REVIEW ESSAY

Can Anarchy Save Us from Leviathan?

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These days, it seems that anarchy is everywhere. Its fans range from Yale law professors (Ellickson 1991) to pulp novelists (Ferrigno 1996; Mosley 1998). Last fall, it even showed up in the *New Yorker,* where it was touted it as "the next big thing" in law enforcement (Rosen 1997).

At first glance, it is hard to understand this fascination. Most of us equate anarchy—literally, "the absence of the state"—with chaos and mayhem. Following Hobbes, we reason that without the state to enforce rights, venality would reign and society would lapse into the war of all against all, making our lives "solitary, poor, nasty, brutish and short." Who, except the most depraved sociopath, would want such a condition?

The advocates of anarchy would answer "not us." The theme of their work is that Hobbes, Locke, and almost everyone else are wrong about anarchy. The advocates point to the growing body of theory and evidence that life in anarchy isn't at all as most people imagine it. Whether we look at businessmen in Wisconsin, diamond merchants in New York, or farmers in Sri Lanka, we find that "order without law" is not just a slogan but a way of life (Macaulay 1963; Bernstein 1992; Ostrom 1990). Those anarchies work because, *contra* Hobbes, they do not lack an enforcer of rights.[1] Or rather, instead of a single enforcer—the centralized monopolist we call the state—anarchies have a variety of decentralized enforcers, such as markets, firms, and communities. Thus, anarchies avoid chaos by providing lots of folks with an incentive to pitch in and punish deviants.

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The Independent Review, v.III, n.4, Spring 1999, ISSN 1086-1653, Copyright © 1999, pp. 581–593

For a small but growing group of anarchists, rehabilitating anarchy is only the first step toward reconstructing liberal political theory. For them, liberal theory errs by treating the state as a necessary evil, rather than an unnecessary one. The anarchists argue that the state is evil because it invariably abuses its power, violating the rights of some for the benefit of others, and that it is unnecessary because even without it we would still have social order and respect for each other's rights. From their perspective, "limited government" is a contradiction in terms, a project that simply cannot succeed. Thus, for them, the job of the political economist is not to tame the state but to teach us how to do without it.

In the essays in *Against Politics,* one of our leading anarcho-liberals, Anthony de Jasay, argues the case against the state with flair and insight. He claims that the only consistent liberal is an anarcho-liberal. He takes his inspiration from Edmund Burke, who wrote, "In vain you tell me that Artificial Government is good, but that I fall out only with the abuse. The Thing, the Thing itself is the Abuse" (p. vii). In explaining why government "itself is the Abuse," de Jasay ranges widely, giving us essays on topics from contractarian theories of the state to multiculturalism and rights. He arranges the essays into two broad sections. In the first, called "Excuses," he examines carefully a variety of arguments for government. Whether we think of the state as necessary (the third party that is essential to keep us from each other's throats) or merely convenient (a better way to keep us from each other's throats) or fixable (a basically good idea that has been corrupted by bad people or rules), de Jasay wants us to see that we are wrong. For him, the analyses that underlie such accounts, whether set in the state of nature, behind the veil of ignorance, or in the shadow of the prisoners' dilemma, are just happy fictions designed to hide an unhappy truth: "States are an imposition, sometimes useful, sometimes a millstone, always costly, never legitimate, and never a necessity for binding agreements" (p. 36). In the second part of the book, called "Emergent Solutions," he expands on the claim that a successful liberal society—one in which people's rights are secured against all aggressors—doesn't need a state. Against the orthodox view of anarchy as chaos and mayhem, he argues that anarchy need not be so bad, and usually is much better. We find that argument novel only because we've heard Hobbesian jeremiads against anarchy so often that we treat them as established fact.

