



formulations

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Conferees Discuss Family Structure

On Saturday, 19 April 1997, eleven men met to discuss "Family Structure" in FNF's eighth Forum. Five of the men, Roderick T. Long, Gordon Neal Diem, Philip E. Jacobson, Roy Halliday, and Richard Hammer, presented papers. The Forum, running from 10 AM till 4 PM, met at Oliver's Restaurant in Hillsborough, N.C.

The five Forum papers were published in the preceding (Spring) issue of *Formulations*. The pictures in this issue were taken at the Forum, thanks to Bobby Emory.

Oliver's has become a regular meeting spot for FNF, as they graciously allow us to reserve a room expecting in return only that many attendees will buy a meal. This was the fifth of FNF's semi-annual Forums to meet at Oliver's. Δ



Staff Change

FNF Seeks New Desktop Publisher for *Formulations*

by Richard O. Hammer

As I write this, during the second week in May, FNF still has not published the Spring issue of *Formulations* which, according to our schedule, should have gone out on March 1.

Since we started, Roderick Long has volunteered all of the desktop publishing for this publication. He has done a wonderful job. But, because of other demands upon his time, *Formulations* has been chronically late. Probably most *Formulations* readers have not noticed this lateness, but it has added difficulty to the task here of running a predictable program.

In early April, when I realized that the Spring issue would not be published early enough to precede our Forum on April 19, I decided that, for the future, I needed to find another way to get our desktop publishing done. Roderick has graciously accepted my decision.

Roderick has been not only Editor of *Formulations* but also FNF's predomi-

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New Country Project Profile: New Utopia

by Marc Joffe

for the New Country Foundation

A new group is pursuing the idea of creating a country at sea. New Utopia, based in Tulsa, Oklahoma, hopes to establish a principality of the same name by constructing a network of platforms in shallow water somewhere off the coast of Central America.

New Utopia has some striking similarities and some notable differences with the ill-fated Atlantis Project. Like those who conceived Atlantis, New Utopia's founders are heavily influenced by Ayn Rand, are interested in anti-aging technologies and propose to create a new country in tropical waters. Unlike Atlantis, New Utopia would not be a libertarian society, but rather a limited government principality like Monaco. Also departing from the Atlantis model, the group has thus far taken a relatively low

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formulations

a publication of the
Free Nation Foundation
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Statement of Purpose

The purpose of the Free Nation Foundation is to advance the day when coercive institutions of government can be replaced by voluntary institutions of civil mutual consent, by developing clear and believable descriptions of those voluntary institutions, and by building a community of people who share confidence in these descriptions.

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FNF is a 501(c)(3) federal income tax exempt organization.

Send correspondence to the postal address above. Or email to: roh@visionet.org.

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Subscription or Membership

Subscriptions to *Formulations* may be purchased for \$15 for four issues (one year). Membership in the Free Nation Foundation may be purchased for \$30 per year. (Members receive: a subscription to *Formulations*, invitation to attend regular meetings of the Board of Directors, copies of the Annual Report and Bylaws, more inclusion in the process.)

Send orders to the postal address above. Checks should be made payable to the Free Nation Foundation. Additional contributions are welcome.

Information for Authors

We seek columns, articles, and art within the range of our work plan. We also welcome letters to the editor which contribute to our debate and process of self-education.

Our work plan is to work within the community of people who already think of themselves as libertarian, to develop clear and believable descriptions of the critical institutions (such as those that provide security, both domestic and national) with which we libertarians would propose to replace the coercive institutions of government.

As a first priority we seek formulations on the nature of these institutions. These formulations could well be historical accounts of institutions that served in earlier societies, or accounts of present institutions now serving in other societies.

As a second priority we seek material of general interest to libertarians, subject to this caveat: We are not complaining, we are building. We do not seek criticism of existing political institutions or persons unless the author uses that criticism to enlighten formulation of an improved institution.

Submissions will be considered for publication if received by the first of the month preceding the month of publication. So deadlines for writers are: February 1, May 1, August 1, and November 1. All submissions are subject to editing.

We consider material in *Formulations* to be the property of its author. If you want your material copyrighted, tell us. Then we will print it with a copyright notice. Otherwise our default policy will apply: that the material may be reproduced freely with credit.

JOINT PUBLICATION ARRANGEMENT

Formulations sometimes carries articles obtained through Marc Joffe of the New Country Foundation. These articles are distinguished by the line "for the New Country Foundation" under the author's name. Marc Joffe may be contacted at: joffe@aptech.net, or c/o The New Country Foundation, P.O. Box 7603, FDR Station, New York, NY 10150.

The web site <http://freenation.org> maintained by Marc Joffe carries Free Nation Foundation documents, along with numerous other new country documents and pointers.

Staff Change

(continued from page 1)

nant scholar and writer. Fortunately he plans to continue his research and writing for the FNF program.

Now I just have to figure out what to do next. As you will see, this issue has a different look. For this issue at least, I am producing the originals on my home computer. I appreciate what Roderick has been through. Before long I hope to find someone new, with whom I can entrust this regular and painstaking chore.

So let this be the first "help wanted" ad. Ideally, FNF needs a talented executive secretary. A few times in the past I have been fortunate to work with such a person, who had intelligence, liking for the task, and a great eye for detail. It would help if this person lived near enough to Hillsborough, N.C., to facilitate regular face-to-face meetings. And I believe it would be necessary for the person to be, if not libertarian, at least sympathetic with our ideals.

The person should be computer literate and, if not presently skilled in desktop publishing, willing to undertake a self-directed program of learning new software tools.

Here is the big news. FNF can pay some. We have started to generate enough revenue to cover not only our direct expenses, such as printing, mailing and ads, but also to pay a bit. For an amount of work probably equivalent to one-fourth of a full time job we can pay about one-eighth of a wage. Because of the low pay, it seems that this person will probably have to be motivated partially by ideology.

