168a5–10.

115 See *Politics* I.1 1252a7–9; cf. I.3 1253b19–20.

116 *Politics* I.1 1152a14–17.

117 See *Politics* III.4 1277b7–30 and IV.11 1295b15–26.

118 The quote is from *The Iliad* IX.648.

119 *Politics* III.5 1278a35–38.

120 *Politics* IV.11 1295b25–26; cf. I.7 1255b19–20, III.6 1279a8–16, and III.17 1287b37–1288a5.

polis the citizenry will all be virtuous and roughly equally so. The reason for this lies in Aristotle's conception of distributive justice and, particularly in relation to the question of who should rule, what has come to be called the merit principle. In discussing the just distribution of political offices, Aristotle makes the following argument:

All men think justice to be a sort of equality; and to a certain extent they agree with what we have said in our philosophical work about ethics. For they say that what is just is just *for* someone and that it should be equal for equals. But there still remains the question: equality or inequality of what? ... But if wealth and freedom are necessary elements, justice and valour are equally so; for without the former qualities a [*polis*] cannot exist at all, without the latter not well. ... If the existence of the [*polis*] is alone to be considered, then it would seem that all, or some at least, of these claims are just; but, if we take into account a good life [which is the *telos* of the *polis*], then, as I have already said, education and excellence have superior claims.¹²¹

Our conclusion, then, is that political society exists for the sake of noble actions, and not of living together. Hence they who contribute the most to such a society have a greater share in it than those who have the same or a greater freedom or nobility of birth but are inferior to them in political excellence; or than those who exceed them in wealth but are surpassed by them in excellence.¹²²

Thus, a *polis* that is politically autonomous will consist of citizens who are virtuous and roughly equal in this regard so that they can justly rule and be ruled in turn.

But is it possible to be both a good citizen and a good man at the same time? Can the requirements of the one conflict with those of the other? In what, specifically does being a good citizen consist?

One citizen differs from another, but the salvation of the community is the common business of them all. This community is the constitution; the excellence of each citizen must therefore be relative to the constitution of which he is a member. If, then, there are many forms of government, it is evident that there is not one single excellence of the good citizen which is perfect excellence. But we say that the good man is he who has one single excellence which

121 *Politics* III.12 1282b16–22, 1283a19–21, 13 1283a23–25.

122 *Politics* III.9 1281a3–8.

is perfect excellence. Hence it is evident that the good citizen need not of necessity possess the excellence which makes a good man.¹²³

Thus a good citizen is loyal and obedient to his *polis*, whether it is just or not, and in such cases where the *polis* is not just the requirements of being a good citizen will conflict with the requirements of being a good man. For Aristotle, obviously, the requirements of being a good man trump those of being a good citizen; and herein lies potential for civil disobedience and even revolution. The good man and the good citizen can be one and the same in the best *polis*, however. But should we not go further than this constitution-relative conception of the good citizen? Should we not take a broader perspective and say that a good citizen will be a good man who, recognizing that his *polis* deviates from the best *polis*, will do what he can to right its wrongs and steer it toward the ideal? For surely a citizen too is deficient who settles for a *polis* that is less than it can be.

From the liberal point of view there is a more serious difficulty besetting Aristotle's conceptions of the good citizen and the good man. Aristotle seems to suggest that the good man cannot actualize his full potential except when he is exercising practical wisdom as a just ruler. He says that "the good *ruler* is a good and wise man, but the citizen need not be wise."¹²⁴ Moreover,

men are praised for knowing both how to rule and how to obey, and he is said to be a citizen of excellence who is able to do both well. Now if we supposed the excellence of a good man to be that which rules, and the excellence of the citizen to include ruling and obeying, it cannot be said that they are equally worthy of praise.¹²⁵

Finally, Aristotle claims that "Practical wisdom is the only excellence peculiar to the ruler: it would seem that all other excellences must equally belong to ruler and subject. The excellence of the subject is certainly not wisdom, but only true opinion."¹²⁶ It would seem, then, that the truly good man will be a rare bird indeed and that he will only be a truly good man while he rules over supposedly free men, not when he serves in his capacity as a mere citizen. Even in the best *polis* it seems that the good citizen and the good man are only one and the same when united in the good ruler. Radical liberals can have no truck with this ideal.

123 *Politics* III.4 1277b27–35.

124 *NE* III.4 1277a14–15.

125 *NE* III.4 1277a26–28.

126 *NE* III.4 1277b26–29.

Both individual autonomy and group political autonomy depend upon the citizens receiving a proper education, however, for virtuous behavior generally requires education beginning in childhood. Aristotle, in essence, discusses two forms of education pertaining to intellectual virtue and ethical virtue, respectively, in *Nicomachean Ethics* II.1. “Intellectual excellence in the main owes both its birth and its growth to teaching (for which reason it requires experience and time), while moral excellence comes about as a result of habit.”¹²⁷ It is the task of legislators to “make citizens good by forming habits in them ... and those who do not effect it miss their mark, and it is in this that a good constitution differs from a bad one.”¹²⁸ The legislators or lawmakers must design the constitution and the law, which need not be written,¹²⁹ so that the *polis* will perform its proper educative function of teaching the citizens intellectual virtue and habituating them in ethical virtue, for

the paternal command indeed has not the required force or compulsive power (nor in general has the command of one man, unless he be a king or something similar), but the law *has* compulsive power, while it is at the same time an account proceeding from a sort of practical wisdom and intellect. And while people hate *men* who oppose their impulses, even if they oppose them rightly, the law in its ordaining of what is good is not burdensome.¹³⁰

But liberals disagree with Aristotle on the extent to which the law is educative and that it should be used for this purpose. The difference between the modern state with its mountains of vague, often contradictory, legislative laws and the Greek city-state with its largely customary laws is too often overlooked. If laws can have any educative power, they need to be relatively few in number, unambiguous, and easy for a layman to learn, understand, and remember. And they need to be supported by a shared political culture, otherwise they will simply be broken en masse. Witness the complete ineffectiveness, indeed, counter-productiveness, of the American Prohibition on Alcohol and War on Drugs. Moreover, there is no direct, one-to-one, necessary relationship between laws and education to virtue even under the best of conditions. Effective enforcement of the law can compel correct behavior, but correct behavior does not necessarily lead to virtue. More fundamentally, however, liberals disagree with Aristotle over the legitimate scope of the law and its primary function in society. The primary function of a legal system and its laws is not education but conflict resolution, and its

127 *NE* II.1 1103a14–19.