De Jasay makes serious charges. If they are true, then much of what we think we know about good government is wrong. Unfortunately, even sympathetic readers may find it hard to go all the way with him. Such readers will almost certainly agree with his critiques of existing theories of the state, whether descriptive or prescriptive. They are also likely to agree that anarchy has gotten short shrift in the modern world, that far

1. For explicit models of anarchic order, see Benson 1990; Klein 1997; Taylor 1982, 1987, and 1996; or the survey in Rutten 1997.

too many of us unthinkingly toe the party line on the benefits of the state. But before accepting the claim that anarchy is always superior to the state, they will want more. They will want an explicit comparison, so they can see for themselves that anarchy actually is better. Without such a comparison, readers must worry that they are making the very mistake of which de Jasay accuses his statist foes: simply asserting that their favorite would win the Hobbesian horse race, rather than proving it would. Although de Jasay's accusation may be an understandable response to three hundred years of statist mendacity, it isn't good political economy.

At this point, readers may be tempted to conclude that my argument with de Jasay amounts to arid pedantry, a sectarian tempest in a libertarian teapot. That would be a mistake. As noted earlier, anarchy is all the rage among those who find contemporary interest-group politics sordid and ineffective. Because de Jasay has thought longer and harder about anarchy and the state than most other anarcho-liberals, taking him seriously allows us to better understand their arguments as well.

But close examination shows that anarchy needn't be as happy as de Jasay implies. If we treat his defense of anarchy the way he treats liberal analyses of the state, asking what incentive people have to comply with its rules, we will not necessarily reach his conclusions. The reason is simple: even in anarchy, some have power over others. And they can abuse that power, using it to benefit themselves at the expense of others. Thus, to show that some anarchic arrangement would be superior to the state, we need to show that it wouldn't be the sort of anarchy in which people abuse their power. De Jasay doesn't consider this issue directly, but examples ranging from Bosnia to the mafia suggest that he should, that anarchy is not automatically liberal.

Despite this lacuna in his argument, serious liberals ignore de Jasay at their own risk. Even the reader who agrees with everything I say here would benefit from reading de Jasay for himself. Obviously, I can touch on only a few of the themes of his book. But, more important, my own essay is fundamentally de Jasian, asking of him the same question he asks of traditional liberals: "This sounds nice, but how will it really work?" Thus, even skeptical readers will learn much from him. They may even find themselves persuaded.

The Liberal Case for the State: Anarchy Is Intolerable

When asked for their political creed, most liberals would say that they want a government that protects the rights of its citizens against predators. If pressed further, most of them would identify that government with a state, an institution with a monopoly on the legitimate use of violence. They would base their argument for the state on a comparative institutional analysis, one that examines the extent of social order provided by various governance institutions.

Most such comparisons are fairly abstract, based on stick-figure renderings of life under the available alternatives. Since Hobbes, the comparisons have usually begun by considering a society of people living in the state of nature, that is, without a state. Nowadays, that society is modeled as some sort of social dilemma, such as the well-known prisoners' dilemma.[2] The dilemmas arise whenever people are more productive working with others than working alone, but individually best off shirking rather than working, no matter what others do. In such situations, rational people would always shirk, because shirking is the best response to whatever others do. Of course, when everyone reasons that way, nobody works and they end up back where they started, in autarky. Thus, acting rationally leads them to forgo any of the gains from cooperation. This outcome is both individually sensible (nobody could do better by behaving differently on his own) *and* wasteful (if only they would cooperate, each would be better off).

This sorry outcome confronts the members of society with a dilemma: given the choice between everyone working and everyone shirking, everyone prefers that they all work; yet given the incentives they face, none of them will work. They will not work even if they sign a contract promising to do so. Such promises would not be, in the jargon of game theory, "credible." Because each knows that when it comes time to act, everybody will have an incentive to go back on his word, everyone will treat a promise to work as what it is—empty talk. Moreover, this situation poses a true social dilemma, because it is rooted in their strategic circumstance, not their psychology.[3]

At this point, liberal theorists introduce the state. They do so by asking why people who are giving up obvious gains don't get together and find some way to resolve the dilemma. The traditional liberal answer is that they would do so. And when they got together, people would adopt a social contract creating a third party empowered to force them to do what they cannot do themselves: enforce contracts and other rights. By punishing those who do not respect rights, the state changes the incentives. With the addition of that threat, people no longer face social dilemmas. Instead, they face trivial coordination games, in which the only rational course is to cooperate and reap the gains from trade. Under those conditions, nobody cheats, cooperation flourishes, and everyone is better off.

