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## The Theory and Ideas of Libertarianism

**ABSTRACT:** The essential characteristics of libertarian thought include (1) a concept of human nature based on rational individuals pursuing self-determined ends; (2) an emphasis on ideas as motivating human action; (3) a defence of limited government based on a theory of rights or due to big government's tendency to undermine the pursuit of individual (subjective) ends; (4) support for a free market based on a system of property rights and contractual arrangements; (5) social liberty by removing government from regulation of victimless crimes which, by definition, infringe no-one's rights (examples include homosexuality, drug taking, being a bigamist, a capitalist etc.) and (6) the pursuit of limited government through procedural mechanisms such as bicameralism, constitutions and federalism.

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Libertarianism is a political philosophy which has been given considerable attention since the publication of Nozick's *Anarchy, State and Utopia* in 1974. Coincidentally it is at about this time that groups of people emerged in Australia who engaged in political activity to promote a libertarian free-market economy and a minimal state which was to abstain from virtually all interference in people's lives. Most of

these people had never before taken an active interest in politics. They were motivated by a belief in the ideals which they held, and the confidence that in politics and all realms of human action “ideas count”. Several decades later many of these ideas are firmly entrenched at the centre of political debate.

This paper looks at libertarian ideas and how it promotes a vision of the good society. Libertarianism has a background which can be traced to diverse origins. In many respects it is derived from the ideas of classical liberalism and individualist anarchism and is a fellow traveller with modern schools of public choice theory, economic rationalism, the Chicago School of economics, objectivism and other theories which are concerned about the role of the state. Nonetheless, when compared with these other contemporary developments, libertarianism emerges as a more radical defence of the free-market and limited government. Yet it is more than a radical development of other more “moderate” ideas since libertarian theory can stand on its own as a proponent of its particular concept of liberty.

In outlining the important aspects of libertarian thought it will also be necessary to consider the most important criticisms of them. Given the range of ideas which share intellectual ground with libertarianism it is important to establish just what makes an idea or author distinctively libertarian. Libertarian influences can be seen in a number of writings which are by no means libertarian. Thus the distinctive elements of libertarianism must be defined.

Libertarianism cannot readily be classified in terms of a “left-right” political spectrum. Hyde has pointed out the free-marketeters in the French Parliament which gave rise to that classification sat on the left of the house.<sup>108</sup> Despite this however those aspects of libertarianism which support property rights, the market and oppose state provision of charity have often been associated with the “right” in contemporary usage. On the other hand libertarians will invariably defend personal freedom in areas such as the use of narcotics or the role of the state with respect to choice of lifestyle or private sexual habits, which are more commonly associated with the label “left”. In both situations the libertarian position can be described as “liberal”.

Separating libertarian ideas from what has been traditionally known as liberalism is a difficult task. The term libertarian has quite explicitly been coined to overcome what was seen as changes in the use of the term “liberal”, particularly in the United States, where it is used to describe “progressives” who advocate an active role for the state in the redistribution of income and the care for people and groups who are seen as disadvantaged by the operation of the market.

<sup>108</sup> John Hyde, ‘The Dry Side’, *The Weekend Australian*.

In ‘Why I Am Not a Conservative’, F. A. Hayek expresses disappointment with changing usage of the term “liberal” and acknowledges that a new label describing the beliefs of those advocating the principle of limited government, the rule of law and free markets might now be needed.<sup>109</sup> He dislikes the “libertarian” label for aesthetic reasons more than any other. In the terminology of Hayek libertarianism, though deriving from that school of thought described as classical liberalism, is sufficiently unique to make it independent from the liberal tradition with which it shares common heritage. These differences are illustrated by the affinity which many libertarians<sup>110</sup> feel with individualist anarchist writers.<sup>111</sup> The impact of these ideas on traditional liberalism has been negligible. However the conclusions of libertarian arguments are predominantly based on assumptions and approaches to the analysis of questions in political thought which are similar to those usually described as liberal.

Libertarianism has been thought of as a revival of the ideas of classical liberalism.<sup>112</sup> This elucidates some of the historical background of libertarianism however libertarian authors and others influenced by their work have added to those earlier ideas original arguments and the benefits of contemporary experience. Liberalism in part emerged as a response to the rule of absolutist European monarchs. Libertarianism draws on the experience of an era when monarchy has all but disappeared but the power of the state is seen as not having greatly diminished, still offering a threat to people and civil society.

