



TOWARDS A THEORY OF AUTO-GOVERNMENT

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This must be said: There are too many “great” men in the world: there are too many legislators, planners, founders of societies, leaders of nations, fathers of the country, etc. Too many people place themselves above mankind in order to guide its footsteps; too many people make a career of being concerned with mankind. I shall be told: You yourself are certainly much concerned with it. That is true. But it must be admitted that I am concerned in an entirely different sense and with an altogether different object in view, and if I take place among reformers, it is only to make them take their hands off mankind.

Frédéric Bastiat
1850

I

The purpose of man's actions is to move from a state of less satisfaction to one that provides him more satisfaction (Mises [1949] 1963, 13 ff.). In this process, man strives to attain the maximum possible extent of values. The goal is perfection, a state wherein he would have attained all possible values. Man acts because he is unsatisfied, limited, and imperfect. The pursuit of perfection --or we might say, of happiness-- is for mankind an endless search. However, this pursuit provides a point of reference, an end value in itself, an “intrinsic value” (Moore 1912, chap. 6; 1922, 253-75; Blanshard 1961). The rest of the values in the chain are instrumental and of diverse hierarchy. It is unlikely for all values to be instrumental *ad infinitum*, without there being an ultimate value from which the rationale for value emanates (Brentano [1869] 1969, 10; Scheler [1913] 1948, sec. 2; Williams 1962, 289-96).

We should distinguish two levels of analysis in this respect: on one hand, subjective valuation of the utility of things, (more precisely, what is considered their marginal utility); on the other hand, the characteristics and causal connections underlying reality, that is, the objective world or objective truth (although “objective truth” is a pleonasm), which includes subjective value judgments that, once they are expressed, are also a part of reality. This level is objective in the sense that things *are*, irrespective of the opinions people may have of them (Santayana 1905, 216 ff.; Popper 1984, 144, 147), whereas the first level is purely subjective and, thus, depends on personal judgment and preference (Menger [1871] 1950, chap. 3; Böhm Bawerk [1884] 1959, vol. 2: bk. 3, pt. A).

Man's efforts toward reducing the scope of his ignorance open many doors for each person to accomplish his or her potential, thus exposing the various tastes, preferences, talents, and vocations that make up different life purposes. These differences between

individuals require the existence of an order where each individual can pursue his or her own plan without violating the rights of other individuals. Civilized coexistence entails that individual values be respected by others, although they may not always be understood (Szasz 1974) or shared. This is what tolerance is about --although it would be more appropriate to allude to "respect," since rights are to be not merely tolerated, but respected. Abstaining from invading individual autonomies is no grace or favor conferred on others, nor does it mean accepting an error that has to be tolerated. "Tolerance" denotes a certain arrogance, and rather implies the illegitimate extrapolation of religion into law. Acknowledging the different values of individuals and ensuing reciprocal respect does not mean that the truth or falsehood of propositions nor the validity of argumentation are relative. Moreover, relativism makes relativism relative and by the principle of noncontradiction, a judgment cannot be simultaneously true and not true. If truth and error did not exist, science would be no more than a futile pastime (Lorenz 1974, 9). As has been said, different views of reality do not contradict the existence of truth and error.

Through trial and error, in the context of an open evolutionary process, different competing theories allow us to incorporate fragments of knowledge that reduces the sea of ignorance in which we operate (Popper 1972, introduction). Every human action entails a process of exchange of values: acting man gives up some value in order to gain another that he values more. This exchange of values underlies the economic process inherent to human action (Mises 1961, 122-23; Hayek 1976, vol. 2: 113; Sowell 1980, 79-80). Action, economizing, preference, option or selection among values form a chain of means that point to the attainment of ends/values, which are themselves means to the ultimate end that has been alluded to. This is far from being an automatic process; action implies freedom of choice. If man were a machine, whose output (action) could be determined by input (genetic inheritance and environment), there would be no such thing as true or false propositions (which require independence of judgment to review one's own conclusions). Neither could there be self-generating ideas, personal responsibility or argumentation (Mises 1962, 28-33; Popper 1974, chap. 6; Polanyi [1959] 1969, chap. 3; Chomsky 1993; Eccles 1986, chaps. 9, 10).

Now then, the issue is to discover which social order allows for the development of the best possible rules for civilized coexistence, so that each individual is allowed to pursue the largest amount of value that he is capable of, without the values of third parties being imposed upon him. However there is no possibility to attain a final stage. The axis of the debate should be shifted toward better and more effective positions, taking into account that history is not linear and does not follow any kind of laws (Toynbee [1946] 1987, vol. 1: chap. 14; Popper [1957] 1984; Johnson 1983, 694-95). In this respect, nothing is inexorable; everything will depend on what are the characteristics of the debate of ideas, which, in turn, will influence the adoption of a specific conception or system of rule production and enforcement.

Several authors have referred to instances and features of societies that operated without the monopoly of force (Friedman 1979; Penden 1971; Anderson and Hill 1979, Lowie 1962; Graver 1968; de Coulanges 1920, bk. 3; Popsil 1971; Southall 1965; Kramer 1963; LeVine 1960; Durant 1959, 408 ff.; Miller 1990). Throughout history, the imposition

of the state has always been achieved through usurpation and conquest (Oppenheimer 1975, 7; Carneiro 1970; Nock 1973, 20). Administration by the state has resulted in alternative periods of absolutism, constitutional monarchies, and democracies. Parliaments inspired Herbert Spencer to say "The function of Liberalism in the past was that of putting a limit to the power of kings. The function of true Liberalism in the future will be that of putting a limit to the power of Parliaments" ([1884] 1960, 209). And Benjamin Constant who has stressed the advantages of the "freedom of the moderns" compared to that "of the ancients", --a generalization not shared by such authors as Jellinek (1935, chap. 10)-- stated that "Citizens have individual rights, independent of any social or political power, and any power that violates these rights loses its legitimacy [...] the will of a majority cannot make just what is unjust" ([1813] 1968, 9,11). Later, Friedrich, Leoni, de Jouvenel, Hayek, and Sartori, among others, devoted considerable effort to distinguishing law from legislation, and to stressing the disadvantages and dangers both of "unlimited" democracy --which does not impose constraints on the will of the majority-- and of legal positivism --which does not admit any parameters or extramural reference to rules enacted by the state authority ([1955] 1969, chap. 21; [1961]1972, chap. 5; 1957, 302 ff.; [1959]1975, chap. 16; 1988, vol. 2: 400 ff.).