For most liberals, recognizing the need for a state is only the first step toward a sound political economy. After all, there are many different social contracts, or ways of organizing governments. Should the rulers be chosen from one family, a group of families, or the general citizenry? And under what terms should they rule? For life? Until the next election? Or until the revolution? Liberals want answers to these questions because *how* a society makes choices—the specific decision rule that it uses—

2. For discussion of the extent to which modern game theory captures the approach of the classics, see Hampton 1986; Kavka 1986; and Taylor 1987.

3. That is why the game is better called the prisoners' dilemma than the prisoner's dilemma.

usually determines *what* it chooses. The same group of people using different rules might choose different policies—often, radically different policies.

The recognition that institutional rules influence outcomes has revived interest in constitutional design among fans of limited government. In the past few decades, liberal scholars from James Buchanan to Robert Nozick to Richard Epstein have investigated the consequences of a variety of different rules, always with the hope of finding a rule that, if obeyed, leads to better choices than the rules we now use. The proposed solutions range from heightened judicial review to term limits to balanced-budget amendments. In spite of their differences, each analyst traces inferior policy choices directly to the political structure. In this view, politicians do not choose the policies because they are less civic-minded than others; they choose them because the political system gives them both a motive and an opportunity to do so. A structural ailment requires a structural cure. Of course, the specific solution depends on the particular problem to be solved.

The Liberal Case against the State: Let's Take the Con out of Constitutional Political Economy

For de Jasay, standard liberal theory is fine as far as it goes, but it does not go nearly far enough. In particular, he notes that it says nothing about the incentives of politicians to actually obey any particular set of rules. That omission is hardly a trivial one. After all, to do its job, the state must be strong enough to force any other group in society to obey its commands. And, because it consists of people with their own interests, the state will often have an incentive to abuse its power by violating the rights of citizens for its own benefit. As a result, it seems that the liberal simply replaces one problem (how to get citizens to respect each other's rights) with another (how to get the sovereign to respect the rights of citizens). Although some argue that anarchy is so bad that any state, even an abusive one, would be better, not everyone agrees. Many liberals side with John Locke, who doubted that "men are so foolish that they take care to avoid what mischiefs may be done them by pole-cats or foxes; but are content, nay, think it safety, to be devoured by lions" ([1690] 1980, 50).

Classical liberal theorists of the eighteenth and nineteenth centuries took Locke's observation seriously. They worried that the people who make up the government wouldn't obey constitutional rules unless doing so was in their interest. That worry led them to examine the incentives created by the constitutional rules, to see whether they were strong enough to force politicians (and others) to obey the rules. If the incentives were not compatible with the rules, a constitution would be, in the words of James Madison, merely "a parchment barrier" (Madison, Hamilton, and Jay [1788] 1987, 309). To strengthen the barrier, many liberals argued for such institutions as separated powers, federalism, and an independent judiciary. They wanted those institutions for prudential, rather than ethical, reasons. Such institutional arrangements,

they believed, would give even the most narrowly self-interested politicians an incentive to serve the public interest.

Modern liberals agree that the classical liberal institutions failed because the constitutional rules that they established did not channel self-interest effectively enough to restrain predation. For them, that failure can be corrected by restructuring the government, changing the rules so as to provide better incentives. Yet, as de Jasay points out, when asking what new rules we should adopt, liberals tend to ignore issues of constitutional politics, that is, of how the constitution will be chosen and maintained. They do not try "to find the conditions, if there are any, under which [constitutions] would be likely to be adopted, respected and left intact for long enough to do any good" (p. 53). Instead, contemporary advocates of limited government implicitly assume that constitutional politics differs radically from ordinary politics. They justify that assumption by invoking devices such as the veil of ignorance, behind which people have very little idea how their decisions will affect them, or unanimous consent, which effectively gives everyone a veto. Under such conditions, decisions about constitutions are depoliticized, and therefore people choose constitutions with special features.