## I. LIBERTARIANISM, RIGHTS AND GOVERNMENT

Libertarianism, in keeping with its heritage in classical liberalism, begins its consideration of the type of social organisation appropriate to the human race with assumptions about human nature. Only some universally applicable characteristics of human nature are relevant to libertarian theory. Considerations of “human nature” and the “state of nature” as examined in the classic works of Hobbes and Locke are closely linked since the state of nature is developed into an abstraction within which the consequences of human nature for human interaction can be

<sup>109</sup> F.A. Hayek, ‘Why I Am Not A Conservative’, *The Constitution of Liberty* (Routledge, 1956).

<sup>110</sup> Murray Rothbard, *The Ethics of Liberty* (New York University Press, 2003).

<sup>111</sup> Lysander Spooner, ‘The Indefensible Constitution’ in George Woodcock (ed), *The Anarchist Reader* (Fontana Press, 1980) 103-107.

<sup>112</sup> Marian Sawer (ed) *Australia and the New Right* (George Allen and Unwin, 1982) 20-21.

examined.<sup>113</sup> Among the fundamental characteristics of human nature stressed by libertarians are the requirement for purposive action to maintain one's existence, the human capacity for reason as a means of guiding that action and the requirement for interaction between individuals to secure at least minimal conditions for existence. From these first principles many libertarians develop their entire theories of politics, economics, law and "human action". However, important distinctions must be made between those theories essentially descriptive or analytical of human behaviour<sup>114</sup> and those which use them to develop normative theories about the proper role of the state.<sup>115</sup>

There is an assumption of "self-interest" in individuals in libertarian writing. The characterisation of market man as acquisitive, naturally unequal and self-serving is regarded by critics of libertarianism as inaccurate.<sup>116</sup> However for libertarians self-interest derives from the reasoning nature of individuals and acquisitiveness from mankind's need for existence (food, clothing). The logic of libertarian arguments is said to be universally applicable. Clearly rights and other factors in human interaction apply even to those who, like critics, consider themselves guided by something other than self-interest or acquisitiveness. Indeed, this very diversity of human ends is basic to libertarian theory.

Individualism has two different aspects: ethical individualism and methodological individualism. Ethical individualism is typified by the works of Ayn Rand (an objectivist not a libertarian) who founds ethics in a consideration of individuals' actions and individual effects and benefits.<sup>117</sup> Typically a morality of rational self-interest or "rational egoism" is proposed as a guide to individual action and as a source of generalisations about what behaviour is legitimate in public affairs. Methodological individualism is the means which libertarians propose as the basis for the study of human societies. Founded in the "the actions of individual men",<sup>118</sup> this approach is emphasised by the Austrian School of economics and adopted by public choice theorists<sup>119</sup> who seek to explain the actions of individual decision makers in terms of furthering their own interests however defined.

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113 Robert Nozick, *Anarchy, State and Utopia* (Basil Blackwell, 1984) 3-25.

114 Ludwig von Mises, *Human Action* (Henry Regnery, 3rd ed, 1966) 11-29.

115 Such as Ayn Rand, *Atlas Shrugged* (Signet, 1956).

116 M. Sawyer, above n 5, 34-35.

117 Ayn Rand, *The Virtue of Selfishness* (Signet, 1965) 13-35.

118 Mises, *Human Action*, above n 7, 41.

119 James Buchanan and Gordon Tullock, *The Calculus of Consent* (University of Michigan Press, 1962).

Many libertarian writings are grounded in a theory of rights. But utilitarian defenders of libertarianism reject the notion of natural rights;<sup>120</sup> they stress the superior performance of free-markets in providing for people's wants and needs.

Rothbard<sup>121</sup> establishes a "non-aggression" axiom as the basis of the libertarian creed. He suggests three general foundations for this axiom of which the natural rights foundation is only one. This non-aggression axiom is evident in the principle of the Australian Progress Party which states that "No person or group of people has the right to initiate the use of fraud, force or coercion against any other person or group of people".<sup>122</sup> This axiom is derived from a theory of rights rather than being a statement of the theory itself. The foundation of the theory is divided between those who base it on a fundamental right to life<sup>123</sup> and those that base it on a Lockean formulation of property rights<sup>124</sup> amongst which is the essential inalienable right to property in one's person. From these libertarians derive legal and ethical constraints against assault, slavery, conscription, murder and other crimes against the person. The status of real property is usually met by following Locke's argument that if "he hath mixed his labour with it, and joined it to something that is his own, [he] thereby makes it his property".<sup>125</sup> Friedman,<sup>126</sup> however, points out that only a fraction of all capital in the United States is "real property"; most is improved land, machinery, household items and such, which have clear origins in either the labour or thought of individuals and has subsequently been traded.