If you, or someone you know, would be interested in exploring this opportunity, please call me at 919-732-8366, email to roh@visionet.org, or write to the FNF postal address given on page 2.△



Forum on International Relations Scheduled: 18 October 1997

FNF will hold a Forum on the subject of International Relations on Saturday, 18 October 1997. We solicit papers from our readers who may have ideas to share on how our imagined free nation would relate to other nations and peoples. Writers should get their papers to us before August 1, to allow printing in the next (Autumn) issue of *Formulations*.

For a longer introduction to the subtle challenges which a free nation will face in handling its international relations, see the cover-page article by Roderick Long in the previous (Spring) issue of *Formulations*. The location and specific times for the Forum will be announced in the Autumn issue.

Looking further ahead, we have decided that the topic for the next succeeding Forum, to be held in April 1998, will be "Property Rights."△

FNF Annual Report Shows Continuing Growth

by Richard O. Hammer

In February, since I serve as FNF Treasurer (as well as President and custodian), I prepared the *1996 Annual Report* and sent about 85 copies of it to FNF Members and Friends. Accompanying the report, I included a six-page letter, "Reflections on Management of the Free Nation Foundation."

Our annual report, modeled on the annual reports of business corporations, gives an overview of FNF programs and tells major events of the year. It includes tables of sources and uses of funds which show the breakdown of how FNF raised and used \$9,806 during 1996.

Looking back, expenditures in 1996 were 63% greater than expenditures in 1995. And looking ahead, the budget which the report shows for 1997 forecasts a 5% increase in expenditures over 1996.

Following our ongoing practice, the report credits all contributors who gave more than \$100 to FNF during the year but who did not ask for confidentiality. Eleven such sources are named in the *1996 Annual Report*.△

The Republic of Texas Makes News

by Richard O. Hammer

McLaren's Siege

Since Richard McLaren's recent flash in the news, prompted by his standoff with government officials near Fort Davis, Texas, several people have asked my reactions to these events.

I met McLaren briefly in June 1996, when I traveled to Texas to meet with the publishers of *Republic of Texas Magazine* and to hear McLaren and another RT officer, President Archie Lowe, speak in Lubbock at the convention of the Texas Libertarian Party.

At the time, McLaren seemed an effective and determined spokesman, whose tactics involved pointed and newsworthy challenges to the legitimacy of the de facto government of Texas.

He is willing to go to jail for what he believes, as on the day when he spoke at the convention he had just been released from a weeks-long incarceration for refusal (civil contempt charges, I believe) to bow to the authority of a de facto court. But he had not committed anything that I, as a libertarian, would call a crime. So I was impressed by his dedication and passion.

But he did not come across as a charming person. He reminded me of a terrier, effective and annoying. So I was glad that he was on the side which I consider right.

Since that time McLaren has been removed from office on the RT General Council. The reasons for his removal are suggested by the following phrases, which I have excerpted from the twelve articles of impeachment filed against McLaren on 1 March 1997, as reproduced in the April 1997 issue of *RT Magazine*:

"... failed to attend eight of ten of the most recent Council meetings."

"... attempted to issue passports ... a clear usurpation ... in direct violation of the Plans and Powers. This is a violation of his oath of office."

"... attempted to call forth the Defense Forces by issuance of 'Defense Alerts', a clear usurpation ..."

"... incited violence, both domestically and internationally ... by written and verbal threats to individuals, to law enforcement, to businesses, and to foreign governments."

As such, when McLaren started making news again in April, both the RT General Council and the publishers of *RT Magazine* distanced themselves from him. McLaren evidently speaks for only a fraction of RT sympathizers.

RT Magazine changes name to *Texas Independence Magazine*

To follow the events in Texas I do not trust news that comes to me through the mainstream media. That media reports things which have no interest to me and overlooks things which I think crucial.

But, for our readers who want to follow events in Texas, let me recommend *Texas Independence Magazine*, which as of June will succeed *RT Magazine*. The publishers of this magazine, being libertarian, tell the story from a point of view which I find meaningful. They are doing a good job of reporting on this movement which has drawn, in addition to libertarians, an abundance of charlatans and fruitcakes.

About the change in name, Wes Burnett writes:

"Changing the name was a painful decision, not only emotionally, but from a marketing position... Charlie Duncan and I have spent most of the past year explaining to people and the news media that we are not a part of any government nor members of any organization. Yet, the name of our magazine said more than we could offset... which restricted our ability to reach a wider audience."¹△

Constitutional Convention Called

For several months *RT Magazine* has been carrying articles about constitutions—this leading up to the Constitutional Convention which will convene on 4 July 1997. To show the spirit of the movement in Texas, I copy an announcement of that Convention on page 5. This announcement was emailed to me by Charles Duncan and has also been posted on the internet.

¹ Reprinted with permission by *Republic of Texas Magazine*, Wesley W. Burnett and Charles W. Duncan, Publishers. 118 S. Avenue N, Post, Texas 79356. 806-495-4135. Internet site: rtmag.com.

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**PROCLAMATION FOR CONSTITUTIONAL CONVENTION
JULY 4, 1997**

We The Undersigned People of Texas, this twenty-sixth day of April, in the year of our Lord, nineteen-hundred and ninety-seven, in the Town of Sherwood, in Irion County, in Texas, do hereby Proclaim:

That all human beings are created free and equal in the eyes of Almighty God, and that they are given the precious gifts of Life, Liberty, and Ownership of Property, as their Natural Rights, to be used as they see fit.

That in order to secure these rights, and for this purpose only, governments are established, and derive their authority solely from the consent of those they govern.

That when a government seeks to mortgage, subvert, subdue by force, or otherwise usurp these rights; that when it shuns the blessings of our Creator, then it ceases to be a legitimate government, and it is the sacred duty of a righteous People to alter, reform, or abolish it in any manner in which they may deem expedient.