128 *NE* II.1 1103b3–6.

129 See *NE* X.9 1180b1.

130 *NE* X.9 1180a19–24.

legitimate scope is limited to prohibiting and rectifying (as far as possible) the most anti-social of vices — aggression, i.e., rights-violating behavior.

From the point of view of the modern liberal, there are a number of other deficiencies in Aristotle's ethical and political thought. First, Aristotle's conception of *eudaimonia* is arguably overly monistic, focusing on a rather narrow conception of the contemplative life, the political life, or some combination of the two. This led him to place great value in leisure, arguably too much, and to look down upon productive work and market activities. Aristotelian liberals generally reject this singular conception of the best life and recognize the value and importance of productiveness and the free market. Despite Aristotle's significantly greater recognition of the value of diversity and the individualized and diverse nature of human flourishing than Plato, he did not appreciate them fully. Second, as we have seen, Aristotle did not fully understand the nature, value, and fundamental importance of individual liberty for human flourishing. Third, he wrongly attributes to nature rather than cultural factors and mere prejudice on his part the alleged rational deficiency of women compared to that of men and of non-Greeks compared to Greeks.

Another important point of disagreement is the liberal recognition that human sociality can be cosmopolitan, not strictly limited to small and local, tight-knit communities like the *polis*. Aristotelian liberals go beyond Aristotle here: "Human sociality can, if need be, extend beyond the polis and be cosmopolitan. ... Human sociality is open-ended."¹³¹ We agree with Aristotle that in order to flourish one can only do so "in some community or other," but "this does not mean that a given community's values will always be appropriate for an individual. Thus, one is not morally required simply to accept — indeed, one might be required to reject — the status quo. In such circumstances, one might need to [attempt to] refashion a community's values [by example and persuasion] or find a new community."¹³² While I cannot speak for other Aristotelian liberals on this, I, at least, agree with Aristotle that the population size of a viable political community must by nature be small. Modern states are far too large in terms of population size and extent of territory to be true political communities. On the other hand, political communities can take different forms and individuals will generally belong to multiple associations, communities, and organizations during their lifetimes. Also, people can and often do have meaningful cosmopolitan ties. Moreover, with current and improving technology and economic prosperity in the areas of telecommunications and travel, it is not even necessary for

131 Ibid., pp. 141–142.

132 Ibid., p. 142.

meaningful associations, communities, and organizations to maintain tight territorial contiguity.

Liberals disagree with Aristotle's conflation of the state and civil society in his conception of the *polis*, a conflation that might have been unavoidable in the era of the Greek city-state but can no longer be excusable in light of modern experiences, theory, and historical knowledge. A state is an organization that claims a territorial monopoly over the legal use of force and ultimate decision-making. A civil society comprises the full range of associations human beings need to survive and flourish, including families, friendships, fraternal clubs, schools, religions, businesses and business relationships, even states. To conflate the two and use the same term to refer to both state and civil society, as Aristotle does, can only lead to conceptual confusion, paternalism and, in the end, totalitarianism.

Fred Miller has an excellent discussion of the conflation of state and civil society in Aristotle's thought in chapter 10, sections 4 and 5 of his *Nature, Justice, and Rights*. As an example, Aristotle's argument in *Politics* I.2 that the *polis* exists by nature, because it is necessary for the good life, depends in large part on identifying it with civil society. Since he did not envision a totalitarian government deeply embedded in the everyday lives of everyone, supplanting all other forms of association, he certainly cannot be suggesting here that government can provide everything necessary for the good life. Later in *Politics*, Aristotle shifts emphasis and uses the term *polis* to refer primarily to the organization of government rather than society as a whole. The conflation gets Aristotle into difficulty in *Politics* III.3, when he argues that if there is a change in constitution a new *polis* comes into existence. We are confronted with the absurdity that an entire city or, more broadly, civil society ceases to exist (commits suicide?) and another suddenly springs into being when there is a change in governmental organization. Additionally, this runs counter to Aristotle's view that civil society is a natural growth. But of course, societies do arise through spontaneous evolution and they do not cease to exist when the states that rule them change. To give one more example, in *Politics* III.9 Aristotle criticizes the view that the *polis* exists merely to prevent injustice and thereby promote exchange. For Aristotle, legislation should not be limited to this purpose; rather, the *polis* exists for the good life. The classical liberal view is that the purpose of the state, if indeed it has *any* legitimate purpose and reason to exist, is to prevent injustice (i.e., to protect individual rights); this view is compatible with Aristotle's view that the *polis* exists for the good life if one does not conflate state and civil society. According to this classical liberal view, the state exists to prevent injustice so that civil society (the *polis*) can promote the good life. But I do not think the

state is necessary to prevent injustice; indeed, by its very nature it must commit injustice.

Finally, two more points of disagreement involve central principles that Aristotle accepts — the principle of community and the principle of rulership. These principles, as Aristotle conceives them, have little, if any, validity for radical liberals. Here we can see how dangerous is the conflation of state and civil society in the single concept of the *polis*. The principle of community holds that “individuals can attain the good only if they belong to and are subject to the authority of the political community” — it is the second half of this principle that is problematic. Whether individuals can attain the good only if they are subject to the authority of the community depends on what exactly is meant by “subject to the authority of the political community.” If the phrase means “subject to the coercive power of the state” then the principle is simply false. It is belied by sound theory and history, and is a recipe for paternalistic morals legislation, the police state and, in its logical conclusion, totalitarianism. The principle of rulership holds that “the community can function only if an order is imposed on it by rational agents.”¹³³ Ronald Hamowy observes: “For at least two hundred years [owing to the Scottish Enlightenment], social philosophers have known that association does not need government, that, indeed, government is destructive of association.”¹³⁴ Scottish Enlightenment thinkers like Adam Ferguson, David Hume, and Adam Smith as well as modern thinkers like Austrian economist F.A. Hayek have theorized about and described the emergence of society, culture, law, language, and markets as spontaneous orders. A significant body of literature exists demonstrating both theoretically and historically that legislative law and a state-run public education system are inferior to the educative power of societal norms, customary law, market forces, and private educational organizations such as the family, churches, and private schools. The former are also, generally, counter-productive.