But as de Jasay points out, the liberals' neglect of constitutional politics is problematic precisely because the analysis of ordinary politics underlying their critiques of existing constitutions is so convincing. That analysis assumes that people will do whatever is economic to get outcomes they want. If achieving their objectives requires altering or overturning the constitution rather than ordinary politics, they will not be deterred. They will want a constitution that leads politicians to adopt policies that favor them. Their ability to actually get the preferred constitution will depend on what others want, and on how *they* choose. In the United States, constitutions are normally chosen and amended using representative methods. Nor are constitutions enforced in an institutional vacuum. In the United States, courts decide whether or not the acts of the other branches of government are consistent with the constitutional mandate. The judges who make those decisions are chosen by politicians. Taken together, the foregoing conditions make it seem likely that real constitutions will be susceptible to venal considerations, contrary to the assumption of liberal theorists.

These considerations lie at the heart of de Jasay's critique of liberal constitutionalism. He begins by taking on the idea that a constitution is a social contract, adopted in the state of nature. "If," he asks, "contracts require an enforcer, how could there be a social contract creating an enforcer without *its* enforcement being assured by a meta-enforcer created by a meta-social contract, and so on in an infinite regress?" (p. 5). In other words, is it consistent to assert that people who could not enforce private contracts could enforce a social contract? Given the complexity of the social contract, the obvious answer is that they could not. The contradiction leads de Jasay to label this part of the liberal project "Self-Contradictory Contractarianism" (chap. 1).

He goes on to argue that showing that a particular constitution *could* improve policy does not prove that it would in fact do so. We must also show that any particular

constitution would be chosen and enforced. We need to ask, in the jargon of economics, whether it is incentive compatible. When it comes time to enforce the rules, who will do the dirty work? Will those who are supposed to enforce the rules have any incentive to do so? De Jasay points out that this problem parallels the one faced by private contractors in the state of nature: how to create a self-enforcing agreement. As he so charmingly puts it, the constitution is like "a chastity belt whose key is always within reach" (p. 3), because the very people against whom the constitution is supposed to be enforced are the ones who are supposed to enforce it. In a chapter entitled "Is Limited Government Possible?" he points out that the logic of democratic politics, in which coalitions are notoriously unstable, makes it seem likely that compliance will be fleeting (p. 56). Most of those who lose when the constitution is enforced will be able to bribe away enough of the complying coalition to form their own, noncomplying, winning coalition.

The lesson that de Jasay draws from this analysis (and from others) is that the self-seeking by our fellow citizens creates worse problems than are predicted by the standard liberal creed. In particular, he argues that liberals are overly optimistic about their ability to design institutions that will channel self-interest in public-regarding directions. If he is right, it seems that we must choose between anarchy, in which we are impoverished by the depredations of our fellow citizens, and tyranny, in which we are impoverished by the depredations of the sovereign. Either way, our prospects look bleak.

The Case for Anarchy: Repeated Prisoners' Dilemmas Are Not Prisoners' Dilemmas

At this point, de Jasay makes his most radical claim. He tells us that despite the failure of the liberal constitutional program, our prospects aren't so bad. On the contrary, they are actually pretty good. This is so because it turns out that we have neglected an option: anarchy. We have limited our options because we have misunderstood the incentives created by life in anarchy. When we understand anarchy correctly, we see that it can protect us from each other.