It is towards this end, with heavy and contrite hearts, in full command of our mental faculties, with complete understanding of the possible consequences of our actions, That:

Section 1. We Call a convention of delegates, to commence on the Fourth day of July, in the year of our Lord, nineteen-hundred and ninety-seven, in the Town of Sherwood, in Irion County, in Texas, for the purpose of writing a New Constitution for Texas; and

Section 2. We Cite as our authority, Article 1 Section 2 of the Texas Constitution of 1876, Article 1 Section 1 of the Texas Constitution of 1866, Article 1 Section 1 of the Texas Constitution of 1861, Article 1 Section 1 of the Texas Constitution of 1845, the Second section of the Declaration of Rights of the Republic of Texas Constitution of 1836, and the Words and Deeds of our forefathers who fought and died in order to secure Liberty for themselves and their posterity; and

Section 3. We Proclaim that the delegates be clothed with ample, unlimited, or plenary powers as to the form of government to be adopted, provided (a) that said government be a Republican form of government, and (b) that said government and associated Constitution shall not go into effect, unless submitted and subsequently approved by the People, as prescribed by the Constitution; and

Section 4. We Require that the delegates shall have attained the age of twenty-one years, shall have domiciled upon the land of Texas not less than six months prior to the date of the Convention; and

Section 5. We Require that delegates must present to the chairman of the Texas Constitutional Convention Coordinating Committee Delegate Qualification Subcommittee, not later than the twenty-fourth day of June in the year of our Lord nineteen-hundred ninety-seven, a signed affidavit witnessed by at least two other people that the delegate presenting the affidavit is representing those people.

Signed in the presence of each other and Our Lord,

WAS THE STATE INEVITABLE?

by Roderick T. Long

The Problem

This essay grows out of a discussion that occurred at our most recent FNF Forum. Phil Jacobson was describing how the state emerged out of stateless societies during the rise of civilization in ancient times. I asked him whether there was anything our ancestors could have done to avoid this process—i.e., whether the transition from primitive society to civilization could have been accomplished without the creation of the state—or whether instead the state was a historically inevitable phase that humanity had to pass through.

Phil replied that the latter seemed more likely to him, because prior to the Industrial Revolution there simply were not enough resources to support everyone, and so human interaction had to be, on balance, zero-sum: some could gain only on condition that others lost out. Hence it was inevitable that exploitation would be seen as a more attractive mode of interaction than cooperation, and so the state, as an organized system of exploitation, became the dominant form of social organization. It is only modern technological developments that have made positive-sum society possible, and so have made the state obsolete.

If Phil's account is right, then our ancestors were caught in a nasty Catch-22. For if it is true that the absence of industrialization is what maintained the power of the state, it is also true that the existence of the state is what delayed the Industrial Revolution. There is no inherent reason that the technological developments that Phil sees as heralding the demise of the state could not have occurred in ancient times; the Greeks knew the principle of the steam engine, for example. As I see it, what prevented the seeds of industrialization from taking root in the ancient world was a pair of factors: a) the lack of sufficient free-market incentives for commercial development, and b) the dependence on slave labor; but both these factors were supported largely by state action. Likewise, the advent of the Scientific Revolution was delayed by the

restrictions on free intellectual inquiry imposed by the Roman Empire and its successors (the Byzantine Empire in the east, the Catholic Church in the west). The Scientific and Industrial Revolutions, when they finally came, occurred in spite of the state, not because of it. If our ancestors had been able to find an alternative to the state, humanity would have found its way to positive-sum statelessness a lot more quickly.

This problem is of more than historical interest; it has application today as well. Currently, human population growth is putting a strain on the earth's

present existence of the state might make its future continuation inevitable—an implication that bodes ill for the prospects of a free nation.

Phil's analysis also seems to pose a conundrum for libertarian economics. Our economists like to describe free markets as the most efficient way of allocating scarce resources. But if Phil is right, it seems to follow that freedom is practicable only in conditions *other* than those of scarcity—that when resources are scarce, free markets break down. If this is true, it seems to undermine the entire tradition of free-market thought.



Roderick Long (center)

resources, threatening to return humanity to a zero-sum scenario. Libertarians like to say that free markets would both distribute resources more efficiently, and foster technological developments to create new resources, thus obviating this problem. I agree wholeheartedly. Unfortunately, as libertarians are all too aware, we don't have free markets; so the fact that we *could* be in a positive-sum situation if governmental restrictions were removed doesn't show that we *are* in one as things stand now. And if it is the state that prevents us from getting to that positive-sum ideal, and the absence of positive-sum society is what maintains the state, then by Phil's argument the

I want to resist the idea that pre-industrial society was zero-sum in so strong a sense as to make gains from exploitation generally outweigh gains from cooperation. To do this I shall employ two strategies. First, I shall try to argue that the assumption that primitive economies were zero-sum depends on considering only material gains and not spiritual ones. Second, I shall try to argue that even if we restrict our attention to material gains only, and so concede that pre-industrial society was in some sense zero-sum, there would still have been powerful practical reasons for preferring cooperative modes of social organization over exploitative ones.

Spiritual Gains: The High Road to Positive-Sum

When economic resources are sufficiently scarce, it may seem that there is no way for some to survive, let alone prosper, unless they take resources forcibly from others; and so, in such cases, exploitation seems to be more beneficial than cooperation. But this conclusion assumes that the person who coerces others in order to survive really is better off than the person who remains cooperative and dies. This is true enough if we think of well-being in terms of material benefits alone; but once we take spiritual benefits into account as well, this is not so clear. Suppose the following two claims are true:

1. Quality of life is more important for our well-being than quantity of life.
2. Taking a moral attitude of respect and cooperativeness toward others is a prerequisite of a high quality of life.