II

For a man to move from what he perceives as a less satisfactory state to one he believes will offer him greater satisfaction, it is necessary that other men refrain from interfering with his actions by using force. There must be rules of behavior that will preclude such interference. These rules must recognize each individual's power to do as he pleases with what is his, and not interfering with equal rights of others. The notion of rights, brings us to property: the right to use and dispose of what one owns, starting with one's own mind and body and what has been appropriated through discovery of previously unappropriated value or through free and voluntary exchange (Kirzner 1989, chap. 5; Nozick 1974, chap. 7). The protection of individual rights is the ultimate purpose of the law, which is the result of a process of discovering the rules that are most conducive to preserving rights and promoting social cooperation. The evolution of these rules corresponds to the progress of knowledge. Preserving the right to privacy from sophisticated technological devices, environment, the assignment of property rights in the electromagnetic spectrum, and, in general, all new ideas to better define rights based on accumulated experience --all of these make it necessary for the discovery process to operate in an open and evolutionary context. In this sense, law is not invented or designed as modern legislators pretend, it is discovered as was the case with the common law in England and with Roman Law during the most prosperous part of the Republic and the beginning of the Empire (Leoni [1961] 1972, 82-4). Today, to a great extent, legislative bodies are thought to be carrying out their mandates in accordance to the number of laws they pass, without any consideration of the fact that, as Ripert pointed out, legislative inflation depreciates the law.

Today, the law is believed to be a set of statutes, commands, and codes; and the passing of legislation by legislative bodies is believed to be a cure for all problems. Thus,

aside from the meaning of law being adulterated, a great uncertainty and unpredictability occurs when legislatures can pass new statutes just as quickly as they can repeal or amend existing ones. This state of affairs is very different from what took place during the ancient common law in England and with Roman law where judges were more like spectators than actors, operating in a competitive process where results were sifted and contrasted, and where dynamic elements operated within general principles of law (Epstein 1980, 255-56, 266). This method of analyzing law is not applied when contracts are thought to occur because an authority designs them and dictates the corresponding mechanisms (Fullner 1981, 174-75) without understanding, for instance, that during the Middle Ages in England, commercial law was privately produced and enforced (Woolridge 1970, chap. 5; Buckland 1952; Berman 1983, 333-56).

An analogy has been drawn between the law, the market and language, showing that they have all emerged spontaneously. Except for the case of Esperanto which was a fiasco, this is certainly the case with language, an essential tool for thinking and conveying thoughts (Mandeville [1714] 1982, pt. 2, dialogue 6; Hayek 1948, 88; Sowell 1987, 68-70; Leoni [1961] 1972, 88; Bally 1977, 18).

III

As has already been said, the prerogatives of individuals to use and dispose of what they own is their right, which is derived from the nature of things, in David Hume's sense "[...]f by nature we understand what is common to any species, or even if we confine it to mean what is inseparable from the species" ([1739-40] 1898, vol. 2: 258). One of the traditions of *iusnaturalism* (Veatch 1978, 1985, chap. 2; d'Entreves 1977; Finnis 1986, chap. 12) takes a similar starting point as regards to the meaning of nature. In this respect, "natural" refers not to physical laws or to the original and uncultured state of mankind, but to the rights derived from those properties inherent to the human being and are not the outcome of the sanction and will of the political authority. And these rights do not result from utilitarian considerations such as "the greater benefit to the greater number", since under the well known Kantian formula, it is not legitimate for some to use others as means in order to attain their personal goals.

That the nature of human action is to move to a more satisfactory state is not the result of deliberate human design just as the law of gravity is not a consequence of human invention. There is no such thing as a "social good" independent from the individual, as the Utilitarians would have it (Nozick 1974, 32-33). In an open society (pluralistic by definition) the only "common good" is attained through mutual respect (Novak 1989, 19-21), that is, by behaving within rules that allow that different persons with different goals can live peacefully. In a more general sense, we could say that complying with these natural rules is "useful" inasmuch as it leads to social cooperation. In other words, this assertion refers to the usefulness of acknowledging the natural properties of human beings. However, this is not a typically utilitarian argument, for example when it comes to deciding whether it is useful to torture an innocent person who has some valuable information, such as who is going to detonate a bomb that would kill everybody in our planet. This example is

sometimes used to justify sacrificing a single person in order to benefit a larger group, without realizing that the principle of sacrificing minorities is contrary to the concept of law and introduces arbitrariness into the system, which not only acts to the detriment of the injured person (for whom it is irrelevant whether his rights are violated because it is the will of the majority or as a consequence of astrological changes), but also tends to the generalization of harmful effects. The case of the bomb is usually presented as an extreme and unique situation, when in fact it is an everyday occurrence. We constantly face lifeboat situations: there are countless desperate instances that, when solved by sacrificing the rights of an individual, in the long run result in a worsening of the situation including sometimes for those that the policy was supposed to provide help. Some people die because they do not have access to the necessary drugs or medical treatment; others suffer from starvation. It does not follow that in order to remedy such misery those who have earned certain income should be expropriated. Societies that, either directly or indirectly (through the state apparatus) allow such policies to take place, do not help the intended beneficiaries of those policies, since, in the long run, they suppress the incentives of the producers (Benegas Lynch [1972] 1990, 503 ff.).

Respect for rights allows for harmony of interests, while, disregard of rights leads to conflict. For every right there is an obligation. That somebody has a right to a \$1,000 salary means that there is a universal obligation on other people to recognize and respect that income. Now, if that person is suddenly granted the "right" to receive a \$2,000 salary, this means that somebody else will have the obligation to hand over the additional \$1,000, and, consequently, rights will be violated. In this context, so-called rights to education, to decent housing, to a just wage, and to health care are no more than pseudorights that create irreconcilable conflicts (Benegas Lynch 1991, chap. 19).

Once the problems of legislation are understood, and a judicial system is adopted to solve disputes, the risk of violation of individual rights shifts from legislation to the "tyranny of the judges" if an *ultima ratio* imposed by force is maintained (known as Supreme Court of Justice). Thus, unless the coercive ultimate recourse is abolished, the same deficiencies inherent to legislation would be transferred to the judicial sphere (Leoni [1961] 1972, 23, 164). In the absence of a Supreme Court, the system remains open with competing judges, and parties deciding among themselves what will be the ultimate recourse. In this case, there would be no danger that the aforementioned legislative problems would be translated into the "tyranny of the judges", since there would be no final criterion imposed coercively.