The major difference between the Hobbesian and the de Jasian view of anarchy is that de Jasay, like other anarcho-liberals, takes into account a central fact of social life: not everyone is a stranger. Whether at work or at play, most of us find ourselves dealing again and again with the same people. This fact makes a huge difference for strategic behavior. Put crudely, the knowledge that we will see people again gives us a powerful incentive to be nice to them, because if we are not, they may not be nice to us in the future. Facing that threat, even the most narrowly self-interested, brutally calculating egotist might find that it pays to act like Mother Teresa. Because this account is central to de Jasay's claims, and because he touches on it only briefly, it is worthwhile to explore the underlying logic of the rational-choice account of anarchy in some detail.

Stripped to its core, the argument for anarcho-liberalism is that the Hobbesians mischaracterize anarchy when they treat it as a series of isolated two-person deals. Doing so ignores the obvious fact that most of our dealings with others are embedded in a rich web of social relations. In game-theoretic terms, that embeddedness moves society from one-shot games to repeated games. And, as is now well known, cooperation is rational in repeated games. It is rational not because dealing with each other again and again changes peoples' preferences or because it allows them to learn who is honest and thus trustworthy. Rather, people cooperate in repeated games because doing so pays them more than not cooperating. It pays more because, as long as the future value of the relationship exceeds the onetime gain from cheating, people can punish each other by not cooperating in the future.

Thus, in the shadow of the future, people can make what economists call *implicit* or *self-enforcing* contracts, agreements that bind them without the help of any third parties. Such a contract exemplifies an *equilibrium institution,* a set of rules obeyed because everyone finds it in his interest to obey. Of course, besides following the rules about their own behavior in the social games they play with each other, people must also follow the rules about monitoring compliance and punishing deviants.

The idea of a self-enforcing contract, if not the terminology, lies behind much of the empirical literature on "order without law." For example, few business arrangements resemble the classic arms-length agreements enforced by courts that used to populate textbooks in economics and law. Instead, in many instances real contracts are better thought of as *relational contracts,* deals between people who expect to have a long (and prosperous) relationship. Moreover, in the shadow of the future, people can sustain cooperation even with strangers. They can do so because, even though we may not deal with any one person often, we do deal with the same group of people repeatedly. Even in the modern world, many of our relationships take place in communities, groups of people who have overlapping relations. We can use those communities to enforce cooperation by expanding the terms of cooperation, so that we respond not just to our own history but to everyone else's history as well. In that way, people who belong to a community can use the other members as third parties to enforce their agreements (Greif 1993; Kreps 1990).

In a very real sense, communal enforcement allows one to offer his reputation as a bond to guarantee his behavior. The reputation embodies the future value of cooperation with other members of the community. Extending repeated games from dyads to communities brings the models much closer to what we usually think of when we think of anarchic institutions such as communities and norms. Most descriptions of norms stress the importance of reputations and of communal, third-party enforcement. For example, Robert Ellickson argues that ranchers and farmers in Shasta County, California, do not rely solely on self-help to enforce norms. They also rely on the threat that other members of the community will not cooperate with defectors.

The use of reputations to induce cooperation among the members of a community increases the level of cooperation, but at a cost. For communal reputations to work, people need much more information than they have in the repeated two-person prisoners' dilemma. Instead of knowing just their own history, they need to know everyone else's history as well. Eventually, the costs of gathering and disseminating that information may become so large that they exceed all of the gains from cooperation. If people cannot contain those costs, then the communal reputation mechanism will destroy itself.

Throughout history, people have developed a variety of methods to economize on the flow of information needed to support reputations. One common method is to empower some citizens to hear and resolve disputes, leaving enforcement of the decision to the general citizenry. Thus, in medieval Europe, long-distance merchants often brought their disputes to judges at trade fairs (Milgrom, North, and Weingast 1990). The judges would investigate and then announce their decision. Losers who did not pay in accordance with a judge's ruling faced the threat that other merchants would not trade with them. Similarly, in East Africa, disputes over cattle were traditionally settled by an official known as the Leopard Chief, an ordinary citizen with absolutely no enforcement power (Bates 1981). Yet, once his decision had been announced, both parties to the dispute abided by it. They did so not only out of respect for his abilities and wisdom but also because of the threat that others would punish them if they did not.