In that case, well-being would indeed be better served by refusing to engage in exploitation, even at the cost of one's life: the package {cooperation + short life} would be more valuable than the package {exploitation + long life}. And if this is so, then personal gain would not have to come at the *expense* of others, and society would no longer be zero-sum.

It may be objected that primitive societies living on the edge of survival could hardly be expected to adopt so high-minded an attitude (and any that did would be wiped out by those that didn't). But when one examines the moral creeds of the ancient world, one finds that they did indeed have (if not at the initial period of state-formation, then at least well before industrialization) the moral and conceptual resources to formulate and embrace just such a view. I shall consider four ancient cultures: India, China, Greece, and the Near East.

India

The three dominant religions of ancient India were Hinduism, Jainism, and Buddhism. Hinduism in its earliest phase seems to have promoted an exploitationist ethic, according to which the Aryan master race had the right to

conquer everybody else; but as Hinduism developed, and interacted with the newly emerging Buddhist and Jaina systems, the old warrior ethic began to be questioned. All three religions adopted the doctrine of *ahimsa*, non-injury—an ethic that strongly favored cooperation over exploitation. Within Hinduism the anti-exploitation consequences of *ahimsa* were never developed very fully (until Gandhi's time); the *Bhagavad-gita*, probably the best-known sacred scripture of Hinduism, can be seen as a desperate (and unfortunately, largely successful) attempt to embrace and co-opt the basic outlook of the emerging religious consciousness while at the same time defusing its radical social implications. But the other two religions applied the doctrine of *ahimsa* more consistently, with Buddhism rejecting the caste system, and Jainism adopting a thoroughgoing position of nonviolence.

China

The most popular ethical movements of ancient China were Confucianism, Mohism, and Taoism. The Confucians advocated an ethic of reciprocity: treat others in the same way that you would want to be treated (the Golden Rule). The Mohists went further, advocating an equal and impartial love for all humankind. All moral systems have at least advocated cooperation *within* the dominant group, though not necessarily with the oppressed lower orders or with outsiders from foreign groups, but the Mohists were quite explicit in their rejection of such selectivity; moral concern extends to everyone. Finally, the Taoists advocated living simply and in accordance with nature, and rejected the attempt to impose one's will coercively on others as a sign of psychological imbalance; allow the natural forces of society to operate freely, the Taoists insisted, and order will emerge spontaneously (a sentiment echoed in the anarchistic rhetoric—though, alas, never fully in the practice—of the rebels who overthrew the tyrannical Ch'in dynasty to establish the Han).

Greece

The direct or indirect founder of most Greek and Roman schools of philosophy was Sokrates, who stated as the centerpiece of his ethic that one is better off suffering injustice than committing it (because committing injustice undermines the integrity of the self, a far more serious harm than such bodily ills as imprisonment, torture, and death). Against the popular Greek view that we should practice justice toward our friends and injustice toward our enemies, Sokrates argued that wisdom requires taking an attitude of benevolence and mutual aid toward everybody. The Platonic, Aristotelean, Stoic, and Epicurean schools all basically adopted the Sokratic position on this point. Plato tried to make room for exploitation of the masses by arguing that it was in the best interest of the ignorant to be ruled by the wise; and Aristotle tried to make room for exploitation of foreigners by arguing that non-Greeks are natural slaves who can be conquered with moral impunity; but the Stoics and Epicureans closed both these loopholes, arguing that we are all equal citizens of the Cosmopolis (universal city), and that the best social order would be a voluntary anarchy.

The Near East

Judaism, like Hinduism, began as an exclusivist religion, with one ethnic group enjoying divine favor and being authorized to conquer competing groups. But over time Judaism (perhaps under the influence of Persian Zoroastrianism) developed in a more universalistic direction, with strong support for an ethic of reciprocity ("love thy neighbor as thyself"); and it was from this strand of Judaic thought that Christianity emerged. Like the other religions we've been considering, Christianity emphasized spiritual gains over material ones ("what is a man profited, if he shall gain the whole world, and lose his own soul?"); and it advocated an ethic of reciprocity (the Golden Rule) and nonviolence ("turn the other cheek").



In short, then, we can see that moral views advocating cooperation as preferable to exploitation even in the face of severe material costs were plentiful and popular in the ancient world. It is true that the adherents of these views did not always draw the full libertarian consequences from their premises (though they did draw some of them); and even those movements that started out as anarchistic or nearly so (e.g., Taoism, Stoicism, Christianity) eventually made their peace with the state. Still, vast numbers of people attached sufficient weight to the precepts of these religious and philosophical viewpoints that they were willing to sacrifice material benefits and even life itself for their sake. So there is nothing impossible in the supposition that vast numbers of our ancestors could have been motivated to adopt a policy of non-exploitation even in the face of extreme material scarcity, and thus the state need never have been started (or, once started, could have been dismantled).

Now it might be objected that any society that did this would have been conquered by more aggressive societies, so that cultural evolution would favor exploitation (as the "nice" societies got selected against). But this is not obvious. Some of the anti-exploitation moralities I've described prohibited even defensive violence, but not all did; and the assumption that defensive violence can be effective only when it is centrally directed by a state is an assumption that market-anarchist theory questions. (For that matter, even strict pacifism is not without defensive resources, as theoreticians of nonviolent resistance have shown.) The Greek philosopher Xenophon, in his treatise *Resources of Athens*, argues that an economically self-sufficient Athens (with a strong military defense) could survive and yet dispense with the injustice of its imperialist policies, dealing with its neighbors through trade rather than conquest; the same argument seems to apply to anarchist communities.

Material Gains: Positive-Sum Within Zero-Sum

But suppose we leave aside this question of spiritual gains, and assume that our ancestors were open to influence only by considerations of material gain. Even so, I am not convinced that they were driven by sociological necessity to embrace exploitation and the state.