This leads us to examine the apparatus of force that makes judicial sentences enforceable. When the parties to a contract agree to the levels of appeal and comply with the resolutions of the judge, there does not seem to be a problem. But we must explore the workings of the system when either party does not comply with the judicial decision or when a right is violated without the parties having a contract beforehand. In the latter case, we must establish which principles will guide the use of force and which judges will hear the matter.

IV

The republican system of government has established mechanisms of checks and balances, by means of the so-called mixed regime, horizontal division of powers, opposition parties and elections at different times for the different branches of government, in order to decentralize and limit power, and thus provide better protection and justice services. The most successful experiences divided political power in four: a House of Representatives, a Senate, an Executive (Presidency) and a Supreme Court of Justice. It has been established that the members of the House of Representatives would be elected by the people directly every two years, with the population divided by states. The Senate, is elected through the state legislatures, that is, a system of indirect election. The President is elected by the Electoral College. Finally, the members of the Supreme Court are nominated by the President and serve for life, upon confirmation by the Senate. All of these mechanisms have proved to be insufficient to hinder the expansion of political power and the ensuing encroachment of the state, even in those countries where the system has been applied most rigorously (Johnson 1991, 906). Moreover, the whole system rests on the contradictory idea of protecting rights by violating them, since compulsory financing through taxation implies the use of force. In other words, the system has proved to be not only inconsistent with its own internal premises but also ineffective for the purpose of protecting rights. Paul Johnson has stated "The state had proved itself an insatiable spender, an unrivaled waster. Indeed, in the twentieth century it had also proved itself the great killer of all time" (1983, 729). In relation with this, Alvin Toffler points out that of the 2,340 weeks between the end of World War II and 1990, only 3 weeks were free of wars in the world; and that during that period, 40 million people were killed, an astronomical cost of this war period, that do not take into account those who were tortured or mutilated (1994, 29-30). Toffler concludes that "To refer to the period between 1945 and the present time as 'postwar' is to mix irony with tragedy" (*ib*, 30).

The inefficiencies referred to, arise from the fact that the incentives inherent to the monopoly of force --commonly referred to as government-- naturally operate contrary to the avowed ends. When a monopoly is secured, the monopolist takes advantage of his position, and his services are necessarily degraded. Their quality is lower than what it would be if they had to be provided in competition. If an efficient neighborhood baker is granted a monopoly license, and with it a captive market, his services will not be as good as they would be if he had to bake under the natural incentives of present or potential competition. The control mechanisms devised by the republican form of government are not effective because they do not create the necessary incentives. Classical liberalism, with all it has achieved for individual liberty, has not solved the conflict of *quis custodiet ipsos custodes* (cf. de Jasay 1994a, 36). While the professional auditing of corporations is important, the most relevant audit is carried out by consumers through competition. This concept seems to be well understood when it refers to goods and services in general, but not when it comes to the provision of the services of protection and justice, which are of great importance and therefore need strong incentives.

In order to avoid conflicts of interpretation and in general deal with conflicts that might appear after a contract is signed, parties may agree, upon entering into the agreements, to designate referees or arbitrators whose prestige and honesty guarantee the commitments of the parties involved. To this end, they may agree to the number of appellate instances they will each have recourse to. These judges or arbitrators charge a fee for their services and will strive to produce fair judgments because their future on this field depends on this. In a private system of justice, nobody is compelled to resort to certain arbitrators; they are chosen because of their effectiveness in performing the tasks assigned. The nature of their incentives is completely different from that of judges imposed by the monopoly of force. Judgments will make up the body of rules that other judges will take into account when making their own decisions. Accumulated experience is a very valuable precedent. A judge wanting to divert from precedent will have to justify the deviation if he wants to maintain his position.

For a judicial sentence to be complied with, it must be backed by the threat of force. The same incentives that operate in the case of arbitrators apply to the use of force. In state systems, the monopolist has a captive market until the next elections are held. After that, the monopolist is succeeded by another monopolist. In no case can the citizens choose the protection services they prefer and cancel or substitute them when appropriate. Different alternatives are not permitted to respond to various types of demand. When the monopoly of force is established it is for everybody, there is no choice. The case would be analogous to granting successive monopolies for selling chicken. This procedure will deprive the system of the best mechanism and incentives for operations, that is, competition. Bertrand de Jouvenel states that in the political arena, "[...T]hey are all pretenders [to power]; no one is interested in reducing a possession to which he hopes to have access some day or in paralyzing a machine he will come to use. That is why we find in the political circles of modern society a great complicity in favor of extending Power" (1956, 26-7). This is so because of the natural incentives to expand the sphere of political power (Bastiat [1848] 1964, chap. 5; Radnitzky 1993), which contrast with the natural incentives to serve our fellow men that operate in the private sector (Ferguson, [1767] 1966, 14; Smith [1776] 1937, 14).

In the private sector, for somebody to give up a good or service freely and voluntarily, one must offer in exchange a good or service that somebody else wants more than what he is about to give up. It is in the personal interest of the parties involved to satisfy each other in order to attain their own purposes. Personal interest is the motive behind every action. Whether the act is judged as laudable or reproachable, it is carried out in the interest of acting men. Both the philanthropist and the criminal act in their personal interest, guided by their personal value systems. The difference in the public sector is that incentives do not operate in the direction of the interests they are supposed to serve. The monopoly of force makes a zero-sum game possible: it takes resources away from an individual who may not believe that he is receiving a good or service in exchange. Extending Brennan and Buchanan's example (1987, 98) to a different context, we may say that the monopoly of force leads to a political version of Gresham's Law, that is, incentives operate in such a way that bad behavior replaces good behavior. In the absence of the monopoly of force, bad

behavior would not disappear, but incentives would be such that good behavior would tend to replace bad ones.

Competing protection agencies could be hired by customers directly, or indirectly through the arbitrators, who in turn would belong to defensive agencies offering protection services, that is, enforcement of their judgments. This would work just like health or fire insurance (de Molinari 1849; Rothbard 1973, chap. 11; Friedman 1973, chap. 29; Benson 1990, chap. 8). It is possible, although not necessary, that these open processes will show that the delivery of arbitration services should be separate from protection services. In any case, if a person fails to comply with a judgment, he will be made to comply with restitution and compensation. The sentences will be carried out in detention houses, which will also charge their clients (in this case, jobs carried out by the convict will be deducted from expenses and fees). The operation of security systems requires resources: in the case of the monopoly of force, it is not possible to determine the amount of resources required for protection purposes. It is not possible to anticipate what type of security should be invested in, or which expenses will be assigned to each item (how to estimate wages, how to determine the use of alarms, if police cars are useful, and if they are, where they should patrol, etc.). These dilemmas arise because the monopoly of force operates outside the market and the necessary information is therefore not available. Profits and losses do not operate when a coercively imposed monopoly of force is established (if it were a monopoly naturally arisen in the market, it would function according to the requirements of the people, because it would have achieved its position through consumer choice).