This brief tour of repeated games shows why de Jasay and others invoke it to argue against the Hobbesian understanding of life without the state. The repeated-game approach to anarchy has several noteworthy features. First, it treats the institutions that support cooperation as equilibria that must provide all parties, including enforcers, with incentives to do their jobs. Second, it treats anarchic institutions, such as norms, not in isolation but as part of the fabric of daily life. Like Hobbes, anarcho-liberals start with people in a state of nature and show how they can build effective institutions. As a result, the incentives to conform to anarchic institutions must come from the games of daily life among the citizens; those games are literally the only source of rewards. Finally, notwithstanding their origin in a Hobbesian state of nature, none of the institutions that arise are Hobbesian. Even those that rely on a central authority to collect information rely on decentralized methods to enforce the rules.

The Case against Anarchy: Anarchists Too Will Abuse Their Power

So far, the story of anarchy seems happy: when people deal with each other repeatedly, as they usually do, they have an effective method of punishing those who do not respect the rights of others. Thus, it seems that Hobbes was wrong, that anarchy *can*

work. However, this account must answer an obvious question: If anarchy is so wonderful, why did so many people believe the Hobbesians? Were they just blind to the anarchic alternative, or is anarchy perhaps more complicated than the optimists suggest? Could it be, as suggested by my own survey, that anarchy promises no particular outcome and that the provision of social order outside the state may take many forms? For example, we might buy our justice on the market, as people do when they hire private guards or arbitrators. Or we might rely on a community for enforcement, as people do in all traditional societies.

However we conceive of anarchy, we don't have to look far to see it being abused. Those who invoke anarcho-capitalism, complete with buying and selling protection on the market, need look no farther than the mafia, a private institution that both provides justice and preys on its clients. (Indeed, it uses its power to force even the unwilling to become its clients; often, the predator it protects against is itself!) Many anarcho-capitalists argue that in the market for justice, as in the market for cars, competition will limit rent collection. That argument ignores some rather obvious opportunities for collusion among anarchists. With more than one firm providing justice, the firms will have to work together when their clients have claims against each other. Without more detail, it is hard to see why such cooperation won't sometimes lead to collusion against weaker clients (Cowen 1992). (For a thorough discussion of real-world examples, see Benson 1998.) It is also hard to see why the competition among such firms will be any more effective than that among politicians, political parties, and jurisdictions in modern democracies. Yet the anarcho-liberals all agree that existing political competition does not provide sufficient threat to prevent abuse of power.

Anarchic governance through communities faces similar problems. Throughout history, most communities have been the setting for various sorts of oppression. For example, communal enforcement is easier when the community is ethnically or religiously homogenous, and many communities treat outsiders badly. Nor are all insiders treated equally well. For example, traditional societies often impose heavy burdens on women, among others. Finally, most traditional societies have enforced harsh norms of equality, often forcibly redistributing wealth (Cook and Miller 1998). Given the relatively great inequalities in the distribution of wealth in modern capitalist societies, it is hard to be sanguine that modern communities will resist the redistributionist urge. Certainly, the record of small towns opposing "threats" such as Wal-Mart suggests otherwise.

Those familiar with the theory of repeated games will not find these sad stories surprising. The happy results discussed earlier are only a part of the story of repeated games. Contrary to the claims of many of its popularizers, that theory does not show that cooperation is the only rational strategy. Rather, it shows that in repeated games, many outcomes, including cooperation, are rational. The reason is simple, and illuminating: there is no single natural or unique way to distribute the surplus generated by cooperation. As long as all players get more than they would under feasible alternatives, they will go along. Thus, the proper interpretation of the theory of repeated

games is that repeated play raises a new question: Among the many different outcomes, all of which distribute the gains from cooperation differently, which should be chosen? In other words, as de Jasay points out, repetition turns social dilemmas into coordination games, in which people want to cooperate, but on terms favorable to them. Whether any particular anarchy ends up with a liberal outcome, with rights enforced against all parties, depends on which of the many feasible outcomes the anarchy "chooses." Without more information about the choice process, we have no reason to suppose that, in general, anarchy is more liberal that the state.

