

MONARCHY, DEMOCRACY AND PRIVATE PROPERTY ORDER. HOW HUMAN RIGHTS HAVE BEEN VIOLATED AND HOW TO PROTECT THEM. A RESPONSE TO HANS H. HOPPE, F.A. HAYEK, AND ELINOR OSTROM

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Abstract: World War I can be seen as a crucial turning point in world history, leading to a transition from monarchical rule to democratic states, in particular in Europe. Since then, the concept of a representative democracy with a comprehensive welfare state and high public expenditure quota has been thoroughly implemented in almost all European countries. Moreover, despite the collapse of the Soviet union, the disastrous results of former fascist governments, and the current economic and political situation in countries like Venezuela, a vast majority of Europeans still seem to consider a “strong” and omnipresent government as crucial to guarantee freedom and a ‘rule of law’. The economist H. Hoppe strongly questions this status quo, believing that even monarchies could be more sustainable than current democracies and stating that ultimately a “private property order”, based on anarcho-capitalism, would be the best solution. By strongly questioning not only the concept of current welfare state democracies, but also by rejecting the concepts of monarchy and anarcho-capitalism, we intend to find alternatives to protect human rights, freedom and economic prosperity, which are based on the ideas of F.A. von Hayek, Michael Polanyi, Elinor Ostrom and other liberal and libertarian thinkers.

Keywords: democracy, monarchy, private property order, Hoppe, Hayek, human rights.

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Resumen: La primera guerra mundial puede ser considerada un punto de inflexión crucial en la historia mundial, iniciando la transición de gobiernos monárquicos hacia los estados democráticos, particularmente en Europa. Desde entonces, el concepto de la democracia representativa con un estado de bienestar integral y una alta cuota de gasto público se ha implementado exhaustivamente en casi todos los países europeos. Además, a pesar del colapso de la Unión Soviética, de los resultados desastrosos de los antiguos gobiernos fascistas y a pesar de la situación económica y política actual en países como Cuba, Corea del Norte y Venezuela, una gran mayoría de los europeos todavía parece considerar a un gobierno "fuerte" y omnipresente como crucial para garantizar la libertad y el 'estado de derecho'. El economista H. Hoppe cuestiona fuertemente este *status quo*, creyendo que incluso las monarquías podrían ser más sostenibles que las democracias actuales y declara que, en última instancia, un "orden de propiedad privada", basado en el anarcocapitalismo, sería la mejor solución. Al cuestionar enérgicamente no sólo el concepto del estado de bienestar democrático sino también los conceptos de monarquía y anarcocapitalismo, pretendemos encontrar alternativas para proteger mejor los derechos humanos, la libertad y la prosperidad económica, a través de conceptos basados en las ideas de F.A. von Hayek, Michael Polanyi, Elinor Ostrom y otros pensadores liberales y libertarios.

Palabras clave: democracia, monarquía, propiedad privada, Hoppe, Hayek, derechos humanos.

Clasificación JEL: A12, B10, B13, B25, H10

I

INTRODUCTION: THE FRENCH REVOLUTION

World War I led to the transformation of the entire western world of monarchical rule and sovereign kings towards democratic republican rules and sovereign people. It is often argued that this transformation had mainly begun with the French Revolution.

The French Revolution (1790-1799) led to significant social and political changes in France and its colonies, as it overthrew the

monarchy, establishing a republic, but also leading to violent periods of political turmoil, ultimately ending-up in a dictatorship under Napoleon. Initially inspired by liberal and radical ideas, the Revolution clearly changed the course of modern history, triggering the global decline of absolute monarchies while replacing them with republics and liberal democracies. Alexis de Tocqueville had argued that the Revolution was a manifestation of a more prosperous middle class which had become conscious of its social importance. The French Revolution was justified by several liberals and libertarians, such as Thomas Paine, Thomas Jefferson, and Ludwig von Mises. Thomas Jefferson defended uncritically the French Revolution, down to its bloodiest atrocities.

However, the conservative Anglo-Irish statesman, political theorist and philosopher Edmund Burke (1730-1797) argued that the Revolution was the product of a few conspiratorial individuals who brainwashed the masses into subverting the old order. In his *Reflections on the Revolution in France*, Burke stated that the revolution was destroying the fabric of good society, traditional institutions of state and society and he condemned “the persecution of the Catholic Church” which had resulted from it (Burke, 1790).

1. The French Revolution: A Struggle for Freedom or Nationalist Collectivism?

The class nature of the revolution is often seen as a fundamental aspect in understanding human social evolution itself. This aspect, in combination with the egalitarian values introduced by the revolution, was also used by those promoting a classless and co-operative model for society, which ultimately led to the term and concept of “socialism”. Thus, several liberals and libertarians like Gustave de Molinari and Ralph Raico (1996) clearly opposed the French revolution. Even if during the main period of the Enlightenment movement, liberal thinkers such as Montesquieu, Turgot, Lafayette and Condorcet had defined political theories based on individual freedom and competition, they were possibly “too far ahead of times” to significantly shape the French Revolution. Apart from the positive aspects of the Enlightenment movement,

the actual French Revolution was often collectivist and nationalist and led to a violent phase - the 'Reign of Terror'. Thus, while it initially helped to establish a republic, it also caused violent periods of political turmoil, and ultimately led to a dictatorship under Napoleon (Dwyer, 2002). It must therefore be critically seen, showing us that the implementation of democratic processes can bear clear risks, as the 'majority rule' can differ quite significantly to the concept of 'the Rule of Law'. Thus, compared to the American Revolution, the French Revolution must be seen as quite disappointing to libertarians, but compared to the Russian Revolution, its long-term effects were rather positive. *The Declaration of the Rights of Man*, issued a month after the fall of the Bastille, enunciated libertarian principles similar to those stated in the *Declaration of Independence*:

- "1. Men are born and remain free and equal in rights...
- 2. The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression...
- 4. Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights...
- 17. Property is an inviolable and sacred right."

But it also had a strong nationalist and collectivist approach, such as:

- "3. The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation...
- 6. Law is the expression of the general will".

2. Democracy: a Dictatorship by the Majority?

The French Revolution led to significant social and political changes in France and its colonies, as it overthrew the monarchy

with the aim to establish a republic. Initially inspired by liberal and radical ideas, the Revolution clearly changed the course of modern history, triggering the global decline of absolute monarchies while replacing them with the concepts of 'a republic' and 'democracy' (Dwyer, 2002). A liberal interpretation of these clauses may argue that sovereignty is now rested in "the people", not in any individual, family, or class. However, the consequences of this approach, justifying that any law is morally legitimate as long as it was implemented with the support of "the people", has often led to disastrous results. This (dangerous) approach assumes that the State is the embodiment of the "general will" which is sovereign and thus unconstrained (Boaz, 2011). However, democratic governments are rarely trying to represent an entire people, but are much more focusing on achieving a parliamentary majority, even if this means to base the political programme/ party platform on exploiting and/or abusing certain minorities. F.A. von Hayek wrote in his *The Constitution of Liberty*:

"The decisive factor which made the efforts of the Revolution toward the enhancement of individual liberty so abortive was that it created the belief that, since at last all power had been placed in the hands of the people, all safeguards against the abuse of this power had become unnecessary."²

A century after the French Revolution Herbert Spencer (1884) summarized that with the revolution, "the divine right of kings" was replaced by "the divine right of parliaments." Thus, to summarize, we can say that the French revolution, was meant to overthrow the absolute monarchy, to establish a constitution, to gain freedom of speech and other rights, and to assure a democratic government.