Consider why there are gains from trade in the first place. There are, above all, two reasons. First, trade allows the division of labor; I don't have to produce everything I need all by myself. But division of labor and specialization open the door to improvements in techniques and technology, thus making everyone better off. (This aspect is emphasized by classical economics.) Second, even apart from any such improvements, the mere act of trade is inherently beneficial, because economic value is subjective; if I value your hamburger more than my fries, and you value my fries more than your hamburger, then we both gain if we make an exchange, even if no material improvement has occurred in either the hamburger or the fries considered in themselves—so voluntary exchanges increase the economic well-being of

society. (This aspect is emphasized by Austrian economics.)

For both these reasons, then, trade is positive-sum. This was as true in the ancient world as it is today. Now Phil of course does not deny this; but he would presumably say that although trade itself was positive-sum, it occurred in context that was zero-sum. There is no point in two people trading their hamburgers and fries with each other if they are both clinging to a liferaft that can carry only one. If I am about to drown in five minutes, I *might* prefer to die having just eaten a hamburger rather than to die having just eaten fries, and to that extent I have reason to engage in cooperative trade with you—but it seems I have even *more* reason to grab your hamburger, keep my fries, and kick you off the liferaft so I can survive longer than five minutes. Now of course if I do this I run the risk of provoking a violent reaction in you, and under ordinary circumstances this might give me reason to refrain; but when I'm under the pressure of immediate death, I have little to lose. I take it that Phil sees ancient societies as being in something like this situation, where the cost of refraining from exploitation is so great that it outweighs the gains from cooperation.

I wonder whether pre-industrial societies were indeed so inherently close to the edge of survival as to be *necessarily* zero-sum societies (in material terms). Still, suppose that's right. We can still ask whether it follows that exploitation, and in particular the exploitative structure of the state, would have to be seen as superior to cooperation.

Most states involve the exploitation of a majority by a minority. Thus the maintenance of the state, while materially beneficial to the ruling minority, is harmful to the oppressed majority. Yet such states typically depend for their survival on the compliance of the oppressed majority. When we say that exploitation is attractive in a zero-sum society, we mean that it is attractive for the *exploiters*; the *exploited* would be better off with cooperation. (Compare: if you're the one who's likely to be kicked off the liferaft, you'd be better off savoring your last five minutes and negotiating for a hamburger.) Of course, one might consent to be exploited if the exploiter in exchange would agree to

defend you against some even worse exploiter; but once again, the assumption that an effective military defense requires a centralized exploitative state machinery is not one that I accept (and Phil certainly doesn't accept it either). So even in a zero-sum economy, *most* people do not benefit from having a state—and are in a position to topple the state if they so choose. Arguably, then, the survival of the state has depended more on ideology and false consciousness than on genuine economic necessity.

Of course, there is the danger that those who have toppled the state will try to replace it with a new state in which they, the topplers, are the oppressors. But this is not inevitable; the risk that one's own faction will *not* be the one to head the new state is considerable. And the ancients certainly understood the hazards of state-making: the Hebrew prophet Samuel argued that a monarch chosen to lead his community in war against its enemies would eventually turn against his own people and oppress them with taxation and conscription; the Sumerians cried out against the omnipresence of the tax collector; the Greek Sophists analyzed states as oppressive class structures; Aesop in his fables warned about the preferability of King Log over King Stork; the Taoist Lao-tzu maintained that even well-intentioned governmental regulations cause chaos and misery; and the Christian St. Augustine dismissed earthly governments as "great bands of robbers." So our ancestors certainly had the conceptual resources to realize that their experiment with statism was not going to benefit most of them; for, in Thomas Paine's words, "when we suffer, or are exposed to the same miseries *by a government*, which we might expect in a country *without government*, our calamity is heightened by reflecting that we furnish the means by which we suffer." In other words, even against the zero-sum background of pre-industrial society, positive-sum trade *could* have been seen as more attractive than negative-sum statism. (And mediaeval Iceland, for example, did manage to maintain a reasonably successful stateless society for over 300 years, under conditions of resource scarcity much more severe than in mainland Europe.)

A Concession

In conclusion, let me concede a weaker version of the view I've been criticizing. Even if the state was not *inevitable*, the greater material scarcity of pre-industrial societies doubtless made it more *likely*. I'll certainly grant the truth of that—while at the same time fondly dreaming that history could have gone differently.△

Roderick T. Long, who teaches philosophy at the University of North Carolina at Chapel Hill, holds a Ph.D. from Cornell and an A.B. from Harvard. He aspires to the title of "Philosopher Anarch."

Ideas As Property

by Roy Halliday

In *Formulations* Vol. III, No. 1 (Autumn 1995), Roderick Long describes the illegitimate birth of patents and copyrights and then offers an ethical argument against honoring these forms of intellectual property. In his ethical argument, he contends that, "To enforce copyright laws and the like is to prevent people from making peaceful use of the information they possess." He also argues that we don't need property rights to ration the control of ideas and information, because multiple people can use the same ideas and information simultaneously without interfering with each other and without preventing anyone else from using the same ideas and information.

In *Formulations* Vol. III, No. 2 (Winter 1995-96), Richard Hammer offers a defense of intellectual property rights implemented through contracts. He argues that contract enforcement will be relatively inexpensive in a free nation and that this will make the contractual approach to intellectual property viable.

I cannot defend the existing body of intellectual property law in its entirety, but I agree with Richard Hammer that intellectual property can be protected to some extent in a free nation through morally legitimate means.