Toward a Non-Statist Theory of Politics and Democracy

We have seen that in Aristotle’s conception of political liberty the role of consent is limited *to* the constitution, or political framework. Consent *within* the constitution is not as important to him, whether it should be protected or not depends on the case. Liberals, on the other hand, hold consent within the political framework to be just as important as consent to the political framework; liberalism is a political philosophy of mutual consent

133 Miller (1995), p. 336.

134 Hamowy (2005), pp. 236–237.

between parties. But liberalism has since its discovery carried the seeds of its own corruption and destruction within it, with the exception of a few truly radical thinkers over the past few centuries, in the form of an inner contradiction — its acceptance of the state. Just as the radical members of the New Left movement of the 1960s eventually made their peace with the state after achieving their most immediate goals, so too did the original revolutionary liberals settle for merely liberalizing the state and then joining the new Establishment. It was this renunciation of its radical roots and the concomitant shift to conservative methods of reform, along with the rejection of radical natural law/natural rights philosophy in favor of the philosophy of utilitarianism, much more amenable to *raison d'état* decision-making, that left a radical void into which stepped socialism as a reaction to the then quasi-conservative liberalism and traditional conservatism.¹³⁵ The role of the state in most liberal theories leads to an inevitable tension between consent to the political framework and consent within the political framework. For the state, which is an organization that claims a territorial monopoly on the legal use of force and ultimate decision-making, must, by its very nature and existence, interfere with at least some mutually consensual relationships.

Roderick Long, in his essay “Immanent Liberalism: The Politics of Mutual Consent,” draws some illuminating distinctions between immanent and vicarious liberalism as well as immanent and vicarious communitarianism. He drew his inspiration for the distinction between immanent and vicarious liberalism from a similar distinction between genuine and spurious communitarianism made by Karl Marx in his essay “On the Jewish Question.” As Long relates Marx’s argument:

The modern democratic state systematically spreads a communitarian illusion over an underlying liberal reality. Citizens of such states exercise the communitarian values of solidarity and fellowship with other human beings — but only at the political level, through their ties to the state apparatus (in the form, e.g., of equal rights to the franchise). Such communal ties have no significance in people’s actual, everyday lives, which remain competitive, individualistic, and atomized.¹³⁶

Against this vicarious form of communitarianism, Marx advocates an immanent communitarianism in which communitarian ideals are realized in people’s everyday lives in society. These communitarian ideals are essentially expressed in status relationships; the ideal community is modeled after the

135 Rothbard (1965b), pp. 6–7.

136 Long (1995), pp. 1–2.

family (or, to hearken back to Arendt's critique of Plato, the household).¹³⁷ For socialist communitarians, these status relationships ought to be egalitarian in nature rather than hierarchical as with the conservatives of the Old Order. Marx's solution to the problems inherent in liberal corporatism

is to reassert the claims of status over contract — not, of course, by giving government priority over society, but rather by reshaping society along status rather than contract lines. In short, he favors an Immanent Communitarianism, with status values realized directly at the level of society, and he warns communitarians against a Vicarious Communitarianism that, by attempting to realize status only indirectly through the intermediary of the state, in effect turns the entire social realm over to the liberal ideal of contract.¹³⁸

The paradigm liberal relationship is the contractual relationship, which is characterized by mutual consent. The distinction between immanent and vicarious liberalism hinges on the locus of consent. “Shall liberalism be immanent, realizing contract values directly at the level of society, or vicarious, realizing such values only indirectly and fictively through the intermediary of the state — thus running the analogous risk of turning the entire social realm over to the communitarian ideal of status?”¹³⁹ And it is exactly the realization of this risk in corporatist-liberal democracies around the world against which the New Left rebelled. Long points out that although at first glance the social contract appears to embody the contractual ideal of mutual consent,

social-contract theory runs the risk of displacing consent from its immanent role at the level of society to a vicarious role at the level of the state. This opens the door to the Rousseau-Kant-Hegel paradigm of contractualism, which aims not at freedom *from* constraint, but rather at freedom *through* constraints expressive of the constrainees' true will. Thinkers in this paradigm see the function of consent as the *legitimation* of our chains, rather than their removal. The danger to liberalism is that, in focusing on the role of consent *to* the political framework, liberals may lose sight of consent, or its absence, *within* that framework — bartering, in Benjamin Constant's terms, the liberty of the moderns for the liberty of the ancients. This is fine from a communitarian perspective, of course, but surely undesirable from a liberal one.

Social-contract theory need not have such implications, of course. For Overton, Milton, and Locke, for example, the function of the

¹³⁷ See, e.g., Alasdair MacIntyre, *After Virtue* (1984), pp. 220–221.

¹³⁸ Long (1995), p. 10.

¹³⁹ *Ibid.*, p. 10.

social contract is to guard and preserve consensual relations in everyday social life, not to replace them. Contract values remain immanent, not vicarious. When consent to political authority takes center stage, however — as it does with Hobbes and Rousseau — and the state rather than society becomes the morally significant locus of contract relations, the result all too often is a de facto society of status resting on a de jure foundation of contract.¹⁴⁰

Although the state is not the morally significant locus of contract relations in all theories of liberalism, we have seen that it tends to become so in practice over time. This is because even the most minimal state monopolizes two of the most important realms of political decision-making and enforcement: law and security. It must by its very nature, if it is to remain what it is, prohibit mutually consensual relations in these realms. Moreover, theory and history have shown that no state remains limited for long; they all eventually grow into Leviathan if they are not first overthrown from within or conquered from without.

In the previously quoted passage above, Long says something interesting about the liberty of the moderns versus the liberty of the ancients that bears further consideration. He remarks that vicarious liberalism risks trading the former for the latter, with the implication that this would not be desirable. As described, correctly, by Constant, they do appear to be irreconcilable. The liberty of the ancients, Constant writes,

consisted in exercising collectively, but *directly*, several parts of the complete sovereignty; in deliberating, in the public square, over war and peace; in forming alliances with foreign governments; in voting laws, in pronouncing judgments; in examining the accounts, the acts, the stewardship of the magistrates; in calling them to appear in front of the assembled people, in accusing, condemning or absolving them.¹⁴¹

There is room for consent to the political framework here, but the ancients “admitted as compatible with this collective freedom the complete subjection of the individual to the authority of the community.”¹⁴² In contrast, the moderns traditionally understood liberty to mean everyone having

the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express

140 Ibid., pp. 10–11. Emphasis in original.

141 Benjamin Constant (1819 [1988]), “The Liberty of the Ancients Compared with that of the Moderns,” p. 311. Emphasis mine.