However, despite the noble aspirations, the revolution soon descended into violence and bloodshed. Most of the revolutionaries had no experience or skills necessary to govern a State, and as the system they built had no roots among the traditions of the people, it could only be maintained and defended by violent repression.

² Hayek, F. (1960). *The Constitution of Liberty*. University of Chicago Press

Violence was used, peasants revolted against the nobles and landlords, and many 'anti-revolutionaries' were murdered. It partially led to a 'reign of terror', and then to the rise of Napoleon Bonaparte as powerful ruler. On the other hand, it did manage to overthrow the absolute monarchy, and initiated the further emergence of the middle class/ bourgeoisie as well as the right to vote and free speech. The power of the aristocracy and the Catholic Church was intended to be replaced by a system and culture of civil rights ('natural rights, enshrined in law'). The *Declaration of the Rights of Man and Citizen* led to the abolition of slavery in French overseas colonies. Thus, for many historians, in particular those who consider themselves as "progressives", the French Revolution has been positive and crucial in creating and shaping the modern world.

In order to evaluate the world's evolution from 1914-1918 and beyond, we also need to keep in mind the historic events since the mentioned French Revolution, and its implications throughout the 19th century, up until the beginning of the 20th century. These developments also had an impact on the outbreak of and reasons for WWI, which we will later discuss in detail.

II

WORLD WAR I AND THE TRANSFORMATION FROM MONARCHIES TO DEMOCRACIES

World War I (often abbreviated to WWI), also known as the First World War, originated in Europe and lasted from 28 July 1914 to 11 November 1918. The First World War marked one of the major turning points in modern history. It was one of the deadliest conflicts in history, but also led to major political changes, including the Revolutions of 1917–1923 in several of the nations involved. WWI assembled in two opposing alliances: the Allies (based on the Triple Entente of the Russian Empire, the French Third Republic, and the United Kingdom of Great Britain and Ireland) versus the Central Powers of Germany and Austria-Hungary. Throughout the war, alliances changed while Italy, Japan and the United States joined the Allies, whereas the Ottoman Empire and Bulgaria joined the Central Powers (Hoppe, 2003).

1. The Origins of WWI

In most history books it is stated that the main cause for WWI was the assassination of Archduke Franz Ferdinand of Austria, heir presumptive to the Austro-Hungarian throne, and his wife Sophie, Duchess of Hohenberg, which occurred on 28 June 1914 in Sarajevo. He was killed by Gavrilo Princip, a Bosnian Serb and member of Young Bosnia, a Yugoslav organization seeking to end the Austro-Hungarian rule in Bosnia and Herzegovina. Arguing that Serbian officials were involved in the plot to murder the Archduke, and wanting to finally end Serbian interference in Bosnia, Austria-Hungary delivered to Serbia an ultimatum (the 'July Ultimatum') containing ten demands. Serbia accepted all of these demands except for article six, which demanded that Austrian delegates be allowed in Serbia for the purpose of participation in the investigation into the assassination. Consequently, on 28 July 1914 Austria-Hungary declared war on Serbia. On 29 July, Russia, in support of Serbia, declared partial mobilisation against Austria-Hungary and on July 31st, German Chancellor Bethmann-Hollweg declared a "state of danger of war". This escalation subsequently led to WWI between two opposing alliances initially formed by the "Allies" (Russian Empire, the French Third Republic, and the United Kingdom of Great Britain and Ireland) versus the Central Powers of Germany and Austria-Hungary.

2. The End of the Monarchies – the Transition Country by Country

By 1914, only three republics had existed in Europe: France, Switzerland and (after 1911) Portugal. Moreover, of all European monarchies only the United Kingdom could have been seen as a parliamentary system in which the highest power was given to an elected parliament. However, only four years later the war was won by 'the Allies' and most monarchies started to lose their political power, strengthening the idea of democratic republicanism in Europe (Hoppe, 2003).

Back in March 1917, demonstrations in Petrograd culminated in the abdication of Tsar Nicholas II and the appointment of a weak

Provisional Government, which shared power with the Petrograd Soviet socialists. After the 1917 February Revolution ousted the Tsar and established a Provisional Government, Vladimir Lenin returned to Russia by train from Switzerland to play a major role in the October Revolution, in which the Bolsheviks overthrew the new regime. In November 1917, Lenin issued the *Declaration of the Rights of the Peoples of Russia*, which stated that non-Russian ethnic groups who lived inside Russia had the right to cede from Russian authority and establish their own independent nation-states. Consequently, many nations declared independence, such as Finland and Lithuania in December 1917, Latvia and Ukraine in January 1918, Estonia in February 1918, Transcaucasia in April 1918, and Poland in November 1918. In July 1918, at the Fifth All-Russian Congress of the Soviets, a constitution was approved that reformed the Russian Republic into the Russian Soviet Federative Socialist Republic.

Apart from that, by the end of the war (1918) or soon after, also the German Empire, the Austro-Hungarian Empire as well as the Ottoman Empire ended to exist. National borders were redrawn, with in total nine independent nations which were restored or created. Belgium and Serbia were badly damaged, as was France, with 1.4 million soldiers dead. Several dynasties together with their ancillary aristocracies, fell as a result of the war: The Romanovs, Hohenzollern and Habsburgs were defeated and had to resign. The new German republic was burdened with heavy long-term reparations. So, not only Germany but also Austria became democratic republic with universal suffrage (male and female) and parliamentary governments. Consequently, all recently created successor states with the sole exception of Yugoslavia implemented democratic republican constitutions. The Ottoman Empire was soon replaced by Turkey and several other countries in the Middle East. The monarchy in Greece was overthrown, and also in those States in which the monarchies remained in existence, as in Great Britain, Italy, Spain, Belgium, the Netherlands and Sweden, they did not hold the central governing power anymore. Power of government was transferred to parliaments and "public" officials. Czechoslovakia, combining the Kingdom of Bohemia with parts of the Kingdom of Hungary, became a new nation (Raico, 1999). This was the time of crucial transformations,

which in particular in several Western countries led from the old royal regimes to a new democratic-republican era

3. WWI as an Ideological Struggle between Monarchy and Republic

World War I had begun as an old-fashioned territorial dispute. However, partially with the initial involvement by the USA, and in particular with the USA's later official entry into WWI, the war took on a new ideological dimension. Thus, World War I was not a traditional war mainly fought over resources and/ or territorial objectives, but also an ideological one with Austria and the USA as the two countries which most clearly represented the 2 different systems: Austria was ruled by a monarch - Emperor Franz Joseph - and America by a democratically elected president - Woodrow Wilson.

The United States had been founded as a republic, based on the democratic principle, inherent in the idea of a republic. On the opposite side, Austria had inherited many traditions from the Holy Roman Empire had headed the Holy Alliance, and morally supported the monarchical experiment in Mexico. Since 1918, after having lost WWI, Austria disappeared from the map of international power politics (Raico, 1999).