The Ethical Argument

The right to one's own mind gives each individual the right to the products of his mind—ideas, inventions, plans, and so forth. The individual therefore, has the right to use his ideas, inventions, and plans in any noncriminal way. For example, suppose farmer Demeter invents a way to increase his crops a thousandfold for the same cost. He would have the right to use this invention, peacefully, for his own benefit and not tell anyone else about his discovery. He could offer to sell his crops at lower prices than all the neighboring farmers. It is most likely that people would prefer to pay less for farm produce, even if it means that other neighboring farmers lose business. This would annoy the farmers who lose business, and it would make many people envious of farmer

Demeter. It would also please farmer Demeter's customers who get what they have chosen—less expensive food. Some people who previously couldn't afford to buy as much food as they wanted may now be able to. Farmer Demeter could, legitimately, end up with a monopoly of the local farming industry.

make their livings. Again, it is impossible to say whether the unhappiness of the excess farmers is less than or greater than the happiness of the food-buying public. Again, it doesn't matter. All we need to know is that farmer Demeter had the right to publicize his invention and that by doing so he gave everyone the



Roy Halliday (right)

It is not possible to know whether the total happiness or welfare of society would be increased by Demeter's exclusive use of his invention. Utilitarianism is useless, because we cannot measure envy, inconvenience, and annoyance, and we cannot compare these disadvantages with the advantages of abundant food. Fortunately, it doesn't matter that we can't do interpersonal utilitarian calculations, because they have no bearing on the moral issues involved. All we need to know to justify farmer Demeter's decision is that he acted within his rights, committed no crimes, and is entitled to his property.

Suppose Demeter did not care about increasing his own wealth or the wealth of his family and was more interested in seeing that everyone could have inexpensive food. He could publicize his invention so that all farmers could use it. This would please consumers of farm products, but it would probably mean that fewer farmers are needed. The excess farmers would be unhappy, because they would have to find other ways to

right to use it.

Demeter has the right to keep his idea (invention or discovery) to himself and to use it in secret. He also has the right to publicize and give his idea to the world. He has another legitimate option. He can conditionally divulge his idea to selected individuals for a price. Some of the conditions that he could stipulate by contract with any second party (B) are: (1) that B not divulge the idea to anyone, (2) that if anyone learns the idea from B, then B forfeits all his wealth to Demeter, (3) that Demeter will not reveal his idea to anyone except by a contract that includes the same provisions as this contract. In this way, Demeter could use private contracts to derive income from sharing his idea with others. This could result in more abundant crops, lower prices for crops, profits for those who implement Demeter's idea, and happier consumers. It could also result in financial failure for farmers who are not privy to Demeter's idea. Again, I see no way to determine whether this is the choice that maximizes happiness overall. Again, it is

irrelevant to Demeter's right to make this choice.

The legitimate options available to Demeter are also available to anyone who makes a discovery or has a bright idea. Private contracts, or licenses, like the one outlined for Demeter and B could provide some of the same benefits that are now aimed at by patent laws. The biggest difference between free-market contract law and current patent law is that, in the free market, anyone who comes up with an invention independently would have the right to use it, sell it, or give it away just as the original inventor had the right to do.

Protection of intellectual property rights similar to what is now provided by copyright laws could also be provided legitimately. If someone writes a book, story, play, poem, song, computer program, or other reproducible creation, he can keep it to himself, he can give it away, he can publish it himself and sell copies of it, or he can make a contract with someone else to publish it. Depending on the contract between the author and publisher, the author's creation can be sold to retailers or customers under terms and conditions that include a requirement to obtain written permission from the author or publisher before making copies of substantial parts of it. Because of well-established conventions, it is not necessary to have a formal, written and signed contract with each person who obtains a copy of the author's creation. It is enough to simply display the copyright symbol or the word *copyright* on each published copy of the work. Virtually all literate people understand the word *copyright* and the copyright symbol. Courts can certainly assume that anyone who is in the business of publishing the creations of authors would understand the word *copyright* and its symbol. So, unless the work is so small and simple that it could be composed independently without being copied, anyone who publishes copies of a work that is copyrighted without getting permission cannot be innocent of intent to violate the author's rights. Violation of a copyright, like counterfeiting and fraud, is implicit theft.

In a free-market society, intellectual property law would be subsumed under the law of contracts. Patent laws, which prohibit even independent discoverers from using their own ideas, would be scrapped. Instead of patents, inventors who want to protect their ideas from unlawful expropriation would mark them with copyright symbols and only distribute them to those who sign license agreements or contracts that stipulate the allowed terms and conditions of their use. Unlike under current law, intellectual property would not have an arbitrary expiration date, unless a date is stipulated in the license agreement or contract, and the right to intellectual property could be traded and inherited in the same way as other private property.¹ Δ

Roy Halliday has recently decided that he must be a descendant of Tom Halliday who was William Wallace's (Braveheart's) nephew.

¹ For a good description of intellectual property law in the free market, see Murray Rothbard, *Man, Economy and State*, pp. 652-660.

New Utopia

(continued from page 1)

profile, and has given greater thought to creating a financial plan. Finally, New Utopia plans to build its housing atop columns built on the ocean floor, rather than relying on floating platforms.

Recently, I had an opportunity to speak with founder Lazarus Long. Although his name is the same as that of a Robert Heinlein character, he told me that he is not using a pseudonym. He legally changed his name several years ago. During our conversation, Long came over as well-centered, thoughtful and confident. As a successful businessman, he apparently has a fair amount of money to invest in this project—although not nearly enough to see it to completion.

New Utopia's web site (<http://www.new-utopia.com>) indicates that the group plans to create itself by issuing \$400 million in bonds at an interest rate of 9-3/4%. Of the money raised, \$299.4 million will finance the construction of 10 platforms with a total area of 900,000 square feet, a small airport, ports and warehouses, a shopping mall, a hotel, a bank, a government administration center, apartments, condominiums and a world class medical center.