142 Ibid., p. 311.

their opinion, choose their profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone's right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations and whims. Finally it is everyone's right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.¹⁴³

Here we have both consent to the political framework and consent within the political framework protected, at least in theory, but something has gone missing in the transition. While a marked improvement over the liberty of the ancients, the liberty of the moderns replaces direct political participation with a vicarious substitute. Representative democracy is substituted for direct democracy.

The individual, independent in his private life, is, even in the freest of states, sovereign only in appearance. His sovereignty is restricted and almost always suspended. If, at fixed and rare intervals, in which he is again surrounded by precautions and obstacles, he exercises this sovereignty, it is always only to renounce it.¹⁴⁴

Representative democracy and the federal and constitutional checks and balances that accompany it in modern republican governments are thought to be necessary to protect the liberty of the moderns.

Is it not possible to have the liberty of the moderns with the direct participation of the ancients? to combine the best features of both types of liberty? Indeed, I think it is. The dialectical solution to this apparent dilemma lies in participatory democracy and a shifting of the locus of politics from the state to civil society. What is needed is a truly immanent, rather than our customarily vicarious, politics.

At this point libertarian anarchists may object. What is all this talk about democracy and politics within the locus of society? We are trying to get rid of democracy and politics; these are creatures of the state, after all. Well, no, they are not, actually. One of the aims of this paper has been to show that properly conceived they are radically non-statist. Granted, more needs to be said in this regard, but I am not yet done. Don Lavoie has some remarks that are particularly relevant here:

143 *Ibid.*, pp. 310–311.

144 *Ibid.*, p. 312.

Just as socialism resolved the conflict between democracy and markets by rejecting markets, liberalism ends up marginalizing democracy [by traditionally relegating it to an instrumental process within the state]. ... The anarchist position seems even worse ... anarchism winds up apparently rejecting politics, and therefore democracy, altogether. After all, as radical liberals say, if everything is decided by market forces, what is there to vote about?

In that question is contained, I suspect, a fundamental misreading of the nature of both market forces and democratic principles. First of all, as I have been saying, democracy is more an issue of open discourse than it is an issue of voting. And secondly, when decisions are “left to the market” there is plenty to talk about.¹⁴⁵

Although the market process operates by fixed laws, in a fundamental sense *we* are the market. Ultimately, it is up to us what the market will provide and what it will not. The market reflects our own values. To this it can be added that the market is but an aspect of society, albeit an important one, not the whole of it. Not all decisions need be purely market-based ones.

Much of the reticence socialists and communitarians feel toward liberalism can probably be attributed to a fundamental misunderstanding of market processes. This misunderstanding, I believe, has at least two sources: 1) the misidentification of statist-corporatist capitalism with free markets and 2) the mistaken approach taken to economic theory by prominent classical and, especially, neoclassical economists. Modern mainstream economics provides an especially unrealistic, mechanistic, and atomistic picture of markets. The Austrian school of economics and the radical form of liberalism defended here are not plagued by these errors, however; but these issues cannot be discussed in detail here. For now, it may suffice to assuage the communitarian critic with the following point by Roderick Long:

Strictly speaking, liberals do not generally have any objection to status relationships as such; they need not regard significant moral ties as originating from voluntarily chosen relationships alone. In this sense, liberals have nothing against communitarian values. What liberals insist on is that people’s lives not be coercively *controlled* by such relationships. This distinction is one that communitarian critics of liberal individualism often miss.¹⁴⁶

Lavoie makes some important points about the political culture necessarily underlying any political framework as well as the market. Critics of the market often assume wrongly that it is comprised of a-political, a-

145 Lavoie (1993), p. 117. Emphasis in original.

146 Long (1995), p. 7. Emphasis in original.

historical, cultureless, atomistic agents. When defending their preferred political framework people usually assume without explicit argument a political culture necessary to support it. Every political framework is necessarily supported by commonly held beliefs about what is morally acceptable. Focusing on the legal system, Lavoie writes:

What makes a legal system, *any* legal system, work is a shared system of belief in the rules of justice — a political culture. The culture is, in turn, an evolving process, a tradition which is continually being reappropriated in creative ways in the interpersonal and public discourses through which social individuals communicate. Anarchism seems workable to its advocates only because they implicitly assume a certain democratic political culture will prevail. Unless anarchists begin to say something about the kind of political culture that would be necessary for a stateless legal order, they will never get very far.

Everything depends here on what is considered acceptable social behavior, that is, on the constraints imposed by a particular political culture. Where slavery is considered offensive, those who attempt it are easily overwhelmed by the horror of the public. Where it is thought by the general public justifiable, no amount of constitutional design will prevent it. Where taxes are accepted as morally defensible, they will be deployed; where they are equated with slavery, they will be impossible to collect. The feasibility of slavery or taxation does not fundamentally depend on the (concentrated) opinion of the designated representatives of the public, but on the (distributed) opinions of the public itself.

To be sure, there are fixed natural laws, economic and otherwise, that preclude some political frameworks from being workable. Of the rest, some will be better than others; and some, like minarchism, will possess such inherent structural incentives as to carry the seeds of their own eventual destruction. But all rely upon an underlying political culture for support.

Lavoie is quite right that political culture is an issue that libertarian market anarchists sorely need to address, particularly with regard to the two most sacred and intertwined duties of the state: the provision of justice and security.

The issue of the market supply of legal services is especially interesting, in that law lies at the intersection of the two great ideals of liberalism, democracy and markets. Law is at once the most important precondition of effective market processes and the most important topic of democratic political discourse.

In the debates over the supply of justice services, anarchists have tended to picture the legal order nonpolitically, and the limited

governmentalists to picture it noneconomically. I think both of these ways of thinking about the legal order need to be challenged. Each is a one-sided way of viewing political economy, which should be seen as an inseparable whole.