The anarcho-capitalist economist and philosopher Hans H. Hoppe argues that if the United States had followed a strict noninterventionist foreign policy during the 1st half of the 20th century, it is likely that Austria-Hungary, Germany, and even Russia would have remained traditional monarchies instead of having been turned into (short-lived) democratic republics (Hoppe, 2003).

III

ANARCHO-CAPITALISM VS MONARCHY AND DEMOCRACY

1. Hans-Herman Hoppe and the Private Property Order

After the death of Murray Rothbard, Hans-Hermann Hoppe is probably the best-known representative of anarcho-capitalism.

Hoppe (born in 1949) is a German-born US-American Austrian School economist, and paleo-libertarian anarcho-capitalist philosopher. Hoppe has published a collection of essays and lecture texts probably containing the harshest criticism of modern welfare democracy that can be imagined-not from the point of view of "social justice" or "material equality," but, seldom enough, under the premise of an order that is consistent with private property, free exchange, free contracts and markets. Hoppe relies on a "natural order," which would always arise if the associative power of humans could unfold organically and freely without public interventions and coercion (Hoppe, 1993).

Hereditary monarchies can be considered the historical examples of privately owned governments, whereas democratic republics can be seen as publicly owned governments. When evaluating mankind's more recent history, looking at the time from the 10th to the 19th century, mankind has spent most of its time under monarchical rule. There were exceptions such as Athenian democracy, Rome during its republican era until 31 B.C., the republics of Venice, Florence, and Genoa during the Renaissance period, the Swiss cantons since 1291, or England under Cromwell from 1649 until 1660. Yet, with the exception of Switzerland, these were all short-lived phenomena. Thus, it must be seen as a historically radical change when in Europe the end of World War I led (from the viewpoint of economic theory) to the replacement of private government ownership by public government ownership.

2. The Short-Sightedness of Democratic Systems

Hoppe believes that from an economic perspective, monarchies are superior to democracy. His basic argument is simple: democracies are "short-sighted" and destroy willingness to invest through the constant increase in taxes; whereas Monarchs on the other hand, have longer-term interests, especially in their own wealth creation. More precisely, Hoppe refers to monarchical government in a rather positive way, considering it in a theoretical context as privately-owned governments, which promote long-term thinking, future-orientedness and a concern for capital values and economic

calculation by the government ruler. Contrary to that, democracy and with it the democratic governments are reconstructed as publicly-owned governments, which leads to short-sighted, populist actions, to “presence-orientedness” and a disregard of capital values. Thus, the transition from monarchy to democracy is interpreted by Hoppe as a civilizational decline (Hoppe, 1993).

“Democracy has nothing to do with freedom. Democracy is a soft variant of communism, and rarely in the history of ideas has it been taken for anything else....Democracy virtually assures that only bad and dangerous men will ever rise to the top of government.”

He attributes democracy’s alleged failures to pressure groups which seek to increase government expenditures and regulations. Hoppe sees democracy as an immoral concept, in which freedom cannot be assured. Moreover, he sees democracy as “dictatorship by the majority”, in which well-structured majorities can basically take away all rights from minorities, as in this concept the majority’s vote could legally justify the implementation of any totalitarian rule.

“Democracy allows for A and B to band together to rip off C: This is not justice, but a moral outrage.... The state operates in a legal vacuum as there exists no contract between the state and its citizens.”

Hoppe concludes that the ‘Whig Theory of History’, which believes that mankind marches continually forward towards constantly higher levels of progress, is incorrect. If long-term sustainable planning, and value farsightedness as well as individual responsibility are seen as superior to short-sightedness and irresponsibility, then the transition from monarchy to democracy needs to be seen as a cultural, political and economic decline. In several Western countries, increasing public debt and the cost of social security systems have brought on the prospect of an imminent economic meltdown.

Hoppe believes that if a State were really necessary – “State” defined as an agency that exercises a compulsory territorial monopoly of ultimate decision-making (jurisdiction) and of

taxation – then, it would be economically and ethically better to choose monarchy over democracy.

Thus, from Hoppe's perspective, the second best solution, meaning second to the pure private property order, is a private monopoly government: the monarchy. Hereditary monarchies and family companies are interested in the long-term use of the capital stock, in contrast to manager-led corporations or welfare democracies, in which "those in charge" aim at short-term results, often achieved by short-sighted exploitations of resources. Hoppe legitimizes monarchy in terms of property theory, proving that (ultra) conservatism and Hoppe's private anarchism are natural allies.

However, this leaves the question open if a State is truly necessary. Or is there an alternative to both, monarchy and democracy? Hoppe is fully right that the biggest threat for current states must be seen in the "welfare democracy", as the moderate socialism of the welfare state is more and more in the process of dissolving private property, freedom and legal certainty. In recent decades, the market economy has brought unprecedented prosperity to many countries across the globe, but the welfare-driven governments are often destroying the essence of this growth which is freedom and private property.

Hoppe believes that no state can ultimately be justified, be it economically or ethically, as every state - regardless of its constitution - is economically and ethically deficient. Every coercive monopolist is bad from the customers' viewpoint and the choice between monarchy and a democracy State is therefore a choice between two defective social orders. Social theory indicates the possibility of an alternative social order which could be free of the economic and ethical defects of monarchy and democracy, and this system could be the "natural order". For Hoppe the State should be replaced by private organizations in competition. In his "natural order", all scarce resources would be owned privately, enterprises are funded by voluntarily paying customers or private donors, and entry into every line of production, including justice, police, and defense services, would be free (Hoppe, 1993).

"The recently ended twentieth century was characterized by a level of human rights violations unparalleled in all of human

history. The historical evidence appears to indicate that, rather than protecting life, liberty, and the pursuit of happiness of their citizens, governments must be considered the greatest threat to human security.”

3. Do we need a State?

Thus, the question must be raised whether or not a State is actually necessary. Is there a better alternative to both, monarchy and democracy? Would a different system improve individual freedom and economic prosperity? History cannot provide this answer, and all one finds in modern history of major countries is the history of States and statism. However, it is obvious that a private government owner will tend to have a systematically longer planning horizon than the members of an elected government in a democratic State, as his degree of time preference will be lower, and his degree of economic exploitation will tend to be less than that of a government caretaker. The members of a democratic State government cannot sell government resources nor can they legally privately pocket the receipts. Democratic governments cannot legally pass government possessions onto their personal heir, for which they only own the current use of government resources, but not their capital value. Consequently, a long-term sustainable planning is not a priority for any democratically elected government, as only ‘short-term’ are relevant for potential re-elections.