Additional funds will pay interest on the bonds and will cover initial government operations. Over the long term, New Utopia's government will be financed by an import duty on all consumable goods, ship docking fees, aircraft landing fees, a modest fee for tourist accommodations, and fees for various licenses, charters and other permits. There will not be any income tax or value added tax. The constitution also provides that all government levies must be lower than those of the Cayman Islands, which New Utopia considers to be its most direct competitor.

To find out more about New Utopia, check their web site at www.new-utopia.com, or contact the group via postal mail at 2343 E. 71st St. Suite 439, Tulsa, Oklahoma, 74136 USA. You can also phone (918) 712-9980 or fax (918) 712-9981.Δ

Anarchy, Order, and Functions Performed by Government

by Richard O. Hammer

The word "anarchy" often conjures up negative images. But as I have studied the organization of human affairs, I have come to think of anarchy in a positive sense. Anarchy, meaning no rule, implies no government meddling—which implies that voluntary order, a market order, may grow.

Consider the adjoining table which lists human needs. I will use it to illustrate my argument about anarchy, and also to make a few other points which might interest libertarians. I find it useful to list human needs in this way because I think it helps to expose gaps in peoples' thinking about government.

The table lists only a subset of human needs, enough I hope to illustrate my points. But please think of your other needs as well. In this discussion I mean to include each and every human need.

How Do Our Needs Get Filled?

Now, join me in making the following twelve observations.

1. Every human need correlates with a possible function of state. Government might try to fill the need directly with its own employees. Or it might try to regulate private organizations as they try to fill the need.
2. Different governments take responsibility for different subsets of needs from the list. So governments differ, and probably no two governments are exactly the same.
3. Each government is just a collection of agencies, with each agency intended to satisfy some need. So we do not need to struggle with one big decision, of whether to accept or reject government as a whole. Rather we can divide this decision into many little decisions, with one decision for each need.
4. Different people believe government should fill different needs from this list. And this difference, as I see it, drives most debate about public policy.

5. In spite of the evil motives which can cause people to advocate expansion of government, I believe that many well-intentioned advocates for more government are simply trying to fill needs and have focused upon government rather than upon voluntary institutions.
6. When government grows (as seems to be its habit) it does so by taking responsibility for fulfillment of new needs from the list.
7. We can predict, in some cases, that statist will think libertarians must be either crazy or evil. When a libertarian resists the insistence of a statist that government must act to satisfy a need, the statist, who does not share the libertarian's trust in

voluntary means to fill the need, tries to guess the motives of the libertarian. The statist may conclude that the libertarian must derive some profit or pleasure from prolongation of this need.

8. Returning to my effort to make "anarchy" an easier pill to swallow, we can subdivide anarchy into functions just the way we can subdivide government into functions. It is the other side of the same coin. When a person thinks some need on the list can be filled by civil society, without government intervention, then I would say that person prefers a system of anarchy for filling that need. So anarchy does not mean disorder. It means that the order which does

HUMAN NEEDS

and thus

possible functions of state

deliver mail
provide information on nutrition of foods
teach proper way to express feelings
nullify improper contracts
regulate the bearing of children
care for the needy
regulate land usage
assure safety of buildings
regulate pollution
regulate usage of scarce resources
register deeds
decide upon prices
provide education
provide medical care
provide food
get to bed early enough to get enough sleep
provide clothing
tax, or otherwise get money to pay for necessities
build streets
assure competence of professionals
decide what acts constitute crimes
judge whether accused are guilty
catch dangerous criminals
control immigration
monitor public health for epidemics
decide who marries whom
defend the nation's borders
protect people from unwanted exposure to pornography
decide what drugs are safe
halt use of unsafe drugs
register marriages
teach family values
stamp out sin
punish criminals



Richard Hammer (second from right)

exist has not been forced by government. Every person who finds at least one need which he or she thinks should not fall under government control is an anarchist—at least as far as that need is concerned. (Welcome to the fold, you crazy, radical, dangerous person.)

9. Notice that, for each need, each person has expectations about the best way to fill that need. And most of us, I assert, exhibit this pattern in our beliefs: when we have grown in a culture in which government fills a particular need, then we will expect government is the best way to fill that need; we will greet with shock or surprise the suggestion that fulfillment of the need might be privatized.
10. Now most of my readers whom I assume to be libertarian might agree with me and think that I am writing about other people, about non-libertarians. Well, yes. But I am also writing about libertarians, because most libertarians, I believe, are minarchists. Most libertarians will select a few needs from the list, and believe that there must be some kind of minimal, night-watchman state.

11. If you have not heard it before, I invite you to consider this argument which suggests that it might be possible to get rid of government entirely. For each need it is possible to find a society which exists now, or which has existed in the past, in which that need was filled by civil society. That is, for every need we can show with experience that humanity can succeed without government inserting itself into the process of filling the need. Since we can get rid of each part of government, this suggests we might be able to get rid of the whole.
12. But notice this. Two people who are diametrically opposed, say one from the right and the other from the left, who might select non-overlapping sets of functions for their ideal governments, might nevertheless agree on one point—that government is necessary—even though each would veto all the other's programs.

One Possible Use for Government

From the drift of my presentation you might have guessed that I personally do not have much use for government. But I think that we in the free nation movement should weigh this last point, that most people think that government should exist even though they disagree on what it should do.

To get our free nation we need to gather a critical mass of people moving with us toward a shared goal. And to get that critical mass it looks to me like we probably will need to erect something on which we hang the sign "Government." This will ease the fears of many people, even if the government does almost nothing.

Perhaps people need to identify with something larger than themselves. Perhaps identity with a nation state satisfies some human need which must be satisfied, one way or another. I think this question is important enough that perhaps we should make it the topic of a future Forum.

An Exercise for Minarchists

During the last several years I have enjoyed the luxury to study and think, following the curriculum laid out for FNF. At one point, early on, I had heard arguments that local fire departments could be privatized. And I accepted those arguments. But I still believed, or had never questioned, that local police departments should be run by government. Then, in the course of our study, we announced that we would hold a Forum on "Systems of Law." I needed to prepare to do my part in the Forum, so I needed to educate myself.