When rights are violated without a contract between the parties, each person may resort to his agency, which will then draw the judges for the different instances, or will use the method agreed to with their clients. If one of the parties could not afford an agency beforehand and thus is not insured, he will have to buy insurance at that time, comply with the decision made by the agency of the other party, appeal to the good will of somebody who will finance his case or ask an agency to resolve the issue free of charge (this type of situation may help the prestige of an agency, just as doctors who devote part of their time to assisting patients for free, gain prestige and experience through new research).

Let us assume that one of the parties to a dispute belongs to a defensive agency that decides to act aggressively, or to support the illegitimate claims of its client. In this case, if the dissuasive power of the agency is inferior to that of the rest it will be forced to give up. Not only will the client be made to comply with the sentence, but the aggressive agency itself will lose business because of its bad reputation and will be compelled to compensate and repair the harm done. But, let us assume for a moment that the troublesome agency is more powerful than all the rest; and let us assume further that it possesses a devastating force coming from Mars. If the force is so devastating and intends to enslave mankind, it does not seem to be a way out. However, we can conjecture how to oppose it more effectively: with a monopoly of force operating on weak incentives or with a multiplicity of agencies operating on strong incentives. Even though the world does not operate under a single unified government (which from a classical liberal perspective would entail even a much greater risk of abuse of power than the present system), we do not live under permanent all-out war every time a contractual dispute occurs. Agreements are entered into

daily between persons from different national jurisdictions and from different judicial structures and rules. This has not resulted in wars. Rather, we can say that wars occur when states hinder, disrupt and ban the execution and enforcement of free and voluntary contracts. In this context, it may be interesting to note in passing that many of the so-called primitive communities chose one person per side to fight to resolve disputes, instead of resorting to massive killings and destruction (Davie 1929, chap. 1).

What we have said about procedures for the protection of rights in a private system is also valid for wars, which, inasmuch as such a system extended, would not be “international” and governments would not have to “surrender” since, such notions as nations and governments would not exist in the traditional meaning of monopoly of force; thus, all conflicts would be localized. Insurance companies related to defensive and protection agencies would use the premiums to cover the risks of attacks from missiles, unmanned airplanes and combat vehicles, biological and chemical weapons, infrasound generators, the so-called “robotic ants” and other conventional and unconventional modern military structure (Tanehill 1984, chap. 13-14). These insurance companies would be hired to defend industrial plants, valuable information, or in general assets that need coverage against this kind of risks. Individuals would pay for this kind of insurance through higher market prices that would result from a higher expense per product unit incurred by those paying insurance directly.

Much has been conjectured about persons being inherently good or bad. Human beings are not born good or bad; they are born free, and that freedom is used to different degrees to do good and to do bad. In the context of social relations, as has been said, the idea should be to minimize the infringement of rights in society. The good or bad that goes beyond social relations will be in the sphere of each person’s conscience and the attitudes each adopts toward one’s fellow men. There is no Manicheism, persons are not totally evil or totally good. The “mix” varies greatly. In the sphere of social relations, incentives should be provided to encourage the good and discourage the bad. If the assumption would be that man is naturally inclined to hurt his fellow men, we should not grant the monopoly of force to a group of malfeasors (Barnett 1985). If the assumption were that most people are bad, the conclusions would be the same if the ruler were chosen by a majority. In any case, a private system minimizes badness for the reasons we have mentioned above. On the other hand, if we assume that man is naturally good, we still should not grant the monopoly of force, since good men will not have the necessary incentives that competition provides to improve the quality and prices of their goods and services.

It has been said that services of justice and protection are the *sine qua non* for the rest of society to function properly. Actually, in a strict sense, food is the *sine qua non* for everything else, yet few would argue that food production should be left to the state, since such delegation leads to devastating famines.

V

The classical argument for the monopoly of force focuses on the so-called public goods. The features of public goods are that they cannot be provided to some to the exclusion of others

--either everybody gets them or nobody does--; and that consumption of these goods does not increase even if more people make use of them. Street lights are an example: it is not possible to exclude certain persons from the provision of street lights; it is also true that light consumption does not vary with the number of persons walking by. The public goods argument maintains that in this situation many people will be free riders, that is, they will speculate that somebody else will pay for the service while they enjoy it for free. This has been used as a central argument for the establishment of the monopoly of force. It is asserted that, in the absence of force, services such as protection and justice would produce a free rider effect, so the good or service would not be produced or, at best, would be produced at suboptimal levels. In this sense, Mancur Olson maintains that "It would obviously not be feasible, if it were possible, to deny the protection provided by the military services, the police and the courts to those who did not voluntarily pay their share of the costs of government, so taxation is necessary [...] A state is first of all an organization that provides public goods for its members, the citizens" ([1965] 1992, 24, 26).

It has rightly been asserted that practically all activities have some element of "public good" in them (Rothbard 1970, vol. 2: 886-89; Friedman 1973, 291). The income we earn is a consequence of capital accumulation generated by others; and the same could be said of pedestrians who enjoy the elegance of buildings that others have designed and gardens that others have grown. If it were not for the division of labor and others' talents, we could not devote ourselves to the activities we in fact do, nor could we afford to acquire the goods and services we do. In other words, positive externalities are a sign of civilization.

The statement that in the absence of coercion public goods would be underproduced is meaningless, unless it is specified in relation with what it is under-produced. What *can* be said is that under a coercive system, production will necessarily be different from free and voluntary production of goods and services. If producers of a specific good or service anticipate free riders and this produces unpleasantness, they will have to balance their concern about free riders with the needs that will be satisfied by the production they are about to undertake. In order to ensure the financing of the good or service, in case the project needs more than one person, it could be agreed that the necessary operating funds will be used only after the total amount required for financing the project is collected (Schmidtz 1991, 66).