Critics of Hoppe’s anarcho-capitalist concept argue that the lack of a public Police or Military, and the lack of a public jurisdiction, could quickly lead to aggressions by private companies equipped with force of coercion, ending up in private monopolies. These monopolies could be established due to the full privatization of all properties, including all logistically strategic points and all natural resources – and they could assure their monopoly position simply because of their mere size and control of strategic points, not allowing any competition. Hoppe believes that the regulatory mechanism of a consistent market economy will prevent this, as neither clientele nor contracted companies would have an interest in violating the rules of the game that would emerge. The author of this paper

considers this position seems rather naïve which is also criticized by several well-known libertarians. One shall not ignore the risk that a full privatization of all natural resources, all geographically/logistically strategic points, as well as of all sectors related to public security and jurisdiction, could lead to a new form of “feudalism”. Moreover, not all conflicts are purely individual & “property conflicts”, as they may also be immaterial, such as political, cultural/religious and group conflicts, which would be more difficult to deal with. Both, from a moral but also from an economic perspective, it appears inefficient if a few families could soon be able to control all logistically and strategically crucial territories throughout decades and generations, only because (at the time of privatization) they were able to “buy the right areas at the right time”. At least after a few decades, individual wealth and ‘macro-economic power, would then not be based on one’s own achievements and ‘individual competitiveness’, but mainly on the family one belongs to. This would be the exact opposite of what many liberal thinkers had in mind when defining concepts of how to protect the market order and to assure constant competition.

a) *Anarchism and Anarcho-Capitalism: Hoppe’s Predecessors*

It is certainly true that there were already other great ‘anti-state’ and pro-market thinkers, philosophers and economists long before Hans H. Hoppe.

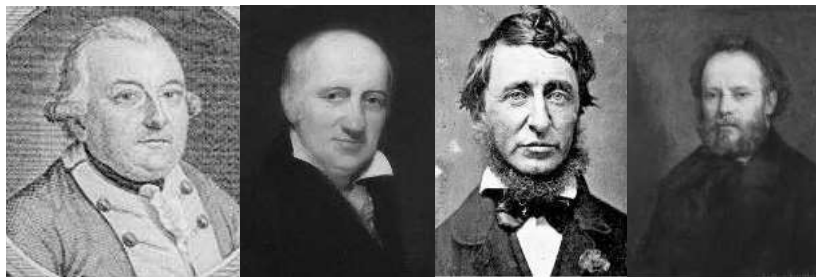
In the late 18th century, German political economist Jakob Mauvillon (1743-1794) challenged the state’s monopoly on force and its very existence. Like other classical liberals at that time, Mauvillon condemned ‘secondary state activities’ such as running the educational system and the post office. Potentially, Mauvillon was the first one to discuss the possibility of privatizing the whole state apparatus of providing security already in the 18th century. Mauvillon speculated that the security functions of the state could be voluntarily funded.³

³ Rubin Herz: Jakob Mauvillon und seine Stellung in der Geschichte der Nationalökonomie

Gustave de Molinari (3 March 1819 – 28 January 1912) was a political economist and classical liberal theorist, associated with French laissez-faire economist Frédéric Bastiat. In 1849, in his essay *The Production of Security* Gustave de Molinari stated that “in all cases, for all commodities that serve to provide for the tangible or intangible need of the consumer, it is in the consumer’s best interest that labor and trade remain free, because the freedom of labor and trade have as their necessary and permanent result the maximum reduction of price.” Molinari concluded that no government should reserve the right to prevent other market participants from going into competition with it, nor force consumers to only be allowed to ask its government for any commodity or service – even if it is about security and justice. Apart from his moral refusal towards public institutions and any form of state coercion, Molinari also considered public entities to be economically inefficient.

Before Molinari, there were also other relevant political philosophers and economists, such as William Godwin in England (1756–1836) who stated that “government by its very nature counteracts the improvement of original mind,” pointing out his anti-statist beliefs.

Afterwards, in the USA, Josiah Warren (1798–1874) initiated his weekly paper ‘The Peaceful Revolutionist’ which is considered to be the first anarchist periodical published. Warren is notable for expounding the idea of “sovereignty of the individual” saying that there “should be absolutely no community of property; all property should be individualized”.⁴



J. Mauvillon

W. Godwin

J. WarrenP.

J. Proudhon

⁴ William Bailie, ‘Josiah Warren: The First American Anarchist’

Then, at the beginning of the 19th century, the French philosopher Pierre-Joseph Proudhon (1809–1865) declared himself an anarchist, stating that “... as man seeks justice in equality, so society seeks order in anarchy... Whoever lays his hand on me to govern me is a usurper and tyrant, and I declare him my enemy.” Moreover, Molinari influenced some of the political thoughts of the individualist anarchist Benjamin Tucker.

However, as Roderick Long stated, “what Molinari pioneered in 1849 was an explanation of how market mechanisms could replace the traditional ‘governmental’ function of the State: protection against aggressors.” Consequently, Molinari’s concept could be seen as truly “market-based anarchism”, different to previous ideas of a “market friendly anarchism”.



E. La Boétie

J.B. Say

F. Bastiat

One must also emphasize on the dominance of laissez-faire thoughts in France throughout the early nineteenth century. Prior to that, the French writer Etienne de La Boétie (1530–1563) already insisted on criticizing any forms of tyranny, becoming one of the earliest advocates of civil disobedience and nonviolent resistance, being in favour of disobedience to rulers. Then in mentioned 18th century, the French economist Jean-Baptiste Say (1767–1832) argued in favor of competition, free trade, and lifting restraints on business, saying that “there is no security of property, where a despotic authority can possess itself of the property of another man against his consent.” J.B. Say was followed by Charles Comte (1782–1837) a French lawyer, journalist and political writer married to Say’s

daughter, who concluded that “...what must never be lost sight of is that a public functionary, in his capacity as functionary, produces absolutely nothing; that, on the contrary, he exists only on the products of the industrious class; and that he can consume nothing that has not been taken from the producers.” The best-known of this group of French thinkers is possibly Claude-Frédéric Bastiat (1801-1850), who further developed the economic concept of opportunity cost, being a strong advocate of classical liberalism, and favouring free trade while providing a basis for libertarian capitalism and the Austrian School.

b) *Hoppe’s Mentor Murray Rothbard*

Murray Newton Rothbard (1926–1995) was a US-American economist, historian and political theorist. He strongly shaped the anarcho-capitalist movement as well as modern right-libertarianism. Hans Herman Hoppe defined Rothbard as his “principal teacher, mentor and master”, whereas Hoppe is often referred to as having been “Rothbard’s protégé”.

Rothbard stated that all services provided by the “monopoly system of the corporate state” could be provided more efficiently by the private sector, calling the State “the organization of robbery” (Rothbard, 1962). He was a strong critic of egalitarianism, as “...equality is not in the natural order of things, and the crusade to make everyone equal in every respect (except before the law) is certain to have disastrous consequences”.

Though Rothbard self-identified as a “libertarian, anarcho-capitalist and Austrian school economist”, his methodology was at odds with several other well-known Austrians. Rothbard attempted to assert an objective, natural law basis for the free market, calling his principle “self-ownership” (Rothbard, 1973). The self-ownership concept was loosely based on the ideas of John Locke and he also borrowed several concepts from classical liberalism as well as the anti-imperialism of the Old Right. In Rothbard’s anarcho-capitalist model, a system of protection agencies compete in a free market and are voluntarily supported by consumers who choose to use their protective and judicial services

(Rothbard, 1973). Anarcho-capitalism would mean the end of the state monopoly on force. His anarcho-capitalist concept was also criticised by liberals like Milton Friedman and even Austrian school ambassadors such as Israel Kirzner.

c) *Property Rights as the only Human Rights*

Rothbard believed that the concept of (human) “rights” only makes sense as property rights. He believed that there are no human rights which are not also property rights, and that “human rights” lose their absoluteness and clarity when property rights are not used as the standard. This radical approach however also means that the right to free speech is limited: one can only exercise it on one’s own property, or where one is given the right to free speech by the property owner. Rothbard stated man only has the right to free speech, “either on his own property or on the property of someone who has agreed, as a gift or in a rental contract, to allow him on the premises. In fact, then, there is no such thing as a separate “right to free speech”; there is only a man’s property right: the right to do as he wills with his own or to make voluntary agreements with other property owners.”