The second approach to a moral defence of liberty is that typified by the work of Rand<sup>127</sup> which rejects altruism as a basis for ethical behaviour. The major writings of Ayn Rand are contained in fictional novels and are therefore open to a variety of interpretations, so much so that the former Australian Prime Minister Malcolm Fraser found an affinity with her writing.<sup>128</sup> Rand's system of ethics is based on an individual hierarchy of values. Living one's own life is necessarily the foremost of these. Rand condemns altruism on the ground that it sacrifices higher

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**120** This is the approach of von Mises, who as a utilitarian liberal dismissed natural law as "non-sense upon stilts". His utilitarian position is examined by Murray N. Rothbard in Edwin Dolan (ed), *The Foundations of Modern Austrian Economics*, (Sheed and Ward, 1976) 99-109.

**121** Murray Rothbard, *For a New Liberty* (Macmillan, 1973) 23-24.

**122** Constitution of the Progress Party of New South Wales.

**123** Ayn Rand, 'Mans Rights', *The Virtue of Selfishness*, above n 10, 92-106.

**124** Nozick, above n 6, 28-35 and 178-182.

**125** John Locke, *Two Treatises of Government* (Everyman Edition/Dent, 1984) 130.

**126** David Friedman, *The Machinery of Freedom* (Arlington House, 1978) 3-14.

**127** Ayn Rand, *For the New Intellectual* (Signet, 1961) 117-192.

**128** John Singleton and Bob Howard, *Rip Van Australia* (Cassell, 1977) 50.

values for the sake of lesser ones. Thus she dismisses the idea that citizens have a duty to attend to the material welfare of others since the value of one's own life is supreme. Within this framework Rand sees a role for benevolence based on the free choice of an individual to assist others in recognition of one's own values manifested in another. For Rand it is a denial of the most fundamental rights for the state to use private monies – which might have been used to finance support for family and friends, charitable trusts, a new car of a fashionable hairdo – for general purposes which owners of the money might not agree with and have no duty or obligation to observe.

Rand has many strident critics. According to some her philosophy amounts to little more than a justification of a narrowly based self-interest and hedonism.<sup>129</sup> This is also a common response to the libertarian minimal state, which will not protect people's moral wellbeing, but only their rights. These responses to Rand do not recognise the subtlety of her position (which might however be challenged on other grounds).<sup>130</sup> Whilst her account of politics insists on complete liberty to pursue subjective values as long as the rights of others are not infringed, her account of ethics seeks to place personal ethics on an objective basis. In some ways it is a highly radicalised version of Enlightenment thought combined with more recent variants of political economy. She posits reason, productivity and self-esteem<sup>131</sup> as the personal virtues on which civil society and mutual benefit are founded. For Rand, objectivity eschews collectivism since each person must come to these conclusions by themselves. She assumes that these conclusions are not only desirable and necessary for human progress but are also likely to be reached given the removal of the intellectual, moral, and ethical stumbling blocks to what she posits as right reason. Integral to Rand's moral defence of capitalism is a rejection of anything that might involve mystical belief.

Hayek's critique of the concept of social justice is also motivated by moral and ethical considerations.<sup>132</sup> Hayek argues that "with reference to a society of free men, the phrase (social justice) has no meaning whatever"<sup>133</sup>. He further argues that only

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**129** Russell Fryer, *Recent Conservative Political Thought: American Perspectives* (University Press of America, 1983); Sidney Hook, Book Review - *For a New Intellectual*, *New York Times Book Review*, 9 April 1961.

**130** For subtle critiques of Rand see N. Branden, 'The Benefits and Hazards of the Philosophy of Ayn Rand' (Fall 1984) 24 *Journal of Humanistic Psychology* 39-64; Jerome Tuccille, *It Usually Begins With Ayn Rand* (Laissez Faire Books, 2012).

**131** Rand, *For the New Intellectual*, 128.

**132** F.A. Hayek, *Law, Legislation and Liberty* (Routledge and Kegan Paul, 1977) vol 2.

**133** F.A. Hayek, *New Studies* (Routledge and Kegan Paul, 1978) 57.

the conduct of individual actors can be termed just but not the result of their actions. Thus the operation of a market with a series of individual actions – be they guided by beneficent processes or not – cannot be subjected to criteria such as justice. The market is like a game in which if the rules are followed the end result is valid. For example it might not be considered laudable that Michael Jordan is a richer man than a great scientist or painter, but it cannot be considered unjust and none can be held responsible for an injustice. If justice is a term with meaning then in Hayek's system it must refer to those rules of individual conduct, which once observed, cannot be contradicted by a situation which emerges after the event. In other words, one cannot do the right thing in terms of justice and at the same time do the wrong thing according to "social" justice.