Rothbard and [David] Friedman are a case in point. They take the position that politics (and hence any positive notion of democracy) is by definition a matter of government, so that the whole topic is, as it were, summarily dismissed. There is no need for political discourse in the utopias of these authors, since agents simply “buy” justice services on an impersonal competitive market. Friedman’s approach leaves the enforcement, interpretation, and definition of rights to be “decided by the market.” In Rothbard’s case, enforcement and interpretation are left to private police and courts, but the legal rules are supposed to be derived from natural law, established once and for all by a deductive science of ethics.

In either case, there is no room in these utopias for politics. At most, political discourse is only needed in order to drive the process that brings about a radically liberal society, but once the free society exists, all the work of politics is over. The definition of rights is decided without the need for discourse, either by the force of an impersonal market, or by the force of an unquestionable logic.

Liberals cannot resolve the issue of whether a legal system could be supplied by a free market because the issue depends on what is happening in the political culture, in the ongoing discourses about mutual rights and obligations, which individualist liberalism, in both limited-government and anarchist versions, utterly ignores. Radical liberals have been so intent on establishing a universal system of individual rights that they have failed to address the cultural conditions in which socialized individuals would demand this or that kind of legal service.

The weakness of both sides in the debates over anarchism is their neglect of what lies behind the legal order. Why does anybody obey the law, whether it is conceived as being supplied in a competitive or monopolistic manner? Limited-government advocates assume that it is the ultimate threat of force by a monopoly state that ensures that individuals will obey the law. Anarchists assume that there is a demand for genuine justice on the part of individual agents, so that competitive courts will profit most from behaving in a properly liberal manner. Both beg the question of the political culture. What gives legitimacy to a legal system is neither the force of threat by the police, nor the force of pure logic, but the force of public opinion,

of the distributed political discourse about rights and responsibilities.¹⁴⁷

Lavoie is arguably unfair to Friedman and Rothbard, but tendencies he identifies are there in both and in their followers. While Friedman, Rothbard, and their followers do not ignore the issues of political culture to the extent Lavoie suggests, he is right that they do not give these issues enough attention. And notably Lavoie remarks in a footnote that he has been persuaded that free-market anarchism is workable under the right cultural conditions.¹⁴⁸ He does seem to go too far, however, in another footnote:

Indeed, this may be giving these authors too much credit. Political discourse presupposes an open exploration of issues of mutual concern. It seems that for Rothbard and his followers, genuine political discourse is not even needed in order to *get* to the free society. Instead, it seems there needs to be what is essentially a religious-conversion experience. The definition of rights is not open to exploratory dialogue but presumed to have been accomplished once and for all in Rothbard's *Ethics of Liberty*.¹⁴⁹

I do not think it accurate to say that Rothbard held the Libertarian Law Code to have been deduced once and for all in his *Ethics of Liberty*. But what I find particularly problematic about this footnote is the vagueness in the notion that the definition of rights must be open to exploratory dialogue. What does this mean exactly? It seems uncontroversial to me that there will and should be open exploratory dialogue as to which particular liberal theory of rights is the best; likewise, that there will and should be dialogue over the proper interpretation and application of rights at the margin. There will even be disagreements over matters of substance. But the core conceptions of the basic liberal rights must be generally accepted if there is to be genuine, immanent political-democratic discourse at all. Lavoie seems to recognize this in another work co-authored with Emily Chamlee-Wright:

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.¹⁵⁰

They are here discussing the challenge of social responsibility with regard to businesses but the point applies to political-democratic discourse generally.

147 Lavoie (1993), pp. 117–119.

148 Ibid., p. 115 n. 26.

149 Ibid., p. 118 n. 30.

150 Lavoie and Chamlee-Wright (2000), p. 116.

Liberty, in the full liberal sense, is a necessary precondition for genuine, immanent politics.

Toward a Non-Statist Aristotelian-Liberal Theory of Politics and Democracy

Let us now turn to the task of developing the kernel of an adequate theory of politics. I understand such a theory to be a non-statist one along Aristotelian-liberal lines, grounded in a *eudaimonistic* theory of virtue ethics and natural rights. In the liberal tradition rights have, at least since Locke, generally been grounded in self-ownership, and liberalism has generally been viewed by defenders and critics alike as having little or nothing to say about ethical issues beyond justice. An Aristotelian liberalism, on the other hand, grounds rights precisely in man's obligation to pursue his own *eudaimonia*, his natural and ultimate end, which is a life of flourishing or well-being, a life proper to man. Since man is a rational, political and social animal, a fully human life is one lived in accord with these essential aspects of his nature within the context that he is neither a god nor a mere beast but a *human* being who must make his way in the world in all his vulnerable embodiedness without giving in to the baser aspects of his nature.

First and foremost, *eudaimonia* requires living a life of reason, which means using one's rational faculty to discover the ends one ought to pursue and the proper means for achieving them, both in solitary situations and in social and political life. The virtues are constitutive of a life of *eudaimonia*, principles of proper conduct both for when we are alone and in our relations with others. Like the virtue ethics of Aristotle, Aristotelian-liberal virtue ethics focuses on the moral agent; it offers a *supply-side* approach rather than a typically modern *demand-side* approach to morality and rights. As Roderick Long (1994/95) explains: "According to a demand-side ethics, the way that A should treat B is determined primarily by facts about B, the *patient* [recipient] of moral activity; but for a supply-side approach like Virtue Ethics, the way that A should treat B is determined primarily by facts about A, the *agent* of moral activity." The central question of a *eudaimonistic* virtue ethics is not "What consequences should I promote?" or "What rules should I follow?" but rather "What kind of person should I be?"¹⁵¹

It is the very nature of *eudaimonia* and virtue, or more narrowly of moral acts, that they must be desired and freely chosen for the right reasons.¹⁵² The pursuit of *eudaimonia*, the practice of virtue, must be self-directed. Coercive