Even the objectivist and ‘radical capitalist’ Ayn Rand heavily criticised Rothbard for trying to implement an anarcho-capitalist system, purely based on private property: Ayn Rand defended a non-aggression principle, based on objectivist principles, but without questioning the need for the existence of (minimal) State.

IV
ALTERNATIVES TO WELFARE STATE DEMOCRACY,
MONARCHY AND ANARCHO-CAPITALISM

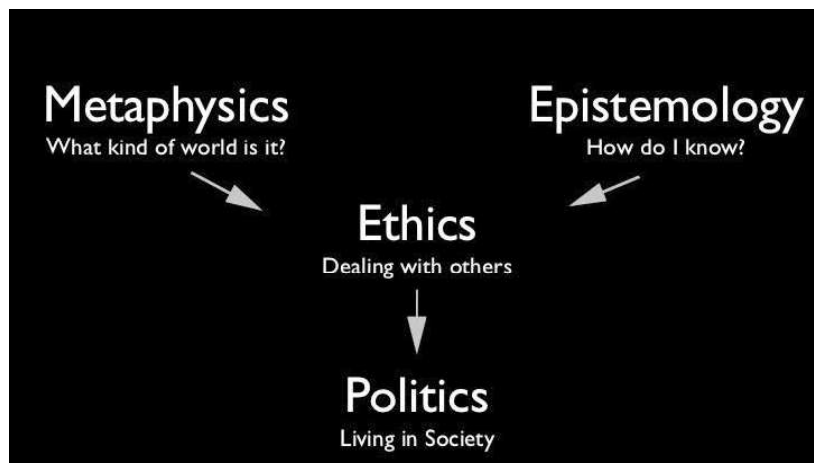
The concepts of Elinor Ostrom’s “common property goods” (1990), Hayek’s “Rule of Law” and “spontaneous order” as well as Ayn Rand’s idea of a “non-aggression principle” clearly differ in certain aspects, but we believe that they can be seen as the most useful

ideological frameworks to optimize individual freedom, justice and economic prosperity. All of them seem valid and accurate to provide a moral, legal and political framework which could minimize public coercion while protecting individual liberties. Thus, we want to analyse their concept a bit more in detail:

1. Ayn Rand's Non-Aggression Principle

Ayn Rand (1905-1982) was a Russian-American philosopher, also known for her novels *The Fountainhead* and *Atlas Shrugged*, and for developing a philosophical system called Objectivism. Rand's philosophic system is partially based on the concepts of Aristotle, and derives from the idea that human knowledge and values are objective. It begins with three axioms: existence, consciousness and identity, and strongly emphasizes on rational individualism and reasoning (Peikoff, 2012). Rand explained the essence of her philosophy as being based on the following four pillars: 1) Metaphysics (objective reality); 2) Epistemology (reason); 3) Ethics (self-interest); and 4) Politics (capitalism).

CHART: THE FOUR PILLARS OF RAND'S OBJECTIVISM



Source: Epistemology.org

From a libertarian and Austrian school perspective, there are several Objectivist concepts in regards to metaphysics, epistemology and ethics, which one may critically discuss (Capella, 2018). However, in this paper we only want to focus on the 4th of the mentioned topics: politics. Rand's ideal political-economic system is laissez-faire capitalism, as it is seen as the only system where men deal with each other not as masters and slaves/ victims, but as traders by free voluntary exchange to mutual benefit (Rand, 1962). The ideal social system, Rand holds, is laissez-faire capitalism. She defined laissez-faire capitalism as the system based on recognizing individual rights, including property rights. Rand's political philosophy heavily emphasized on individual freedom, self-responsibility and open markets (Rand, 1982). She condemned the initiation of force as immoral and opposed collectivism, statism – as well as anarchism. In a free society there shall be a strict separation of state and economics. No man should obtain any values from others by using physical force. Rand believed that natural rights should be protected and strengthened by a constitutionally limited government. Thus, she rejected anarchism as a naïve theory based in subjectivism that could only lead to collectivism in practice. Rand focused on the non-aggression principle as a major factor for political philosophy (Rand, 1962). Ayn Rand formulated a version of it in *Atlas Shrugged*: “So long as men desire to live together, no man may initiate — do you hear me? No man may start — the use of physical force against others.” Thus, no man, or group, or society, or government has the right to assume the role of a criminal and initiate the use of physical compulsion against any man. Men have the right to use physical force only in retaliation and only against those who initiate its use. For her, government has only one function: to protect the rights of each individual by placing the retaliatory use of physical force under objective control. She defined democracy as “...unlimited majority rule . . . a social system in which one's work, one's property, one's mind, and one's life are at the mercy of any gang that may muster the vote of a majority at any moment for any purpose.” Democracy is seen as a form of collectivism, which can easily deny individual rights as the majority can do whatever it wants with no restrictions. In principle, democracy is seen as a totalitarian manifestation; not as a

form of freedom. She considered the original set-up of the US-American system as a constitutional republic, not a democracy. The US-American system, as a constitutionally limited republic, should therefore be restricted to the protection of individual rights, where the majority rule is applicable only to lesser details, such as the selection of certain personnel (Peikoff, 2012). But by no means should the majority have the power to ask for or gain the infringement of individual rights.

2. F.A. von Hayek - the Extended Order and Rule of Law

Friedrich A. von Hayek must be seen as one of the most relevant economists and philosophers of his time (1899-1992). His most famous work *The Road to Serfdom*, published in 1944, is an anti-socialist classic warning of the threat of tyranny resulting from government control of economic decision-making through central planning. Hayek's latest works *The Fatal Conceit* written at the end of his long and impressive life, mainly focused on one common theme: the nature and societal role of knowledge and information, and their corresponding use and misuse. Hayek stated that "...our civilisation depends... on what can be described as the extended order of human cooperation, an order more commonly, if somewhat misleadingly, known as capitalism" (Hayek, 1988). Consequently, Hayek's spontaneous order is a concept of unplanned social order, generated unconsciously by goal-oriented individual action, stating that these self-organizing social phenomena are transmitting more relevant information than any centrally steered, conscious design. Hayek's thesis is that political/economic systems evolve just as organisms do (Hayek, 1944). Such spontaneous orders do not arise from rational planning, and the fatal conceit is to believe that planners could ever understand such an order at a comprehensive enough level to predict the consequences of centrally/ artificially changing it (Hayek, 1988). Moreover people's instincts and consciousness regarding "fairness" are suitable only for small communities which can agree on aims, but lead to disaster when applied to large modern societies. Hayek was dissatisfied with the usage of the word "economy" because its Greek root,