The alleged suboptimal production or "market failure" resulting from free and voluntary contracts can be illustrated with the situation where a group of friends go out to dinner knowing that the bill will be divided equally among them. In this case, some (or all) will eat more than what they would if they had to pay for the bill individually. But in our example, anybody who agrees to dine with friends implicitly agrees to pay more for the pleasure of good company. Similarly, people can allege "market failure" in the case of a stolen box whose value at the market place is \$ 10 while its owner estimates it at \$10,000. In this case, the judge will adjudicate restitution according to the market value and not according to the specific subjective value of its owner. If the owner wants to protect his box for a value exceeding market price, he could insure the difference. The solution is found within the market.

It should also be stressed that in an open society externalities will be internalized whenever it is esteemed convenient (a beautiful woman may not want to internalize her beauty; rather she may strive to improve her appearance, speculating that it will attract the attention of free riders). Some examples of internalization are codified or cable TV, sensors placed on whales and other devices that today may seem ubiquitous but in their time were revolutionary, such as fences and barbed wire to demarcate property boundaries (Benegas Lynch-Krause 1993 a, vol. 1: chap. 3). Also we should include security services notices of protection in the properties of service subscribers (Friedman 1979, 402-3). In any case, a good or service provided with collected resources through compulsion always involves waste, because in the absence of that interference, people would have directed their scarce resources to some other end. On the other hand, what some consider a value may not be such for others. Consequently, to impose financing “[...] requires us to justify using some as means to the ends of others [...] If we want everyone to contribute and are willing to use coercion to assure it, we have difficult moral territory to cover” (Schmidtz 1991, 87). In this context, it should be borne in mind that “Pareto optimality” is impossible if one person disagrees with the existence of the monopoly of force, since this concept alludes to changes that improve the situation of at least one person without anybody’s situation getting worse.

The public goods argument is assimilated to the prisoner’s dilemma. This dilemma, as presented in the mid-1950s, involves two prisoners convicted and accused of a crime. They are placed in separate cells and do not communicate with each other. The prosecutor visits them separately and tells them: if they do not accuse each other, they will both go free; if they accuse each other, they will have to comply with half the punishment; and finally, if one accuses the other but the accusation is not reciprocal, the accuser will go free and the accused party will have to assume the totality of the sentence. Public goods is assimilated with the prisoners’ dilemma argument because it is asserted that no one (or hardly anyone) will cooperate hoping to be free riders, that is, each will accuse the other, hoping not to be accused and to go free. However, since they will both act similarly, they will both stay in jail.

There will undoubtedly be conflict if a customer goes into a store and tries to leave with the merchandise *and* the money for the value of the merchandise. This is stealing. Rights are violated. A similar situation would arise if the owner of the store tried to keep the customer’s money without giving up the merchandise. Whatever the magnitude of the conflict, it will not follow that the monopoly of force should be imposed to protect rights.

Actually, in the context of the prisoner’s dilemma, the Hobbesian jungle of all out war would not even allow for a monarch to be elected. If cooperation is possible for electing a sovereign, then it would be preferable to cooperate to obtain services by means other than through the monopoly of force (Narveson 1988, 139-40). The perspective inherent to the prisoner’s dilemma “[...] seems in effect to be committed to the thesis that the best strategy is to be disposed to the one that is known to be worse than a known alternative. Paradox indeed” (Narveson, *op. cit.*, 142).

The very classification of public and private goods has been questioned on the grounds that, as individual valuations change, the externalities of a certain good that are perceived as positive at a given moment may be negative at others and neutral or indifferent

in yet others. From this we can conclude that even from the perspective of the defenders of the monopoly of force, it is difficult to determine what is a public good and what is a private one for the purpose of having the monopoly of force produce them (Hoppe 1993, 7-8; Foldvary 1994, 9-15).

VI

The original contract has been mentioned as a justification for the emergence of the monopoly of force. Attempts have been made to resort to this notion to support institutionalized violence, since the monopoly of force must be financed through taxes levied against the will of the owners of resources (voluntary taxation would imply a contradiction in terms). There is no evidence of the original contract; rather, it is clear that the monopoly of force had its origin in violence. Jacob Burckhard states "Using the contractual hypothesis to explain the foundation of the state is absurd" (1971, 71). Friedrich Hayek attributes the idea of the original contract to rational constructivism (1973, vol. 1: 45). While teaching history at Columbia University, Albert J. Nock concluded that "The positive testimony of history is that the State invariably had its origin in conquest and confiscation. No primitive State known to history originated in any other manner [...] The State is not [...] a social institution administered in an anti-social way. It is an anti-social institution, administered in the only way an anti-social institution can be administered, and by the kind of person who, in the nature of things, is best adapted to such service" (1973, 20, 77-78).

David Hume rejects the possibility of either an explicit or an implied original contract ([1758] 1987, 468, 471). But on the other hand, he justifies the existence of the governmental apparatus with an argument based on time preference. It is correct to say that man prefers a present value to that same value in the future, but it is not correct to maintain --as Hume does-- that because man is more concerned with proximate preoccupations, he does not pay practically attention to future concerns. He writes about "[...] the solicitations of our passions, which always plead in favor of whatever is near and contiguous. This is the reason why men so often act in contradiction to their known interest; and in particular why they prefer any trivial advantage, that is present, to the maintenance of order in society, which so much depends on the observance of justice. The consequence of every breach of equity seem to lie very remote, and are not able to counterbalance any immediate advantage, that may be reap'd from it. They are, however [the advantages], never the less real for being remote; and as all men are, in some degree, subject to the same weakness, it necessarily happens, that the violations of equity must become very frequent in society, and the commerce of men, by that means, be render'd very dangerous and uncertain" ([1739-40] 1898, vol. 2: 301). But it does not follow from time preference and human passions (politicians included) that men cannot devise and carry out long term projects. Remarkable entrepreneurial ventures attest to the contrary. Moreover, it can be said that it is actually politicians who distort the present-future relationship. Politicians aim at taking advantage while in office and of electoral gains, and underestimating the importance of the future. They overvalue the present and undervalue the future; this is exactly the opposite of what

acting men do in the absence of the coercive monopoly of force. However, Hume curiously concluded that:

“[I]f men be incapable of themselves to prefer remote to contiguous, they will never consent to any thing [...] The only difficulty, therefore, is to find out this expedient, by which men cure their natural weakness, and lay themselves under the necessity of observing the laws of justice and equity, notwithstanding their violent propensity to prefer contiguous to remote. 'Tis evident such a remedy can never be effectual without correcting this propensity [...] But this being impracticable with respect to all mankind, it can only take place with respect to a few, whom we thus immediately interest in the execution of justice. These are persons, whom we call magistrates, kings and their ministers, our governors and rulers, who being indifferent persons to the greatest part of the state, have no interest, or but a remote one, in any act of injustice; and being satisfied with their present condition, and with their part in society, have an immediate interest in every execution of justice, which is so necessary to the upholding of society. Here is the origin of civil government and society” (*ibid.*, 301-2-3).