151 Long (1994/95).

152 See Aristotle, *Nicomachean Ethics*, II.4 (1105a18–1105b17) and III.1–5 (1109b30–1115a6).

interference, or the threat or use of physical force, compromises self-direction and therefore moral agency. An act of mine does not count as virtuous and therefore contributory toward my *eudaimonia* if you force it upon me, even if it otherwise would have been had I desired and freely chosen it for the right reasons. From the structural level of analysis, of the ordering principle of society, we can see that the right to liberty protects the *possibility* of self-direction, a necessary condition for moral agency common to all forms of human flourishing. The right to liberty, in this sense, is a *metanormative* principle. From the personal level of analysis, the level of ethical theory, we can draw on the supply-side/demand-side distinction to arrive at the realization that rights do not derive primarily from facts about the rights-bearer qua moral recipient but rather derive primarily from facts about the moral agent. In other words, it is not that rights are first properties of individuals and thereby produce obligations in others. On the contrary, it is rather our prior obligations as human beings to live a life of reason from which rights are derived. As Long argues,

just as courage, generosity, and temperance are the virtues that define the appropriately human attitudes toward danger, giving, and bodily pleasures respectively, so the virtue of justice defines the appropriately human attitude toward violence. A maximally human life will give central place to the distinctively human faculty of *reason*; and one's life more fully expresses this faculty to the extent that one deals with others through *reason* and persuasion, rather than through violence and force. To choose cooperation over violence is to choose a human mode of existence over a bestial one. Hence the virtuous person will refrain from initiating coercion against others.¹⁵³

Rights are legitimately enforceable moral claims derived from the prior obligation to deal with each other through reason rather than force. Stated negatively and more precisely: your right is a legitimately enforceable moral claim derived from my prior obligation not to threaten or use initiatory physical force against you.

For Locke, the origin and purpose of government, and its only justification, is the protection of the individual's rights to life, liberty, and property. If the state is to have any justification in light of a Lockean or Aristotelian liberalism, it will at least have to meet this criterion. A careful examination of the nature of the state, however, reveals that it cannot. Recall that the state is an organization that claims a territorial monopoly on the legal use of force and ultimate decision-making. Consider, also, that states generally acquire their revenue by physical coercion or threat thereof

153 Long (1994/95). Emphasis in original.

(taxation). While it is conceivable that in principle a state could acquire its revenue purely from voluntary contributions, it would be a misnomer to call this taxation.¹⁵⁴ If tax “contributions” were truly voluntary, there would be no need to back up their collection with the threat or use of initiatory physical force. Taxation is theft and therefore a violation of property rights. As a self-proclaimed territorial monopolist, even the most minimal libertarian state, should it seek to enforce its claim, must necessarily violate the rights of any of its rights-respecting subjects who prefer an alternative. When the state attempts to prohibit competitors in the voluntary production, purchase, and sale of security and legal services, it violates the rights of all the parties involved. Even if we put all this aside, no state known to history has been so constituted as to provide a reasonable assurance that the exercise of its power will not be arbitrary, that the laws it passes will be just, that it will not seek continually and increasingly to expand the size and scope of its activities beyond the protection of rights.

It would be correct to point out that none of the foregoing precludes the possibility of a state actually acquiring the explicit and unanimous consent of its subjects. It is, after all, conceivable that a state could, at least in principle, manage to do so. A few points can be made in reply. First, while this may in principle be possible, in actual practice such an occurrence is exceedingly unlikely and like to be of only transitory duration. Second, this in-principle-possibility is no justification of a state that does not have explicit and unanimous consent in reality. Third, although consent is necessary, it is not enough to justify the state, to make the state just. A state that has the explicit and unanimous consent of its subjects but violates the rights of other persons who are not its subjects is still unjust, as are its agents and supporters.

More to the point, a contract with the state is no more valid than, and is essentially the same as, a slavery contract.^{155,156} This is essentially because

154 One possible means of voluntary revenue for the state that has been suggested is a lottery. However, one wonders how any state would effectively enforce its claim to a territorial monopoly with voluntary contributions as its only source of revenue. Hence, one sees in history the inherent tendency of states to impose and increase taxation on their subjects.

155 For lack of a better term, I will use “state contract” to refer primarily to hypothetical explicit contracts with the state, although my argument against these applies equally as well to the fiction of the implicit-consent-based social “contract.”

156 Locke’s contention that the people have a right to revolution because the relationship between a people and their state is contractual notwithstanding; that this ought to be the case is true. Moreover, a truly voluntary government will recognize an unlimited right of secession (making revolution unnecessary). But Locke’s normative

the state claims a territorial monopoly on the legal use of force and ultimate decision-making. In both cases (of state contracts and slavery contracts), to paraphrase Spooner, an individual delegates, or gives to another, a right of arbitrary dominion over himself, and this no one can do, for the right to liberty is inalienable. If the subject/slave later changes his mind, exit from the agreement would be barred to him by the terms of the contract; a state contract with the right of secession (down to the individual level), or a slavery contract with the right of exit, would be a contradiction in terms. Moreover, even if the contract stipulates what the state/master can or cannot do to the subject/slave, aside from those stipulations the state/master has been delegated or given arbitrary dominion over the subject/slave. If anything, the state contract is the worse of the two because states generally have greater power and perceived legitimacy than individual persons and private organizations. To whom does the subject turn when the state inevitably begins exceeding the limits of the contract? *Quis custodiet ipsos custodes?*

For an explanation of why the right to liberty is inalienable, and why one cannot therefore delegate or give to another a right of arbitrary dominion over himself, two points can be made, the first suggestive and the second decisive.¹⁵⁷ First, since we all have an obligation to live a life of *eudaimonia*, which requires self-directed action, person A cannot morally abdicate his responsibility by delegating or giving to person B a right of arbitrary dominion over himself. While this claim does not by itself establish the right to liberty or its inalienability, it does point out the moral impropriety on the part of the would-be subject/slave to enter into a state or slavery contract. Second, recall that for Aristotelian liberalism rights derive primarily from the moral agent's obligation not to aggress against other rational beings. Rights do not simply reside in the moral recipient and thereby produce obligations for others. Person A's right not to be aggressed against by person B cannot simply be abdicated by an act of will to B, for B's obligation not to aggress against A depends on B's calling as a human being, something which is not in the control of A. *Nemo dat quod non habet*.¹⁵⁸ The right to liberty is therefore inalienable. It follows from this that both state contracts and slavery contracts are illegitimate because they are fraudulent on the part of the would-be subject/slave and more generally unjust on the part of the would-be

claim about states does not reflect reality — states do not behave as if their relationships with their people are contractual, and no such contract has ever been signed by all of the people in any case. Furthermore, it is not enough for the rights to secession and revolution to reside only in the people as a whole.

¹⁵⁷ The argument that follows is heavily indebted to Roderick Long's (1994/95) "Slavery Contracts and Inalienable Rights: A Formulation."