which translates as “household management”, implies that economic agents in a market economy possess shared goals. An “economy”, in the original sense of the word in which a household or an enterprise can be called “economies”, is a combination of activities used to achieve a unitary plan, a shared common goal, which is hardly the case for what nowadays is considered a (national or world) “economy”. Unlike a household, the market order serves no such single order of ends. Thus, what is commonly called a “national economy” is not “a single economy” (with one unitary plan and common goal) but a network of many interlaced economies. Instead, Hayek derived the word “Catallaxy” (from the Greek verb *katallasso* which meant “to exchange” and “to change from enemy into friend”) to better describe the “market place”. Hayek stated that the market order consists of innumerable individuals, individually pursuing their own aspirations, and each person demonstrates his or her temporary ranking of ends through the choices made and actions taken. Hayek argued that knowledge must never be artificially concentrated into a single entity at the hierarchical top, but it should be naturally distributed within society and used effectively by free market participants. Consequently, central government never has rational means of figuring out which goods and services are the most crucial and desired ones for the population, nor about what amount of time and money to invest in developing them.

The extended order of human cooperation plays a central role in Hayek’s beliefs, which need to be understood and respected, to maximize prosperity and freedom of mankind (Boettke, 1990). Hayek defines the “extended order” as a society based on a voluntary exchange within a free market, with limited government, property rights, and the Rule of Law. Hayek not only detects the major disadvantages, inconsistencies and threats of any form of central-planning, he also synthesizes all free market theory into one concise concept of “spontaneous order” (Hayek, 1988). Taking the examples of money, law and language, all major aspects which have shaped most civilizations throughout decades or centuries were caused by the spontaneous order process. The most important one of all such spontaneous orders is the extended order. Both, the evolution of the common law, as well as the evolution of the

barter economies towards monetary economies can be seen as components of extended order.

The "Rule of Law" is the legal framework appropriate to the extended order. Hayek described it as a "political ideal", which requires that laws are more than just legally binding and temporarily valid regulations. There must be general rules which are universally applied. Hayek distinguishes between "Law" and "Legislations". While true Laws are universal and can be discovered, actual "legislations" often and unfortunately are only orders defined by governments to control certain people/ groups (Hayek, 1973). The state's power must be limited, only applying general rules to individuals, being without the authority to oblige certain individuals to do certain things. Within the range of these general rules, individuals have the right to pursue their goals. Important is the fact that to Hayek, equality refers to equality before the law, it does not mean material equality. However, Hayek considers the influence of interest groups on politics as a potential threat also to liberal government and the extended order. Political parties can become coalitions of interest groups, imposing costs on the public. The rule of law can become violated once government intervenes in the market in order to support certain influential groups. Moreover, if a legislature, the institution that makes the rules, can distribute favours through its designing of policies, it violates the Rule of Law, serving special interests. Consequently, previous works, Hayek also defined an "ideal constitution" showing how the separation of powers might work most efficiently, limiting the influence of interest groups. Hayek proposes a clear distinction between laws and "commands", in a bicameral legislature with a "Legislative Assembly" and a "Governmental Assembly". Moreover, Hayek pointed out the importance to protect private property, as there is no true justice without property. A peaceful cooperation among individuals requires the recognition of private property by any political authority (Hayek, 1973). However, Hayek clearly considered government as "necessary" not only for "law enforcement" and "defense against external enemies" but "in an advanced society government ought to use its power of raising funds by taxation to provide a number of services which for various reasons cannot be provided, or cannot be provided adequately, by the

market.” (Hayek in *Law, Legislation, and Liberty*, 1978). Thus, even if Hayek harshly criticised socialism, he was also quite away from radical anarcho-capitalist positions. He confirmed that “there is a wide and unquestioned field for state activity”, and he even mentioned once (which might be seen as a contradiction to his often mentioned rejection to central planning and central designing), that in some situations “planning is required to make competition as effective and beneficial as possible”. Hayek defended restrictions on pollution by factories, limitations on deforestations, as well as the financing of schools. However, he also added other topics to the list of aspects which would need governmental intervention, such as limits on labourer’s working hours.

3. Michael Polanyi, Elinor Ostrom: Polycentricity and Property Rights in the Commons

The concept of polycentricity (often defined as a social system of many decision centers having limited and autonomous prerogatives, while operating under an overarching set of rules) was first envisaged by Michael Polanyi (1951) in his book *The Logic of Liberty*. Michael Polanyi was not a radical libertarian, as he feared potential negative effects of an entire free market without public control. However, in the final section of his “Collectivist Planning” essay, Polanyi hoped that liberalism might revive itself as a dynamic philosophy. Michael Polanyi’s and Hayek’s ideas on the impracticality of socialism may slightly differ to some extent, but they both seem absolutely valid and accurate to properly criticise today’s public interventionism as both interpretations individually detect the main problems caused by public coercion. Still, he partially criticised the views of Ludwig von Mises for leading to the “evil consequences of free trading” while also opposing any “State enterprise”, which Polanyi (1940, 57) described as in being contradiction of “the very principles of civilization”. Planning destroys freedom, but so, Polanyi believed, does entirely free laissez faire economics (Polanyi, 1940, 58). Polanyi’s concept of a free society differs from that of classical English liberals and Austrian school economists. Polanyi defended subsystems as the basic units of society, in

opposition to classical liberalism's ontology of individualism. However, Michael Polanyi also clearly argued that any attempt to impose morality by a central authority was not likely to succeed and his concept of polycentricity proved to be a source of inspiration in legal studies. Polanyi argued that the success of science was mostly due to its "polycentric organization." In such a system, participants benefit from the freedom to make individual and personal contributions, and to structure their research activities freely. Being picked-up by several philosophers, sociologists and economists, it influenced law studies (thanks to Lon Fuller (1978), Chayes (1976); Horowitz (1977), as well as urban networks studies (Davoudi 2002; Hague and Kirk 2003), and, even more importantly governance studies, thanks to Vincent and Elinor Ostrom. Elinor Ostrom, who won the Nobel Prize in economics in 2009, raised significant attention to the concept. Elinor Ostrom (1933-2012) was an American political economist whose work was associated with the New Institutional Economics and the resurgence of political economy.

Based on Michael Polanyi, and paving the way for Ostrom, Lon Fuller (1978, 354–355) asked a very relevant question: Which legal issues should be settled in court, which should be settled by political means, and which should be left to the market? Fuller made out of the notion of polycentricity a key element in his system of justice, but it was the work of Vincent and Elinor Ostrom that operationalized it and gave it empirical substance. Ostrom's idea of market-like interorganizational arrangements or of 'public entrepreneurship' brings market-like attributes to public administration. Also the concepts of a 'common property system', further defined by Elinor Ostrom, can be seen as a relevant progress (Ostrom, 1990). Ostrom's ideas provide sophisticated solutions for the privatization of possible common resources such as forests or rivers and other resources with clearly defined boundaries – and could even be feasible for negative externalities of production. Elinor Ostrom's work *Governing the Commons* (1990) has been crucial for legal thinkers working on property rights and resource dilemmas. Elinor Ostrom believed that "...there is no reason to believe that bureaucrats and politicians, no matter how well meaning, are better at solving problems than the people on the spot, who have the strongest incentive to get the solution right." She

spent significant time on investigating how communities succeed or fail at managing common pool (finite) resources such as grazing land, forests and irrigation waters. Her analyses on how communities co-operate to share resources drives to the heart of debates today about resource use. In *Governing the Commons* Elinor Ostrom criticized that: “as long as a single center has a monopoly on the use of coercion, one has a State rather than a self-governed society.”