At this stage Hayek's argument becomes very similar to that of Nozick in his critique of "end state" principles of justice.<sup>134</sup> As Nozick points out, the concept of social justice begs the question as to what type of end state distributional pattern is to be considered just.<sup>135</sup> For Nozick procedural justice and just acquisition are the relevant considerations for a just society. Not only do end state or patterned principles of justice infringe rights themselves, but under liberty they are not stable and will inevitably be upset. However Nozick's conception of justice can still lead to proposals for radical reform. It is quite possible that, particularly with land, a just procedure for acquisition and transfer has not been followed.

Libertarians see law as arising prior to the state<sup>136</sup> and constraining all individuals even those who act on behalf of government. At this point anarcho-capitalist libertarians conclude that the state itself must necessarily infringe individual rights by monopolizing protection services and arbitration services. Moreover the right to keep property legitimately earned is infringed through the state's taxation – thus the libertarian injunction that "taxation is theft", turning Proudhon's claims about property<sup>137</sup> on their head. Taxation and theft are seen as almost exactly analogous: both involve coercive appropriation of property which is then used for purposes decided independently of the wishes of the original owner. In one formulation of the argument that taxation and therefore the state is immoral, Rothbard<sup>138</sup> says the income tax is a form of slavery or involuntary servitude, in which a percentage of ones labour must be devoted to the state before private purposes can be considered.

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134 Nozick, above n 6, 153-163.

135 Ibid 157.

136 F.A. Hayek, *Law, Legislation and Liberty* (Routledge and Kegan Paul, 1973) vol 1, 72.

137 Proudhon in George Woodcock, above n 4, 65.

138 M.N. Rothbard, *For a New Liberty*, 93-95.

The analogy is drawn between taxpayers and medieval serfs who might give, say, a quarter of their produce or three months of the year to their overlord in return for protection.<sup>139</sup>

The libertarian concept of rights only limits individual action if other people's equal rights are infringed. Thus it has been branded as a system of "negative rights".<sup>140</sup> Commonly libertarians will deny a right to welfare payments and minimise aid for those unable to support themselves on the grounds that these are in themselves not rights (although there might be reasons for voluntary support), and that providing for these claims will infringe the actual rights of taxpayers. Similarly, negative liberty prevents the consideration in law of "victimless crimes" such as drug taking, prostitution, lewd writing, homosexuality and other matters of private concern which do not directly infringe the liberty of another person. Libertarians also see the enforcement of property rights as the positive means of solving environmental problems of pollution and disputes over use of public goods. To this point most libertarians agree, but in examining the question of how people's rights will be ensured they diverge. According to the anarcho-capitalist rights should be secured by voluntarily funded agencies formed for this purpose by those wishing to secure their rights.<sup>141</sup> Based on the different choices which people might make about the rights protecting agency appropriate to their needs, a complex system of institutional arrangements will evolve to prevent infringement of rights, provide restitution upon violation of rights and resolve disputes between parties involved.<sup>142</sup> This leads the anarcho-capitalist to reject the legitimacy of the state and with it notions of sovereignty, nationhood (in particular the modern nation state) and parliaments, among other things. This has led critics to describe the anarchist strain of libertarianism as a denial of politics.<sup>143</sup> The anarcho-capitalist theorists combine the idea that the state is immoral with a theory about the mechanisms for voluntary action which will perform the necessary functions which have traditionally been the role of the state.

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139 P.B. Dematteis, 'What is Libertarianism' 11 *Southern Libertarian Messenger* 4.

140 Eric Mack 'Individualism, Rights, and the Open Society' in T.R. Machan (ed), *The Libertarian Alternative* (Nelson-Hall, 1974) 21-37; T.R. Machan, *Human Rights and Human Liberties* (Nelson-Hall, 1975).

141 M.N. Rothbard, *For a New Liberty*, 219-250.

142 R. Barnett, 'Pursuing Justice in a Free Society: Part 1 – Power vs. Liberty' (Summer/Fall 1985) 4 *Criminal Justice Ethics* 50; Barnett, 'Pursuing justice in a free society: part 2 – crime prevention and the legal order' (Winter/Spring 1986) 5 *Criminal Justice Ethics* 30.

143 S.L. Newman, *Liberalism at Wits End* (Cornell University Press, 1984) 162.

A moderate libertarian approach suggests that the preservation of rights is the sole rationale for the existence of the state.<sup>144</sup> Thus the state protects rights through a system of courts to prove rights infringements and to arbitrate in disputes about property rights, a system of police to enforce those determinations and a defence force with the function of protecting this framework from external threat. For the minarchist libertarian these functions are to be minimal. Hence the minimal state is an essential though not sufficient condition for libertarian democracy. It is at this juncture that the libertarian concern about the corrupting effects of power is most discernible; in their view there is a need for institutional limits on government through constitutionalism, division of powers, a Bill of Rights limiting the sphere of government action, public scrutiny and other means. In these matters libertarians consider that modern states have failed and are manifestly statist.