I had noticed a title, *The Enterprise of Law: Justice Without the State*, in book catalogs. Since I had never exposed myself to the arguments which this title suggested, I thought I should check it out. This book changed my outlook. If you believe that there needs to be, in theory, some kind of minimal state to assure domestic law and order, I bet you have not read this book.¹

If you believe that, in theory, government must fill certain human needs, I invite you to try this exercise. Think of one need that you think government must fill. Now think of another need which you think can be filled by voluntary institutions but which is similar in some ways to the first need. Now probe into that difference. Ask yourself why government must do one but not the other. I bet you will find that you have not thought about it much, and really cannot deliver a convincing argument for why government must do one but not the other.

For example, consider these two similar needs: first, the need to police the short streets which make up part of the property of a large shopping mall; second, the need to police municipal streets in a neighborhood which adjoins the mall. Suppose, as is usual, private police protect the private property but municipal police protect the municipal streets. And suppose you think that is right. Why? What is the difference that requires that one need, but not the other, be filled by government?

Another example currently in the news in America concerns the provision of education. If government should provide education through the level of high school, should it not also provide education through the level of junior college?

We Seek Order. Life Must Seek Order.

What is "order"? I think of it as a synonym for "predictability." We need order so that we can fill our needs. Our ability to plan grows from our ability to detect order in our environment.

Hayek described order this way:

"By 'order' we shall throughout describe a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of proving correct."²

To prove the necessity of order, consider its absence. Suppose you find yourself in a universe which contains no order. In that universe you will not benefit from planning, or from thinking, because a plan can succeed only if you have detected some order and realized a way to exploit that order to your benefit. Without order we may as well act randomly; without order purposeful actions would succeed no more frequently than random actions.

This is physical reality. To survive we need order. To flourish we need more order.

So naturally we always seek to discover existing order around us, that is, to "understand" events. And we try to act to create new order where before we could perceive none, since this will give us more capacity to benefit from actions which we plan.

I sometimes see government in this light, as a natural quest for order. For what appears to cost only a vote plus a share of taxes, I can receive promises that government will force an easy-to-understand order upon the means of fulfillment of my needs. The alternative means available to me to fill these needs appear more complex and difficult.

Of course we libertarians understand that government, because it forces rather than entices, causes a net loss in the summation of the order desired by all people involved.

Conclusion

As humans we have needs. And we must have order to fill our needs. But we libertarians often find ourselves on the defensive when facing statist, because in arguing against government we appear to be arguing against a source of order. We know better. But libertarians who hope to save the world from statism face a monumental task of persuasion.

We libertarians in FNF have taken on only a much smaller task. We strive to build belief that a new free nation can succeed. And rather than try to convince everybody, we target only an audience that is already libertarian. This audience should be easier to convince. On the day when enough of us believe it, when our doubts about the viability of a new free nation have been erased, on that day we will make it. Our own doubt is the only thing holding us back. Join us.△

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1. Bruce Benson, *The Enterprise of Law: Justice Without the State*, Pacific Research Institute for Public Policy.
2. Friedrich A. Hayek, *Law, Legislation and Liberty*, Volume 1, *Rules and Order*, p. 36, The University of Chicago Press, 1973. Italics in the original.

Richard O. Hammer holds a B.S. in Electrical Engineering from SUNY at Buffalo and an M.S. in Industrial Administration from Carnegie-Mellon. This year he decided not to renew two government licenses, as building contractor and plumbing contractor. So when fate drives him back to paying work he will find another trade.

Somaliland: Some Useful Background

a review of

The Road to Hell

by Michael Maren

Free Press, 1997

reviewed by Marc D. Joffe

for the New Country Foundation

Recently, NCF supporters have focused on Somaliland, the northern part of what was once Somalia. Although we know that some of Somaliland's leaders are willing to host some sort of libertarian entity, we know very little about the people who live in that part of the world or how they might react to a group of western settlers. A recently published book, *The Road to Hell: The Ravaging Effects of Foreign Aid and International Charity* by Michael Maren, provides some useful perspective.

Maren offers a devastating indictment of western food aid programs—both public and private—with a particular focus on the Somalia experience. The author suggests that western food aid programs destroyed much of the Somali economy and society, and contributed to the breakdown of civil order in that nation during the late 1980s and early 1990s.

Libertarians familiar with development economics will anticipate many of Maren's arguments, but will still be shocked by the overall picture of incompetence and mendacity painted by this former aid worker who has spent most of the last 15 years in Africa. The book introduces us to UN officials, Somali ministers and leaders of respected charities, who are far more interested in maintaining the flow of aid money than in promoting the Somali public welfare.

As Maren points out, western food aid is motivated by the need to dispose of agricultural surpluses, rather than the requirements of starving Africans. Much of the food is stolen by government officials or rebel troops, and then sold at market. As a result, a parasitic warrior class is enriched at the expense of local farmers. Also profiting from the aid system are shipping companies, who overcharge government agencies to ship the food, and on-site contractors—usually foreign—who make enough money by providing logistical support that they can frequent the local prostitutes.

International organizations also fund programs intended to promote local agriculture. However, Maren provides evidence that these programs are so poorly managed that they are more likely to frustrate rather than help local beneficiaries.

Somalis who've had the opportunity to deal with Westerners in recent years have undoubtedly become cynical. Many Westerners took advantage of the aid system to enrich themselves, at the expense of intended beneficiaries. Others were merely naive, thinking they were helping matters, while in fact they were part of a system that was doing quite the opposite.

Settlers of a potential new country in this region will have to face attitudes shaped by these exposures. It may take many years before local residents will become accustomed to dealing with Westerners in the open, win-win atmosphere of the marketplace.△

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