Ostrom offers 8 principles for how commons can be governed sustainably and equitably in a community, also referred to as ‘stable local common pool resource management’. Her 8 Principles for Managing a Commons are: Define clear group boundaries. Match rules governing use of common goods to local needs and conditions. Ensure that those affected by the rules can participate in modifying the rules. Make sure the rule-making rights of community members are respected by outside authorities. Develop a system, carried out by community members, for monitoring members’ behaviour. Use graduated sanctions for rule violators. Provide accessible, low-cost means for dispute resolution. Build responsibility for governing the common resource in nested tiers from the lowest level up to the entire interconnected system.

4. Secession, or “Small is Beautiful” – an Alternative?

For many mainstream ‘progressive’ economists and historians, centralization is generally considered a good and future-oriented movement, while disintegration and secession are considered as reactionary anachronism. However, Ludwig von Mises (1949) already understood that mass democracy is no substitute for a liberal society, but rather an enemy of it. While separatist movements are often only considered as legitimate when considered as a “last resort for oppressed peoples”, contemporary independence movements in Europe are trying to justify a general legitimacy of secessionism. The United Nations officially set ‘self-determination’ as a right for all people. There are several examples throughout history of the breakup of an existing state into several smaller state entities. However, although the U.N. Charter (1945) provides certain

guidelines for its application, there are several major challenges with regards to the actual practical implementation in case of secessionist tendencies. The former U.S.S.R. as well as Yugoslavia have collapsed and the world has seen the peaceful dissolution of the Czechoslovak Federation. This series of events, whether comparatively peaceful, as in the U.S.S.R., or rather violent, as in the former Yugoslavia, should have proven to the international community the need for a clear and consistent response to the question of the right of self-determination, and, more particularly, the right to secede ('right of secession').

According to the economist Philipp Bagus (2017), smaller organizational units are more flexible, innovative, and less threatening. They, therefore, lead to more prosperity and peace. "Small political units foster competition and therefore offer more advantages like low taxes and less regulation. Historically, if the citizens didn't like the policies of their country, they could leave easily because the border was closer. If you lived in a vast country like the Russia of the Tsar or the Soviet Union, that would be much more challenging", Bagus stated.

In the Germany of the early 19th century, a citizen of Royal Bavaria could quickly move to the neighboring Kingdom of Württemberg if living conditions were better. Thus, it is argued that when Germany was fragmented into many different states, the regents were competing to get the best talent by peaceful means. Peaceful competition among the German states ended when the two most powerful German units (Austria and Prussia) started a war, ultimately leading to the second German Reich with Prussia at the helm in 1871 (Bagus, 2017). Also the economist Jörg G. Hülsmann (2003) points out that such small independent areas usually depend on the exchange of goods and services with other regions. The smaller the country, the greater will be its pressure to defend free trade, rejecting protectionism. While Russia might still be able to achieve a comparatively high standard of living when rejecting any form of foreign trade, smaller new countries which were founded based on secession, could not follow such protectionist policies without significantly losing wealth and living standards. Truly unrestricted free trade would allow even the smallest state to be integrated into the world market, while also benefitting from

the division of labor. Thus, the smaller a territory is, the more crucial it is to promote and benefit from free trade. In contrast, throughout the past decades, the European Union (and its predecessor the European Community) has been trying to minimize the cultural identities and particularities as well as the political and economic independence of its member states. Moreover, while free trade within the union has become easier, the EU has established protectionist structures in many areas (e.g. agriculture), often hampering trade with non-E.U. countries.

Clark, DiLorenzo and Block (2016) believe that often peaceful secession and nullification are the only option to establish a system of government that respects rather than destroys individual liberty. Also, Ludwig von Mises (1919, 34) concludes that "... no people and no part of a people shall be held against its will in a political association that it does not want". As Mises states, one must distinguish between "cooperation by virtue of contract and coordination" on one hand, and "cooperation by virtue of command and subordination or hegemony" on the other. Hans-Herman Hoppe (1993) states that due to secession, formerly hegemonic domestic relations could be replaced by mutually beneficial contractual relations. First of all, one must carefully distinguish between political integration (centralization) and economic (market) integration, as they are completely different phenomena. While political integration involves the territorial expansion of a government's power for taxation and property regulation, an economic integration is the extension of the interpersonal and interregional division of labour as well as of market participation. Consequently, Hoppe states, forced integration will and should be replaced by voluntary separation. Also Thomas Jefferson stated that "If any state in the Union will declare that it prefers separation... to a continuance in union... I have no hesitation in saying, 'let us separate'..... Whenever any form of government becomes destructive of the ends of life, liberty, and the pursuit of happiness, it is the right of the people to alter or abolish it, and to institute new government" (Jefferson, 1816)

Huerta de Soto (2008) defends the concept of independent nations in an environment of free trade, and based on the protection of private property. Huerta de Soto argues that secessionism

shall only be supported if the movement is based on the ideas of national liberalism, on free market concepts and the protection of private property. However, in practical terms, these standards are difficult to measure in a rational and objective way. For example, when looking at Catalonia, it is impossible to predict whether an independent Catalonia would be “more or less liberal/ libertarian” than the (theoretically) remaining part of Spain. A decision on the legality of a unilateral referendum would need to be taken years before the new country’s constitution could be finalized, at a stage where no one knows how a future Catalonian government could be shaped ideologically regarding aspects such as taxation and free trade. Thus, the decision on whether “a territory’s fight for independence” is reasonable, will need to be taken before the constitution and political-economic structure of that planned new State can be evaluated. In the case of Catalonia, the major separatist party ‘PDeCAT’, which used to belong to the liberal ALDE group in the E.U.-parliament, is the direct successor of the rather liberal and pro-European Catalan nationalist party ‘Democratic Convergence of Catalonia’ (CDC), and also PDeCAT represents positions on several politico-economic, socio-political, and civil rights issues which are not less liberal than those of the major centralist Spanish parties like PSOE and PP. However, Catalan separatism currently also includes far-left collectivist parties like ‘Esquerra Republicana de Catalunya’ (ERC) as well as Marxist and socialist groups like ‘Candidatura d’Unitat Popular’ (CUP). Thus, at the current stage, it is impossible to predict whether a potentially independent Catalonia would be based on a rather liberal and republican constitution, or if it would turn into a clearly collectivist state. Whoever believes in Hayek’s extended order must also agree that such a “prediction” regarding the country’s future cultural, political, economic, and legal structure would simply be of no value (Hayek, 1988). In line with Hayek, also Huerta de Soto had agreed that every economy is constantly changing within a dynamic process and the evolution of both law and language are perfect examples of the spontaneous order process (Huerta de Soto, 2008). The right to secede is linked to many crucial political and legal challenges. First of all, it is necessary to identify the precise entity which shall enjoy this right. Based on current

international legal terms, individuals cannot claim secession, because it is not purely a right of an individual human being, but the collective right of a people. But what constitutes 'a people' depends on the definition. Moreover, it needs to be decided in what legal form such a decision should be framed: if it is to be made through a referendum, the kind of majority of votes necessary needs to be defined. Should it be the majority of the population of the specific area, or of the population of the entire state? (Martinenko, 1996).