The lesson here is not that de Jasay is wrong about anarchy and that we can comfortably return to our traditional statist-liberal verities. No doubt, he and other anarcho-liberals have shown that anarchic order is both theoretically and factually robust. Given the weight of that reasoning and evidence, it would be foolish to argue for a return to the Hobbesian status quo. However, it would also be foolish to ignore the contrary evidence and to argue that anarchy is so good that surely we can do without the state. What we need is an anarchic constitutional political economy, a study of what life would be like under the various possible anarchic institutions.

The Poetry of Power

In many ways, the preceding criticisms miss the most important lesson of de Jasay's book, which is the importance of the poetry of power, that is, of the way we talk about governance. Again and again, he urges that we resist seduction by the easy analogies of liberal statists and refuse to accept as proved what has merely been asserted. Instead, he would have us join him in going behind such metaphors as "consent," "social contract," and "state of nature" to ask what is really going on in any particular society. Querying metaphors, we find that they do not always illuminate; instead, they often lead us to skip over crucial details that analyses such as de Jasay's expose and emphasize.

After reading de Jasay, one appreciates that much of the appeal of the Hobbesian program lies in its congruity with common sense. All of us rely on some model of what makes people tick to guide us through the social world. For most of us, that model resembles what philosophers call "folk psychology" and includes an ample allowance for self-interest and venality. Starting from that bleak picture of human nature, we easily conclude that Hobbes was right and that life in the state of nature, where order comes from anarchic institutions, would be terrible. From that perspective, cooperation without the state seems an unattainable ideal, a goal that only the most saintly might seek. It seems perverse or naive to suggest that we rely on anything but the state to protect us.

De Jasay's account suggests that this presumption is not well founded. Moreover, the counter-account does not reject folk psychology but embraces it wholeheartedly. From its perspective, ordered anarchy is not an unattainable ideal but part of the web of institutions, simply one more way that people order their social world. And,

like other governance institutions such as firms, markets, and states, anarchic institutions can (and should) be treated as an incentive system that can be understood only by close examination of the incentives and opportunities it presents to individuals.

To implement that approach, de Jasay (along with many others) builds models in which rational egoists confront a much richer strategic environment than they do in the simple models, such as the prisoners' dilemma, that generate Hobbesian outcomes. Even the richer models remain sparse and abstract. Nevertheless, as my brief tour shows, their minimal enrichment of the environment suffices to overturn completely the Hobbesian account of anarchy. In these models, as in reality, anarchy can work.

When performed carefully, rational-choice analysis suggests that anarchy is far more complicated than either de Jasay or his Hobbesian foes make it out to be. Anarchy's foes err by asserting that it is inconsistent with social order; both theory and evidence show that the richness of social relations may lead even the most brutal egoists to cooperate rationally. And anarchy's friends, like de Jasay, err by asserting that its lack of hierarchy is equivalent to a lack of coercion or that anarchic institutions are accepted in ways that statist institutions are not. The social order in anarchy often rests on appeals to the basest sort of self-interest. That anarchic institutions are equilibria implies that self-interest will lead people to "accept" any outcome that gives them more than they could get in autarky. Hence, compliance need not imply consent in any ethically interesting fashion. Because people will try to attain those anarchic institutions that favor them, anarchy is likely to be subject to the same crass considerations that guide ordinary politics and will not automatically offer an alternative superior to the state.

Despite these caveats, the evidence shows that de Jasay is right at the most basic level: *it is time to throw off the Hobbesian yoke*. For too long, Hobbes's claim that anarchy was so bad that anything would be better has limited the imagination of institutional designers. Seduced by that false inference, they have ruled out some important options on the grounds that they could not be effective. But we know too much about both Leviathan and its alternatives to accept such a view.

References

Bates, Robert. 1981. The Preservation of Order in Stateless Societies: A Reinterpretation of Evans Pritchards' "The Nuer." In *Essays in the Political Economy of Rural Africa*. New York: Cambridge University Press.