For all libertarians the essential characteristic of the state is its monopoly on the legitimised use of coercion in a given geographical area. Minimal state libertarians argue that this monopoly is legitimate if used in proportional retaliation against infringements of people's rights. For anarcho-capitalists however, this monopoly itself infringes rights and grants control in the very area where a monopoly would be most dangerous. Advocates of the minimal state are not necessarily hostile to government however they are opposed to the extension of state power beyond a strict domain. In providing a comprehensive critique of the modern state, libertarianism, at least superficially, shares ground with Marxism. However as illustrated by Rothbard,<sup>145</sup> it is grounded in concepts of natural law and shares with conservatism the idea of defending rights not through legislation per se, but through appeals to longstanding traditions, precedents and procedures which have evolved over time.

## II. THE LIBERTARIAN ACCOUNT OF ECONOMICS

The minimal state libertarian's economics has affinities with classical liberal thought concerning free-trade and economic regulation. Utilitarian proponents of liberty base their conclusions on the study of the means appropriate to achieving given ends. They argue that if the desired ends are individual freedom and maximum prosperity then of the alternatives proposed the free-market is the most efficacious means of preserving liberty and economic prosperity. Since the market is based on voluntary exchange agreements and contracts, mutual consent

<sup>144</sup> Ayn Rand, *The Virtue of Selfishness*, 107-115.

<sup>145</sup> M.N. Rothbard, *The Ethics of Liberty*.

can infringe the rights of neither party (there are some interesting issues here – Rothbard argues that property rights in one's body and will are inalienable so a voluntary commitment to service in the form of selling yourself into slavery is illegitimate and therefore void. Also, contractual agreements must not infringe the equal rights of third parties).

In this, libertarians have been greatly influenced by the Austrian school of economics. Through its critique of the labour theory of value, Austrian theory provides substantive grounds to challenge Marxism as an alternative means of examining capitalist production.<sup>146</sup> In particular, the Austrian school rejects the economic planning of socialism<sup>147</sup> as well as the idea of a mixed economy. In the tradition of value free social science, Austrian economics cannot comment on the ethical proposition that taxation is wrong; it can demonstrate the effects of different systems of taxation and provide criticisms of the uses of tax funds.

According to Austrian economists regulation will fail for numerous reasons. Amongst these is the principle of uncertainty (or imperfect knowledge).<sup>148</sup> Uncertainty will hinder regulation since the regulator can never know all of the factors which might impact on decisions and flow from them. The market, as a complex system of price signals sending information about the decisions of all participants, cannot be duplicated or anticipated by the regulator. The classic illustration is price controls.<sup>149</sup> If government or their agents determine a fixed price for a good, they will do so either below the price it would otherwise trade at to prevent consumers becoming unable to afford the product, or above that price to provide support for producers. It is almost a truism in economics that a lower than market price will lead to shortages (an example being the reduced availability of housing under rent controls) while a high price will lead to surpluses (as the mountains of European Economic Community agricultural produce illustrates). Thus the would-be controller of prices must often seek to approximate the market price anyway. Even to know the consequences of a control, the market or equilibrium price must be known. It is this prediction which is not feasible since the number of individual decisions which lead to a market price are too large to anticipate and are not known in advance of the price control decision.

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<sup>146</sup> Ludwig von Mises, *Socialism* (Jonathon-Cape, 1936) 133.

<sup>147</sup> *Ibid* 211-222.

<sup>148</sup> Mises, *Human Action*, 11-29 and 105-118.

<sup>149</sup> Sudha Shenoy (ed) *Wage-Price Control: Myth and Reality* (Centre for Independent Studies, 1978).

The logical flaws of price control have wide ramifications since they apply not only to markets for goods but also to markets for labour and money. To the extent that subsidies send incorrect information to market participants they will also lead to an allocation of resources which would not otherwise be the case and is based on false assumptions by participants. The discovery of this error can have drastic effects as appropriate changes are made to correct past actions. A subsidy to a tin producer for example, sends false information to the tin market, the stock market which listed the tin producer, the finance market which provided credit for the producer, the labour market which supplied labour to the producer and so on.