V

PERSONAL OPINION ON HAYEK, STATISM AND ANARCHO-CAPITALISM

The author of this review considers himself a follower of the main principles of John Locke, Carl Menger, Max Weber, Walter Eucken, F.A. Hayek, Elinor Ostrom and Israel Kirzner, as well as of other great thinkers linked to classical liberalism, the right of property, individual responsibility, and competition. Consequently, the "classical, truly liberal" idea of maximizing individual liberty, without ignoring the need for certain government interventions must be seen as the main goal. The freedom of the individual and property protection rights must be seen as the foundations of liberal thinking.

The presented anarcho-capitalist concept of H.H. Hoppe (1993) asks for an order without a State, on strictly natural-law premises, without democracy. Such private property order is seen as an interesting alternative, but the entire privatization of all strategic logistical points, including ports, waterways and motorways, as well as of all natural resources and even of homeland security and national defense must be seen as problematic. Without any obligations to pay taxes, how could it be assured that (talented) children of poor parents would get a decent elementary and middle school education – and if it cannot be guaranteed, will this not lead to a significant waste of talent, also from a 'macro-economic perspective? What would happen with currently existing weapons of mass destruction, would they be sold to

private security companies – and who would decide which weapons could be built by whom?

Thus, we argue that a society fully based on mutually voluntary contractual agreements, would likely require (*“den neuen Menschen”*) ‘a new man/ a new form of humans’. Nowadays imperfect, often irrational and immoral people could hardly be integrated into such a free society. Consequently, freedom and property rights of several individuals could be endangered by potentially immoral acts of others. Such a new system’s successful “implementation” would require the development not only of a new social system, but of a new society, of “new human beings”, as their “natural order” has never existed in any industrialized country, and may consequently be seen as just another form of “constructivism”, similar to the ideas of communism. Thus, the author of this paper argues – which for the audience of this publication may seem rather polemic – that just like the social systems of socialism and communism, also certain ideas of the most radical anarcho-capitalists are the results of theoretical, and ultimately constructivist considerations, which are ignoring grown, historical realities.

We claim that Hayek understood more accurately than Rothbard and Hoppe that ‘the State’ does not violate any rights, as ‘the State’ is, like all legal entities, only a legal fiction, and legal fictions cannot act. Acting is something that can only be done by living natural people. Thus, if “the State” seems to act, it does so through human beings, meaning its agents. Just like weapons themselves do not kill, they are only “able to” kill, if used by acting humans. As human beings are ambivalent, capable to do both good and evil, why should human beings lose their interest in doing evil, just because “the State” suddenly disappears? ‘Human beings’ are rational enough to justify the privatization of a country’s national defense, where private companies (ultimately individual entrepreneurs) would own all sorts of weapons (including weapons of mass destruction), but on the other hand humans working as civil servants within a governmental institution cause a direct threat to individual liberties? Crimes and violence currently existing outside of the State could continue to exist and there would possibly even be new ways of abusing power. If the State fully disappears,

this does not lead to the end of violence and crime, but potentially for several citizens to the end of protection from violence and crime. The anarcho-capitalists' overall concept of the "non-aggression principle" is a great theoretical idea, but it is hard to believe that a society without any public institutions would truly be less aggressive, than for example, current states like Switzerland, Luxembourg, or New Zealand. Moreover, one must consider that not all conflicts are purely individual & 'property conflicts', but may instead be immaterial, political, cultural/ religious and group conflicts, which are more difficult to deal with in a fully privatized (legal) system. However, it is certainly difficult to generally differ between "mandatory public goods" and "private goods", as several goods can be defined as private goods by some and as public goods by other theorists. Consequently, the lines between public and private goods are not scientific, but heavily depend on historic and ethical views. Thus it is important to raise the general question which gratuitous services can actually be seen as 'absolutely necessary'? In other words, which 'basic rights' can all citizens ask for - even if, from a purely financial perspective, some of them do not give anything back to society? Should every child have the right to high school education or only to elementary school education? Must national defense (against external enemies) remain a public service, or as well homeland security/ police services? Should health care only be 'a right' in the case of life-threatening emergencies, or not at all?

VI CONCLUSION

World War I was a crucial turning point which led to a transition from monarchical rule to democratic states, in particular in Europe. Since then, the model of representative democracies with a comprehensive welfare state has constantly expanded in Europe. By strongly questioning not only the concept of current welfare state democracies, but also by rejecting the concepts of monarchy, better alternatives to protect human rights, freedom and economic prosperity should be found.

Democracies can easily be misused to oppress and exploit minorities, justifying excessive government interventions and the restriction of individual freedom with “the democratic will of the majority”. Even worse than the current welfare state democracies is certainly the “official”- soviet-style - socialism, and the general impossibility of socialism has already been properly analysed by von Mises (1949), F.A. Hayek, Michael Polanyi (1948), Israel Kirzner (1973) and other economists.

On the other hand, the presented anarcho-capitalist concept of H.H. Hoppe is an attempt to justify and legitimize an order without a State, on strictly natural-law premises, without democracy. However, for the author of this paper, it is questionable if the entire privatization of all strategic logistical points, of homeland security and national defense, and an educational system which cannot at all rely on public (financial) support, would truly be a reasonable alternative. The complete privatization of all major ports, waterways (e.g. Panama canal) and motor ways (e.g. specific streets in the Andes, the Alpes... etc), could quickly lead to monopolies whose long-term success is not justified because of the high competitiveness of the monopolist, but precisely due to the lack of competition as this monopolist/ a small oligopoly could quickly control all major natural trading points/ transfer points and resources. Within the owner families, these monopolies would likely be passed-on from generation to generation, for which benefitting from strategic economic power would soon not depend on entrepreneurial creativity but simply on one’s genealogical/ family tree. None of the presented models can be seen as truly ideal but the individual concepts of F.A. Hayek (“Rule of Law” & “spontaneous order”) and Elinor Ostrom, as well as Ayn Rand’s definition of the “non-aggression principle” can be seen as the most useful ideological frameworks to optimize individual freedom, justice and economic prosperity.

I believe that the ideal of a minimal state, as defended by several classical liberals, is not only less utopian than Hoppe’s completely state-free “natural order”, it is also a safer bet to avoid a “new feudalism”, in which everything is privatized. Thus, we conclude that the discussed legal and political-economic concepts of F.A. von Hayek, Ayn Rand and Elinor Ostrom, as well as the

secessionist approach of P. Bagus - although different in several aspects- provide more realistic concepts than the “natural order” proclaimed by Hoppe. They seem more valid than Hoppe’s concept to provide a moral, legal and political framework which could minimize public coercion while protecting individual liberties and assuring true competition. Therefore, their thoughts must be seen as extremely valuable to understand and hopefully improve nowadays political, cultural and economic challenges.

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