¹⁵⁸ An ancient Roman legal maxim: "No one can give what they do not have."

state/master, for the former is attempting to transfer something that is not his to transfer and the latter is attempting to receive and exercise a power to which he has no right. The state, therefore, can never be just, even in the extremely unlikely event it should somehow garner the explicit and unanimous consent of its subjects.^{159,160} That the state is inherently unjust is a conceptual truth; whether any given organization in society counts as a state is a separate empirical matter that must be left up to analysis of history and the present. I dare say, however, that every one of the national governments currently existing is a state.

The foregoing highlights an important element of any adequate definition or theory of politics: equality. I have in mind here equality of a particularly fundamental and radical kind: equality in authority. Locke describes this equality in authority as a condition

wherein all the power and jurisdiction is reciprocal, no one having more than another: there being nothing more evident than that creatures of the same species and rank promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection.¹⁶¹

The violation of a person's rights constitutes putting him under subordination or subjection to the rights-violator(s). Likewise, to delegate or grant to some person or organization the power of arbitrary dominion over oneself constitutes submitting oneself to subordination or subjection.

Being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions. ... And being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such subordination among us that may authorize

159 This is not to say that everything a state may do or require of us is unjust.

160 If the foregoing has raised the worry that the Aristotelian-liberal account of rights undermines the making of contracts in general, it is beyond the scope of this essay to allay those concerns but I happily refer the reader to Long (1994/95) wherein this worry has already deftly been dealt with. It also bears pointing out that a similar critique of the state can be made on purely Lockean grounds, although Locke's conception of the inalienability of the right to liberty hinges upon God's ownership of us rather than on a supply-side justice argument. Finally, the foregoing analysis presents a problem for those relatively few libertarians who hold the right to liberty to be alienable and therefore slavery contracts to be legitimate, for state contracts too would seem to be legitimate on this view, and so a back door is left open for legitimate statism by consent.

161 Locke, *Second Treatise* II.4, p. 263, in Locke (1993).

us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours.¹⁶²

Roderick Long notes in his essay "Equality: The Unknown Ideal" that this "is a notable pre-Kantian statement of the principle that human beings are not to be treated as mere means to the ends of others." Long also points out that equality in authority "involves not merely equality *before* legislators, judges and police, but, far more crucially, equality *with* legislators, judges, and police."¹⁶³

The execution of the law of nature is in that state put into every man's hands, whereby everyone has a right to punish the transgressors of that law [of natural rights] to such a degree as may hinder its violation. ... For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, everyone must needs have a right to do.¹⁶⁴

The state institutionalizes inequality of authority, making its subjects subordinate and subjected to legislators, judges, and police. This is true even of a democratic state. Locke took the equality in authority described here as existing in a state of nature, which device he used as a thought experiment for discovering man's rights. Eschewing the use of such a philosophical method, I take equality in authority instead to be natural in the Aristotelian sense of teleological completeness or perfection.

We are now in a position to adopt the Aristotelian conception of politics sketched two sections prior and to understand the role that the "between equals" phrase plays in it within an Aristotelian-liberal theory. In general, *politics is discourse and deliberation between equals (in authority) in joint pursuit of eudaimonia*. In specific, narrower cases, this will manifest in the cooperative pursuit of shared ends which are partially constitutive of *eudaimonia*. I include deliberation in the definition to signify in Aristotelian terms the decision-making process that culminates in action. Politics is not limited to mere theoretical discourse but has its ultimate end in practical, cooperative action in pursuit of *eudaimonia*.

There are at least three conditions necessary for immanent politics to take place: direct participation, direct action, and individual liberty. Politics ceases to be immanent, and becomes increasingly vicarious until it is nonexistent or is replaced by despotical rule, under at least three conditions: 1) the extent that it is conducted only by representatives, 2) the extent to

162 Locke, II.6, p. 264.

163 Long (2001). Online publication with no page numbers. Emphasis in original.

164 Locke, II.7, p. 264.

which discourse and deliberation are separated from their culmination in direct action, and 3) the extent that rights-violating behavior (the threat or use of initiatory physical force) pervades the relationship. Much of what passes for politics in modern states takes place only among representatives, puts a vast gulf between political discourse and direct action, and involves rights-violating behavior or policies. Being conducted largely by representatives and via electoral and legislative processes, discourse and deliberation do not end in direct action. Thus politics, an important means of pursuing *eudaimonia*, is highly vicarious in even the freest of modern states.

The particular institutions within which genuine politics is conducted vary. It has been a long-standing mistake in political philosophy to identify politics primarily with one particular institution — the state — particularly since statist politics is extremely vicarious at best, a complete misnomer at worst. Genuine politics is not household management writ large. Politics can take place at work, but I am not here referring to what is cynically and jokingly called “office politics.” So-called office politics, like statist politics, is a vulgar imitation of politics not really aimed at *eudaimonia*. It is more competitive than cooperative, modeled as it is after the power-grabbing, back-stabbing, deceit, and vice prevalent in statist politics. Immanent politics at work can manifest in discourse and deliberation over the goals of the company, its internal culture and activities for instilling and reinforcing it, the products and services that will be provided, the wages and benefits of employees, philanthropic efforts, its impact on the environment, and so forth. Genuine politics can also be found in the governing operations of clubs of various types. When parents, whose son or daughter has died of some rare and understudied disease that as yet has no cure, set out to raise awareness of it by enlisting the voluntary aid of others and setting up a foundation to fund educational outreach, scientific research, and charitable support for other victims, genuine politics is involved. When parents in a local neighborhood become fed up with ineffective public schools and get together to discuss setting up a cooperative home-schooling venture, here too is genuine politics. Much of what the New Left did in the name of participatory democracy involved genuine politics. Genuine politics can even take place in internet chatrooms and forums and on blogs.