It seems as if Hume is referring to men of various natures: those who run the government and those who are governed. It also seems that his comments are independent from long and repeated historical experiences and from man's natural incentives, which have already been referred to. In this respect, it looks as if Hume's efforts were headed to incentivate a tiger to become a vegetarian.

Ultimately, the various schools of thought that subscribe to the imposition of the monopoly of force are to some extent rooted in what we could call the “Hobbesian syndrome.” Thomas Hobbes wrote that “[...] where there is no commonwealth, there nothing is unjust” ([1651] 1962, 114) since “[...] the legislator is he that maketh the law” (*ib.*, 199). Hayek rightly placed “[...] the beginning of modern history of legal positivism in Thomas Hobbes” (1976, vol. 2: 45). Hobbes argues that if there is no sovereign “[...] the life of man [is] solitary, poor, nasty, brutish and short” ([1651] 1962, 100). He further states that the apparatus of force emerged from the original contract by which the subjects vested the sum of power in the sovereign, which, according to Hobbes, would be the only way of avoiding an all-out war and the recurring battles resulting from the irreconcilable state prior to the existence of the apparatus of force. George Sabine refers to “[...] the absolutism of Hobbes. For him, there is no alternative between absolute power and outright anarchy, between an omnipotent sovereign and the complete absence of society” (1965, 347).

Rousseau's notions of the social contract and the “general will” have been among those that inspired the tyranny of the majority, pseudodemocratic absolutism, and the distortion of the meaning of freedom ([1762]1988; Flew 1988, 214-28). On the other hand, Algernon Sidney and John Locke adhered to the concept of the original contract, although their theories differed from Hobbes and Rousseau's to the extent that they attempted to circumscribe the powers granted to the authority to the protection of life, liberty and

property; and they provided for subjects to revolt when government exceeded its specific mandate of protecting rights.

In our times, Robert Nozick has argued that an “invisible hand” type of process leads to the imposition of a “dominant” protection agency and the establishment of a unified justice system, which ends up being what we know as government (1974, 119, 15, 17 and 11). He describes this process as spontaneous --from the so-called “state of nature” to the establishment of government--; however, he does not say *why*, in the absence of violence, the process will necessarily lead to the predominance of one agency. On the other hand, if this truly were an “invisible hand” type of process, the resulting agency would not be a government in the traditional sense of the word, since as has been observed, this would result from voluntary support of the people, and there would be no forced financing of its activities.

James Buchanan ([1975] 1981) has stated that there are no problems with transactions of private goods, but the provision of public goods will not happen “naturally or spontaneously” (*op. cit.*, 56), thus a “coercive external agent” (*ib.*, 89) would be needed which would have the function of “protecting” rights and “producing” public goods (*ib.*, 90 ff.); and that since unanimity is a “highly abstract and unreal construct” (*ib.*, 59), decisions would finally be made by majority. This does not in any way imply that Buchanan considers democracy a cure for all evil; on the contrary, he writes, “It is critically important that we recapture the eighteenth century wisdom of the need for checks and balances [of political power] and that we shed once and for all the romantically idiotic notion that as long as processes are democratic, all is fair game” (1988, 255). In any case, the imposition of the “coercive external agent” brings us to the central point of the argument of preserving ourselves from violence by resorting to violence.

From a different perspective, Anthony de Jasay formulates a severe criticism of what is known in political philosophy as “contractualism,” concluding that “Collectively rational arrangements can be reached, if reaching them is worth the trouble, without the benefits of states and the constitutions meant to bend them to our service. The whole social order has self-enforcing properties that, like muscles, develop with use or atrophy with disuse” (1994b, 53). On the other hand, de Jasay points out the contradiction of those who believe that, ultimately, the enforcement of agreements, contracts, and arrangements among people is not possible without the state and, curiously enough, refer to the institution of the contract as the origin of the state, as if they had not stated that contracts are impossible without the state (*loc. cit.*).

In some cases, the imaginary original contract and taxation have been compared to the bylaws of a club and the membership fees that members pay. Let us assume that a person is born into a club that occupies the whole territory of an island, which is, in turn, the only available piece of land on earth. Let us assume further that the club had originally been founded with unanimous consent of the inhabitants of the island, who then decided to set up a protection agency with its judges, detention houses, insurance systems, etc. The bylaws of the club were approved unanimously, as were the dues, and their adjustments; if unanimity had not been the case initially, we would be faced with illegitimacy of origin. Let us further assume that upon reaching a certain age, this person is not happy with the dues paid and the

services received. He can choose among several courses of action: comply without showing discontent; try to persuade the rest of the members to allow him to secede; try to persuade the rest of the members to change the system within the existing rules; try to persuade the rest of the members to change the system radically; *de facto* secede, taking with him his property and stop paying his dues or rebel and exercise what he considers is his right to resistance. Assuming he discards the last two courses of action because they are not prudent, and the first one because he considers it inconvenient, he is left with persuasion. And so are we, the difference being that there is no such legitimacy of origin, thus the club analogy does not apply. Joseph Schumpeter has said "The theory that assimilates taxation to club dues or the acquisition of services, for example of a medical doctor, only shows how far this aspect of the social sciences is from the application of scientific method" ([1950]1968, 260).

VII

Anarchism, means absence of rules (Ferrater Mora 1988, vol. 1: 153), which makes civilized coexistence impossible, since rules "define private spaces within which each one of us can carry out our own activities" (Brennan-Buchanan 1987, 42). William Godwin, the father of the original tradition of anarchism, condemned the existence of any rule, be it a statute or a judicial sentence ([1793] 1985, 258, 355). James Buchanan has said "I have often described myself as a philosophical anarchist. In my conceptualized ideal society individuals with well-defined and mutually respected rights coexist and cooperate as they desire without formal political structure. My practical society, however, moves one stage down from the ideal and is based on the presumption that individuals could not attain the behavioral standards required for such an anarchy to function acceptably" (1977, 11). Further on, and rightly the same author defines an anarchist as someone who "sees no cause for any laws" (*ibidem*, 24). But, again, in this context, the discovery process in social sciences aims at the system best suited to produce and enforce the best rules given the prevailing circumstances. Indeed, coexistence is not possible in the absence of rules, but it does not follow that the monopoly of force should be imposed. There is a link missing in the logical analysis: because society cannot exist without law, we do not have to conclude that there should be a monopoly of force.