Benson, Bruce. 1990. *The Enterprise of Law: Justice without the State*. San Francisco: Pacific Research Institute.

———. 1998. *To Serve and Protect: Privatization and Community in Criminal Justice*. New York: New York University Press.

Bernstein, Lisa. 1992. Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry. *Journal of Legal Studies* 21 (January): 115–57.

Cook, Kathleen, and Gary Miller. 1998. Leveling and Leadership in States and Firms. In *New Institutionalisms: Institutions and Social Order,* edited by Karol Soltan, Virginia Haufler, and Eric Uslaner. Ann Arbor: University of Michigan Press.

Cowen, Tyler. 1992. Law as a Public Good: The Economics of Anarchy. *Economics and Philosophy* 8: 249–67.

De Jasay, Anthony. 1997. *Against Politics: On Government, Anarchy and Order.* London: Routledge.

Ellickson, Robert. 1991. *Order without Law: How Neighbors Resolve Disputes.* Cambridge: Harvard University Press.

Ferrigno, Robert. 1996. *Dead Silent.* New York: Putnam.

Greif, Avner. 1993. Contract Enforceability and Economic Institutions in Early Trade: The Maghribi Traders' Coalition. *American Economic Review* 83 (June): 528–48.

Hampton, Jean. 1986. *Hobbes and the Social Contract Tradition.* New York: Cambridge University Press.

Kavka, Gregory. 1986. *Hobbesian Moral and Political Theory.* Princeton: Princeton University Press.

Klein, Daniel. ed. 1997. *Reputation: Studies in the Voluntary Elicitation of Good Conduct.* Ann Arbor: University of Michigan Press.

Kreps, David. 1990. Corporate Culture and Economic Theory. In *Perspectives on Positive Political Theory,* edited by James Alt and Kenneth Shepsle. New York: Cambridge University Press.

Locke, John. [1690] 1980. *The Second Treatise of Government.* Edited by C. B. McPherson. Indianapolis: Hackett.

Macaulay, Stewart. 1963. Non-contractual Relations in Business: A Preliminary Study. *American Sociological Review* 28 (June): 55–67.

Madison, James, Alexander Hamilton, and John Jay. [1788] 1987. *The Federalist Papers.* Edited by Isaac Kramnick. London: Penguin Books.

Milgrom, Paul, Douglass North, and Barry Weingast. 1990. The Role of Institutions in the Revival of Trade: The Law Merchant, Private Judges, and the Champagne Fairs. *Economics and Politics* 2 (March): 1–23.

Mosley, Walter. 1998. *Always Outnumbered, Always Outgunned.* New York: Norton.

Ostrom, Elinor. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action.* New York: Cambridge University Press.

Rosen, Jeffrey. 1997. The Next Crimebuster: The Social Police. *New Yorker,* Oct. 20 and 27, 170–81.

Rutten, Andrew. 1997. Anarchy, Order, and the Law: A Post-Hobbesian View. *Cornell Law Review* 82: 1150–64.

Taylor, Michael. 1982. *Community, Anarchy, and Liberty.* New York: Cambridge University Press.

———. 1987. *The Possibility of Cooperation.* New York: Cambridge University Press.

———. 1996. Good Government: On Hierarchy, Social Capital, and the Limitations of Rational Choice Theory. *Journal of Political Philosophy* 4 (March): 1–28.

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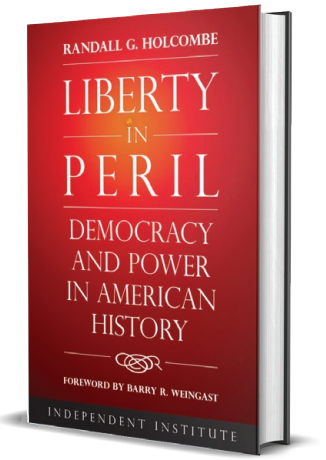

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