The mechanisms of such decisions lead to the Austrian theory of the business cycle. This theory has important implications for the understanding of the history of capitalism and the reasons why some people reject it.<sup>150</sup> The Great Depression is explained not as a failure of capitalism to automatically reach equilibrium between aggregate supply and demand and hence full employment as in a Keynesian model,<sup>151</sup> nor as just the result of the monetary policy of the Federal Reserve Board as suggested by monetarists.<sup>152</sup> Rather the Austrian analysis, based on the trade cycle work of Hayek,<sup>153</sup> looks at the effects of the monetary system on decisions and allocations of economic participants. The conclusions to be drawn from this analysis are not that an appropriate economic policy mix or a sound monetary policy would have solved the problems, but that in the dynamic mechanism of the economy, any attempt to guide the economy will potentially upset its operation.<sup>154</sup> According to Austrians a market free of regulation will not eliminate cyclical movements in the economy but will see the effects being limited to particular sectors, thus ensuring less extreme cycles and the more rapid righting of the problems involved.

Libertarians place emphasis on global free trade and its corollary of free-movement around the world for all individuals. Ludwig von Mises<sup>155</sup> has described international free-trade as the best means of preventing war and preserving peaceful co-existence between different nationalities. Tariffs, quotas and bounties are all condemned by a large body of theory as harming consumers of goods for the benefit of sectional interests. State protectionism to secure the employment of people

150 F.A. Hayek (ed) *Capitalism and the Historians* (Routledge and Kegan Paul, 1954).

151 G.P. O'Driscoll and S.R. Shenoy, 'Inflation Recession and Stagflation' in E.G. Dolan (ed), *The Foundations of Modern Austrian Economics* (Sheed and Ward, 1976) 188-190.

152 Ibid 190-194.

153 F.A. Hayek, *Monetary Theory and the Trade Cycle* (Jonathon-Cape, 1933).

154 G.P. O'Driscoll and S.R. Shenoy, above n 44, 206.

155 Ludwig von Mises, *Liberalism* (Sheed Andrews and McMeel, 1978).

in Western countries is presented as one of the principle external limits to the further economic progress of third-world countries. Whilst accepting the good intentions of those who propose the protection of people and industries, their policies are rejected as misguided and counterproductive.

Other economic arguments include the suggestion that safety and quality regulations setting minimum standards inadvertently produce a maximum standard and reduce the incentives for improvement, in effect reducing average levels of safety or quality and depriving the consumer of the protection which reputation or goodwill can provide.<sup>156</sup> They also argue that the provision of welfare not only removes incentives to work, but in combination with minimum wage laws reduces the standard of living of people whose labour would otherwise provide an income between the value of welfare and that of the minimum wage. A great deal of recent Australian writing considers the impact of labour market regulation, concluding that its detrimental effects include higher unemployment, lower wages for some, inflationary effects and productive inefficiency.<sup>157</sup>

Economists provide two standard arguments for a larger role for government in an essentially capitalist economy.<sup>158</sup> Some economists suggest that “market failure” is manifested in the rise of monopolies, or collusion between the major competitors at the expense of smaller competitors. The solutions offered include measures such as the United States antitrust laws. But libertarians attribute the rise of most monopolies to the granting of privilege through tariffs, subventions and infrastructure support to established firms thereby limiting competition. It is suggested that on a free market, collusion will inevitably break down and fail as the benefit of being the first firm to breach an agreement and the costs of being the last adherent are weighed up. The monopolist will always be subject to smaller competitors. It is also pointed out that the largest monopolies are controlled by the state. Legislation is the basis of monopolies in post and telecommunications, the marketing of agricultural products, railways, suburban transport, public utilities, duopoly in airlines and similar circumstances in other industries.<sup>159</sup>

The second argument relates to the provision of public goods. Public goods are goods of such a nature that they cannot be provided to an individual without also

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156 Alan Greenspan, ‘The Assault on Integrity’ in *Capitalism the Unknown Ideal* (Signet, 1967) 118-121.

157 John Hyde and John Nurick, *Wages Wasteland* (Hale and Iremonger, 1985).

158 This can be found in almost any elementary economics text e.g. J. Jackson and McConnell, *Economics* (McGraw-Hill, 1980) 99-114.