The term *autogovernment* accurately reflects a situation in which rules are privately produced and enforced. In such a situation, arbitrators, protection agencies, insurance companies and detention houses are privately run. Autogovernment excludes the imposition of a monopoly of force, it excludes institutionalized violence through taxes. This is a stipulative definition since there is no lexicographic one. Under autogovernment --a neologism introduced in my latest book (1993 b)-- each person governs himself or herself and refrains from governing others; transactions are limited to free and voluntary exchanges and force is used only as defense against aggression. To govern means "to control, to command, to direct." That is why, even from a classical liberal perspective, it is not appropriate to call "government" the political structure theoretically designed to protect rights. Rather, "government" should be restricted to one's self-management; thus autogovernment.

In this sense, alluding to the term “government” to refer to the apparatus of force, Leonard Read has said that “There are, though, reasons for regretting that we in America [North America] ever adopted the word ‘government’. We borrowed an old-word term with all its connotations of ‘to govern’, ‘to rule’, in an overriding sense. Government with the aim of directing, controlling, steering is not what we really intended. We didn’t mean that our agency of common defense should ‘govern’ us any more than we intended the factory guard to be the company’s general manager” (1954, 13).

We should make a clear distinction between autogovernment and the Anglo-Saxon notion of self-government. Friedrich Lieber wrote:

“The history of this bold word [self-government] is as follows: it has probably formed from the Greek term *autonomy* and seems to have had only moral connotations. It is frequently found in the works of theologians that flourished in the XVI and XVII centuries. It seems not to have been used for some time after that. It is not included in any of the English dictionaries [until mid XIX century], although they do offer a long list of words with the prefix *self*, which have fallen out of use, among them Shakespeare’s self-sovereignty [...] I have not been able to ascertain whether it was in England or America [North America] that the term self-government was first used with a political connotation. Theologian R. Price used it in the political sense in his *Notes on Civil Freedom*, 3rd edition, London, 1776, although it is not clear whether he is referring to what we call independence or domestic self-government” ([1853] 1889, vol. 1: 293).

At the end of the eighteenth century, the expression *self-government* started to be used in a political sense to refer to each individual’s management of his own affairs, restricting the functions of local government to protecting individual rights and granting the least amount of power possible to the central government, whose existence was justified in order to oversee the union of the member states, as the last resort to settle judicial disputes and to ultimately declare war and sign peace treaties. Lieber adds that “Self-government is founded on the will of the people to look after their own affairs and the absence of the disposition to expect the central government to provide for everything, also of the will of each to leave the care of his own affairs [...] the formative action of citizens is the rule; government is the exception and a mere aid to the former. Under such a system, the common actions of government are not originaive, but regulatory and moderating or conciliatory and accommodating” (*ib.* 294-5).

At first sight, it may seem that if the majority adheres to the idea that there must be a monopoly of force --traditionally called government--, this government would ultimately be voluntary. A paradox appears here: taxes are coercively levied, yet it is said that government has a voluntary foundation. However, this line of argument is inconsistent. If a person voluntarily adheres to a certain institution and acts accordingly, he will also voluntarily contribute with his income to support it. The inconsistency occurs when a person on one hand argues that there should be a government, yet on the other hand he has to be coerced

into giving up resources to finance the institution in whose existence he says he believes. It could be argued that this person considers taxation to be excessive and that he would be willing to pay lower taxes voluntarily. Even so, it does not follow logically that somebody agrees voluntarily to something, yet his resources (whatever they may be) have to be taken away by force.

Another counterargument could be that force is necessary to avoid free riders, that is, to make sure that others (who eventually agree that government is necessary) do not abstain from financing their share of government. This is not consistent either, since, in any case, along this same line of argument, only those who do not want to pay taxes could be compelled to do so. In this context, those who truly believe in government should be allowed to finance it voluntarily (in which case, it would not be government in the traditional sense of the word anymore, and would *then be a voluntary agency* that could be replaced with another if it did not meet the needs of its patrons). But we still have not solved the problem of those who are forced to pay taxes. We cannot say that these individuals adhere to government yet have to be forced to comply with taxation. These persons reveal with their preferences that they do not agree with the very existence of government. Their statement to the contrary would only evidence an internal contradiction (Benegas Lynch 1993 b, 247 ff.).

Historical experiences showing instances where government has not existed and some others where it appears are analogous to those where liberalism has been predominant but has been followed by socialist periods. Basically, we attribute these differences to changes in what is known as "public opinion," an expression which --in spite of involving some degree of Hegelian hypostasis-- refers to changes in the opinions of a large number of people. In turn, these changes can be attributed to the influence of intellectuals, who start by addressing small groups and gradually appeal to larger audiences, having a multiplier effect similar to that of throwing a stone in a pond. In the case at hand, there will be government as long as people think there should be one (in spite of the inconsistencies we have pointed to). This feeling is reinforced by what Jacques Ellul described as "passionate men who are obsessed with politics" and "by the frantic trembling exhibited each time the political sacrament --the flag, the chief, the slogan-- comes near us," because the politicization of society is ultimately based on the religion of politics, given that "instead of the consoling presence --that experience so much desired by religious people-- man now experiences conversion thanks to his participation in politics. What was lost by the church has been found by the parties" ([1967] 1979, 226-7-8). To a large extent, this is a result of the supposed rationalization and justification of the apparatus of force on the part of intellectuals. Nothing is more conducive to changing this state of affairs than working in the world of ideas, in the context of an open and evolutionary process, where different theories compete in a complex process of trial and error. The formidable contributions of classical liberalism have certainly achieved remarkable progress toward liberty. Based on contributions that have been presented in the recent past, autogovernment follows the classical liberal tradition of thought and aims at shifting the axis of the debate toward more fertile positions which, in its turn, will be improved and corrected from mistakes that we are not aware of at present. Autogovernment aims at a system that is not only more efficient but

more consistent with the ethical principles of classical liberalism. But as it has been stressed before, nothing in history is inexorable, progress or retrogression will depend on the contents and the direction of the debate of ideas.

VIII

For man to act, he must first assume the existence of a certain order. If he did not conjecture about what would happen if he were to jump out of the window, hammer a nail, eat a certain food, or engage in trade, he could not act. The physical order and a certain *Verstehen* about human behavior are elements indispensable to action. In this sense, order is a logical implication of human action.