The question of what is or should be the end of politics is a perennial one in political philosophy. Classical liberalism and contemporary libertarianism have traditionally held, with Lord Acton, that liberty is the highest end of politics. Other political philosophies and even progressive or “leftist” deviations of liberalism give different answers and are willing to compromise liberty to varying degrees in pursuit of their favored ends. Most classical liberals and contemporary libertarians do not think that liberty is the

highest end period, however. Rather, they hold liberty to be the highest end of politics because it is a necessary means for achieving other, more important ends, outside of politics. Consequently, they tend to limit liberalism and politics to narrow considerations of justice, rights and liberty, putting a wall of separation between politics and the rest of morality. It should be apparent that the highest end of the conception of politics I have developed is not liberty but *eudaimonia*. Can my theory then have any legitimate claim to being a form of liberalism? I think so. Classical liberals and contemporary libertarians have mistaken statist politics for true politics. If politics is identified with the state, then liberty must indeed be the highest end of politics — but it will eventually be undermined by the state. Those who reject the state entirely tend to throw out the baby (politics) with the dirty bathwater (the state). But in my conception, genuine politics *presupposes* liberty and *precludes* acceptance of the state. Liberty, we might say, is the highest *pre*-political end, for without it politics and flourishing are not possible. When the state is not the locus of politics, there is no problem in holding liberty to be an end-in-itself and, more importantly, to be a necessary precondition of and constitutive means to the highest end of politics — *eudaimonia*. Statist policies such as war, wealth redistribution, economic regulation, and morals legislation are all unjust in this view; liberty and pluralism are not threatened by Aristotelian liberalism's more robust conceptions of ethics and politics.

Conclusion

In this paper, I first sketched a brief history of liberalism in order to set the context for a discussion of the New Left movement and its opposition to so-called corporatist liberalism. The New Left movement was shown to have more in common with classical liberalism and contemporary libertarianism than the traditional left/right political continuum would suggest. All three share a rejection of the old order of the status society that corporatist liberalism represents. Lessons were derived from the New Left opposition to the corporatist-liberal democratic state. The history of liberalism and the New Left teaches of the evils and inefficiencies of the bureaucratic managerial state and manipulative statist democracy. It also teaches that there are non-statist alternatives to social problems. And it teaches of the dangers radical movements face from co-option by the ruling elites, especially when they lack a consistent, systematic anti-statist ideology.

Next, I discussed Aristotle's conception of politics in order to distill the essence of the political in his thought and to point out some crucial areas of disagreement between him and Aristotelian liberalism. It will be useful to recapitulate these disagreements and others I discuss in detail elsewhere. An

important point of disagreement is the liberal recognition that human sociality can be cosmopolitan, not strictly limited to small and local, tight-knit communities like the *polis*. Human sociality is open-ended and not limited to the close ties of family and *polis*. I have noted that Aristotle did not fully recognize the highly individualized and diverse nature of human flourishing. It is fairly well-known that Aristotle's conception of the best life entailed a life of leisure and contemplation and that he did not think highly of productive work and market activities. Aristotelian liberals generally reject this singular conception of the best life and recognize the value and importance of productiveness and the free market. Additionally, Aristotelian liberals necessarily reject Aristotle's support for slavery and the subordination of women.

While I cannot speak for other Aristotelian liberals on this, I, at least, agree with Aristotle that the population size of a viable political community must by nature be small. Modern states are far too large in terms of population size and extent of territory to be true political communities. On the other hand, political communities can take different forms and individuals will generally belong to multiple associations, communities, and organizations during their lifetimes. Also, people can and often do have meaningful cosmopolitan ties. Moreover, with current and improving technology and economic prosperity in the areas of telecommunications and travel, it is not even necessary for meaningful associations, communities, and organizations to maintain tight territorial contiguity.

Liberals disagree with Aristotle on his conflation of the state and civil society. Liberals also disagree with Aristotle on the extent to which the law is educative and that it should be used for this purpose. The difference between the modern state with its mountains of vague, often contradictory, legislative laws and the Greek city-state with its largely customary laws is too often overlooked. If laws can have any educative power, they need to be relatively few in number, unambiguous, and easy for a layman to learn, understand, and remember. And they need to be supported by a shared political culture, otherwise they will simply be broken en masse. Moreover, there is no direct, one-to-one, necessary relationship between laws and education to virtue even in the best of conditions. Effective enforcement of the law can force correct behavior, but correct behavior does not necessarily lead to virtue. More fundamentally, however, liberals disagree with Aristotle over the legitimate scope of the law and its primary function in society. The primary function of a legal system and its laws is not education but conflict resolution, and its legitimate scope is limited to prohibiting and rectifying (as far as possible) the most anti-social of vices — aggression, i.e., rights-violating behavior. Finally, while Aristotle makes consent a criterion for his best *polis*, he limits this

consent to the constitution. Liberalism makes mutual consent to a criterion for all social relationships.

In my examination of Aristotle's conception of politics, I distilled an essential definition for Aristotle's conception of politics. Where we ultimately disagree is on the relevant meaning of "equals" and on the proper locus of politics. After my discussion of Aristotle's political thought, I then turned to the task of developing a non-statist conception of politics and democracy. I argued that the essential characteristic and primary purpose of politics is the joint pursuit of *eudaimonia* — specifically, *politics is discourse and deliberation between equals (in authority) in joint pursuit of eudaimonia*. The particular institutions within which politics is conducted vary, but there are at least three conditions necessary for politics to take place: direct participation, direct action, and individual liberty. Politics ceases to be immanent, and becomes increasingly vicarious until it is nonexistent or is replaced by despotic rule, under at least three conditions: 1) the extent that it is conducted only by representatives, 2) the extent to which discourse and deliberation are separated from their culmination in direct action, and 3) the extent that rights-violating behavior (the threat or use of initiatory physical force) pervades the relationship. Much of what passes for politics in modern states takes place only among representatives and involves rights-violating behavior or policies. Being conducted largely by representatives and via electoral and legislative processes, discourse and deliberation do not end in direct action. Thus politics, an important means of pursuing *eudaimonia*, is highly vicarious in even the freest of modern states. Moreover, the tendency among liberals to limit liberalism and politics to considerations of justice narrowly conceived, and to radically separate politics and morality, is misguided — for genuine politics presupposes liberty, and the right to liberty precludes the threat or use of initiatory physical force. Political-democratic-civic debate over our responsibilities to ourselves and each other can only truly take place within the context of individual liberty, i.e., in peaceful civil society free of state intervention. As Lavoie and Chamlee-Wright point out:

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.¹⁶⁵

Statist policies such as war, wealth redistribution, economic regulation, and morals legislation are all unjust in this view; liberty and pluralism are not

¹⁶⁵ Lavoie and Chamlee-Wright (2000), p. 116.

threatened by Aristotelian liberalism's more robust conceptions of ethics and politics.

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