159 R. Albon, *The Telecom Monopoly: Natural or Artificial?* (Australian Institute for Public Policy, No. 5, 1986).

providing them to a wider group. Given this, there is an incentive for each person to opt out of paying for the good – in which case it will not be provided at all even if each person would benefit from its provision. Examples of public goods are clean air, national defence, open roads and items of aesthetic beauty. The solution of mainstream economists is to force each person to pay for the good through the taxation system. Thus government becomes the provider of “public goods” (a function envisaged by Adam Smith).<sup>160</sup> The public good problem is considered in detail by David Friedman the libertarian son of economist Milton Friedman.<sup>161</sup> He suggests that several solutions to the problem exist such as contracts with unanimous acceptance clauses, making a public good private through property rights (or in the case of pollution, enforcing rights which government legislation has waived) or voluntary sanctions on those who don’t chip in. However national defence still provides the most difficult problem for libertarians.<sup>162</sup>

Consideration of economics by libertarians leads them to the conclusion that market solutions are efficient, in accord with people’s rights and better at securing people’s welfare than any of the alternatives. The strongest reason for endorsing *laissez faire* rests on the argument that denial of economic liberty in whole or in part leads to the arrogation of liberty in general. This is the thesis of Hayek’s *The Road to Serfdom*.<sup>163</sup> In an argument which has had a profound impact on contemporary advocates of the free market, Hayek suggests that centralised direction of economic resources necessarily involves ever increasing infringements on liberty. For example:

- The determination of uses of paper and printing resources, if not determined by choices in a free-market, will lead to judgments by those in authority over what should be printed, limiting freedom of speech;
- The difficulties of many people desiring entry to the same jobs will prompt central labour planning if a wages market is not allowed to operate;

**160** Adam Smith, *The Wealth of Nations* (Penguin, 1985).

**161** D. Friedman, *The Machinery of Freedom*, 185-197; 213-217.

**162** On this issue minimal state libertarians suggest that defence could be paid for by the surplus generated from the user paying for certain governmental services such as the enforcement of contractual arrangements by the courts. This has problems if a choice of using private services of arbitration is allowed. These services which do not have the burden of paying for defence will necessarily be cheaper and undermine the official service. Other proposals include provision by insurance, which faces similar problems, and Friedman’s suggestion that in the process of dismantling the government defence providing institutions might emerge endowed for that purpose. Friedman concedes that if hostile nations continue to threaten others, the last vestiges of coercive taxation and government might linger a bit longer.

**163** F.A. Hayek, *The Road to Serfdom* (University of Chicago Press, 1975).

- Limited means available to support artists, musicians and others whose income is based on different valuations by a multitude of people would require judgements to be made by arbitrary methods.

Hayek argues that the economic problems with planning of any kind will lead to increasing restrictions on individual choices and actions as well as greater limits on the operations of business because the limited knowledge of the planner can only be rectified by directing the operations of the economy. This process of planning leading to economic restrictions, undermining democracy, promoting the “rise of the worst” to positions of power is what Hayek describes as the “road to serfdom”. For Hayek the alternative path of capitalism provides many benefits which act against the tendency for a concentration of power. In traditional pluralist terms Hayek and his successors point out that capitalism provides the means by which its opponents propagate their ideas.<sup>164</sup> It disperses economic resources widely so that no group or government can have a monopoly on sources of information or media presenting it. These are benefits in addition to those of prosperity and justice.

If one accepts the economic achievements claimed for capitalism it is relevant to question why it is not popular with either governments or voters. Many critics dispute the claims made for *laissez-faire*, blaming it for child labour in coal mines and textile factories, the relatively poor living conditions of most people in 18th century Britain, massive inequality in wealth, and powerful economic and landed interests dictating terms to governments.<sup>165</sup> Libertarians challenge many of these assertions about the effects of capitalism by contrasting the industrial revolution with earlier periods and alternative systems.<sup>166</sup> Other critics, including Marx, have accepted that capitalism has increased people’s welfare and produced great material wealth but nonetheless reject it as a desirable form of organisation.<sup>167</sup>

### III. CRITICS OF LIBERTARIANISM

There are many important critiques of libertarian ideas which date back to the responses of Marx or Hobhouse<sup>168</sup> to *laissez-faire*. A number of works are specifi-

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<sup>164</sup> Ibid 100.

<sup>165</sup> Herman Finer, *Road to Reaction* (Little Brown and Co, 1945).

<sup>166</sup> F.A. Hayek (ed) *Capitalism and the Historians* (University of Chicago Press, 1963).

<sup>167</sup> Karl Marx in C. Cohen, *Communism, Fascism and Democracy* (Random House, 2nd ed, 1972) 81-83.

<sup>168</sup> L.T. Hobhouse, *Liberalism* (Williams and Norgate, 1926).

cally relevant to the application of these ideas in Australia and should be kept in mind as possible explanations for resistance to libertarian ideas. The most prolific academic critic of libertarianism in Australia is Marian Sawer.<sup>169</sup> Her critique draws on criticisms of earlier “liberals” which dismissed *laissez-faire* for its lack of social provision for those who fail in the market place and for failing to tackle the problems of unequal power based on wealth in contractual arrangements. Sawer starts with the libertarian notion of property, suggesting that it ignores the social basis of property, knowledge and the products of the entrepreneur. In suggesting that individual rationality might add up to collective irrationality (the fallacy of composition),<sup>170</sup> Sawer asserts notions of social justice as a historical reality and a response to collective irrationality.

In considering the libertarian concept of human nature Sawer presents a caricature of “libertarian man” which reflects what she sees in later works as the merging of “neo-liberal” and neo-conservative thought in Australia.<sup>171</sup> This caricature relies on extending the way in which people interact in a market to all realms of human action and an emphasis on a perceived hostility to women and their interests. Whilst libertarians do not suggest a split in human nature between business and the rest of people’s lives they do envisage a range of voluntary forms of collective action which do not involve the state and the ultimate sanction of legislation. Libertarians do not seek to deny those aspects of people’s nature which complement the distinctive and relevant characteristic of rationality. The tensions Sawer sees between an emphasis on the family as a basic social unit and the interests of women<sup>172</sup> is not a tension within libertarian thought, but as Sawer acknowledges elsewhere,<sup>173</sup> a tension between libertarians and others who defend the free market. Libertarian thought cannot encompass any legislative or social restrictions on the actions and careers women might wish to pursue. Whilst Sawer suggests that the desire to do away with the public sector will remove the area where women have been most successful,<sup>174</sup> it might be pointed out that women are least well represented in the most heavily unionised industries. It should also be noted that this correlation need not represent causal effects.

169 M. Sawer (ed.) *Australia and the New Right* (George Allen & Unwin, 1982).

170 M. Sawer, ‘The Philosophy of the New Right’ (July 1987) 64 *Current Affairs Bulletin* 30.

171 *Ibid* 27.

172 M. Sawer (ed.) *Australia and the New Right*, 36-37.

173 M. Sawer, ‘The Philosophy of the New Right’ 27.

174 *Ibid* 31.

The most common point raised against libertarian thinkers is that they lack an understanding of the full sweep of power. It is suggested that libertarians are obsessed with political power and consequently ignore the exercise of economic and social power. Economic power is wielded through the purchase of the rudiments of survival and through disproportionate access to justice in the legal system. The libertarian response suggests that its critics cannot see the other side of the coin, namely, the link between political and economic freedom which would allow economic disparities to be alleviated.

Some Australian responses to libertarian ideas suggest that while liberty might be relevant in America it is inimical to Australian character.<sup>175</sup> These critics point to the historical dependence of the Australian people on the state for the provision of infrastructure, a convict heritage, the long tradition of protectionism and an egalitarian national tradition.

Many other areas exist in which libertarian ideas can be tackled, for example the realms of rights theory, economics, historical context and logic. Typical of debate in these areas is that surrounding the work of Rawls and Nozick. There is also a conservative critique of libertarianism which denies libertarian concepts of human nature, asserting that man is innately flawed by original sin, rejects most concepts of “rights” and suggests some essential need for order, direction and community links. These arguments, typified by the response of Edmund Burke to the French Revolution<sup>176</sup> or more recently expounded by Roger Scruton, are important, but have few articulate Australian exponents.

#### IV. SUMMARY

There are a number of libertarian authors who consider a range of other aspects of social thought, including philosophy, democracy, the role of women, critiques of egalitarianism, welfare state policies, vested interest groups, corporatism and public corruption, revisionist history, the history of ideas and the rise of fascism. Not all of these can be considered here but they are based on the essential characteristics of libertarian thought discussed above. These characteristics include:

- A concept of human nature based on rational individuals pursuing self-determined ends;

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175 K. Coghill (ed.) *The New Right's Australian Fantasy* (McPhee and Gribble/Penguin, 1987) 130; 140.

176 E. Burke, *Reflections On The Revolution In France* (Everyman Edition/Dent, 1964).

- An emphasis on ideas as motivating human action;
- A defence of limited government based on a theory of rights or due to big government's tendency to undermine the pursuit of individual (subjective) ends. Anarcho-capitalists argue the state should be completely dismantled;
- Support for a free market based on a system of property rights and contractual arrangements;
- Social liberty by removing government from regulation of victimless crimes which, by definition, infringe no-ones' rights (examples include homosexuality, drug taking, being a bigamist, a capitalist etc.)
- The pursuit of limited government through procedural mechanisms such as bicameralism, constitutions and federalism.

Libertarians are sometimes influenced by non-libertarians. Yet to consider a person or group libertarian all of these positions should be reflected to some degree. For libertarians, modern government is not just in error and capable of being altered. At every step governments and their agents are seen as being involved in immoral activity.