There are different kinds of orders. David Bohm refers to an implicate order to explain phenomena such as television, where the wave transports the visual image in an implicate mode which is explicated by the device. He also describes at length a laboratory experiment done in a transparent container equipped with a mechanical rotor that stirs a viscous substance to which a drop of ink is added. The drop appears to be randomly distributed in the fluid. However, when the rotor is operated backwards, the drop is reconstituted. In other words, there was some kind of implicate order (1980, 210-11). There is no such thing as randomness. Orders do not happen by chance--do not respond to chance. We talk of chance when causal events that we had not foreseen take place (even games "of chance" like dice depend on the velocity of the throw, the friction against the felt, angle, weight, etc.). Louis F. Lejeune has said "Randomness is a set of unknown causes" (1989). The same could be said for chaos: it represents an unknown order (Bateson 1991, 29-34; Santayana 1954, 55-57; Bohm-Peat 1988, 155 ff.). A wrong interpretation of Heisenberg's uncertainty principle has led to the implication that in the subatomic world there would be action instead of reaction. The key here is to understand that uncertainty is applied to the observer who lacks the necessary knowledge, rather than to the behavior of the electron (de Broglie 1961; Holton-Brusch 1984, 733). Max Planck explained the meaning of statistical laws in the context of causality ([1936] 1947, 159 ff.) and Werner Heisenberg alluded to some aspects of the relevance of incomplete knowledge in the quantum theory and the enunciation of statistical laws ([1955] 1994, chap. 2). David Peat refers to hidden orders that would account for "significant coincidences", as the renowned case of Jung's fish and beetle, Dickens' premonitory dream, the anticipated description by novelists, such as Swift's mention of aspects of astronomy, the tragedy of the *Titanic* in Mansfield's writings, or synchronicity phenomena described by Mindel, especially the case of married couples who are circumstantially separated (1988, 41-45, 270), and Ernst Gombrich's explanation of the relevance of different hypotheses of order and regularity in art (1980, 27-36, 157-59).

Whereas in the natural sciences order appears in the context of reaction, in the social sciences, it appears in the context of action, that is of deliberate purpose which is absent in the first case. Frank Knight wrote that "[...] the inert objects of nature are not like men [...M]en, conceived in positivistic terms, could not act at all" ([1942] 1982, 270). Israel Kirzner explains the different nature of the natural and social sciences (1976, 42, 45-6). Ludwig von Mises warns of the dangers of social engineering, which he considers a result of

confusing the features of both fields of science ([1949] 1963, 113). Jacques Rueff is amazed with the fact that while quantum physics is compelled to use precision instruments to discover the noncontinuity of matter, the social sciences use holistic entities to refer to persons as a part of an indivisible whole, when the eyes are sufficient to perceive individuals (1968, 28).

Friedrich Hayek resorts to an ancient terminology to classify orders for the social sciences as spontaneous (*kosmos*) and designed (*taxis*). He further stated that man-made orders respond to deliberate commands or instructions and aim at achieving the specific goals of a particular organization, while spontaneous orders result from abstract orders that are neither known nor foreseen by anybody and may acquire high degrees of complexity (1973, vol. 1: 50).

“To maintain that we must deliberately plan modern society because it has become so complex is therefore paradoxical, and the result of a complete misunderstanding [...] it is impossible, not only to replace the spontaneous order by organization and at the same time to utilize as much of the dispersed knowledge of all its members as possible, but also to improve or correct this order by interfering in it by direct commands [...] The reason why such isolated commands requiring specific actions by members of the spontaneous order can never improve but must disrupt that order is that [...] the] information [is] guided by purposes known only to the several acting persons but not to the directing authority. The spontaneous order arises from each element balancing all the various factors operating on it and by adjusting all its various actions to each other, a balance which will be destroyed if some of the actions are determined by another agency on the basis of different knowledge and in the service of different ends” (*ib.*, 51).

When referring to spontaneous orders and the role each individual has to play, it should be noted that even the acting individual does not have complete information about what his own tastes and preferences will be in a more or less immediate future. For example, if somebody was asked in what order he would sell his belongings in case of bankruptcy, he could give a hypothetical answer; however, if he had to actually make the decision, under the new circumstances, his priorities could change completely (Sowell 1980, 217-218). Thus, it is not that there is too much information to process, but rather, that the information is not available (Sowell, *loc. cit.*). It is typical of those who do not understand the existence of spontaneous orders to attempt to regulate the language, the law, and the market. In this last case, because the underlying order is not accepted, it is believed that the free market will be chaotic. However, maladjustments occur precisely when the market is intervened by planners.

As it has been mentioned, Bernard Mandeville elaborated on language as a spontaneous and evolved order ([1714] 1982); Bruno Leoni applied a similar analysis to the evolution of the law ([1961] 1972); and Carl Menger's explanation of the origin of money ([1892] 1985) was later extended to the market (Hayek [1936] 1948, 33-56; Kirzner 1973,

chap. 1). We cannot direct the processes of our own bodies (given that they exceed our analytical capacity, and if we attempted to do so, we would perish soon thereafter), even less we cannot direct other people's lives. This is precisely why the title of Hayek's last book is so appropriate: *The Fatal Conceit*. The knowledge that each person possesses is minimal when compared to one's ignorance: "we are all ignorant, only on different subjects". To mitigate the problems of concentrated ignorance, as opposed to dispersed knowledge, autogovernment aims at decentralizing decisions, which will eventually be adopted by majorities, but divided among many minorities, as indicated by the changing preferences and interests of individuals. Regardless of the field --art, horticulture, music, economics, carpentry, medicine-- it is always a minority that has the knowledge of a specific subject. Autogovernment would preclude unified majorities from establishing monopolistic protection and justice services.

Michael Polanyi explains that

"Wherever we see a well-ordered arrangement of things or men, we instinctively assume that someone has intentionally placed them in that way. A well-kept garden must have been laid out; a machine working properly must have been constructed and a company on parade must have been drilled and placed under command: that is the obvious way for order to emerge. Such a method of establishing order consists in limiting the freedom of things and men to stay or move about at their pleasure, by assigning to each a specific position in a pre-arranged plan. But there exists another, less obviously determined type of order which is based on the opposite principle. The water in a jug settles down, filling the hollow of the vessel perfectly and in even density, up to the level of a horizontal plane which forms its surface: a perfect arrangement such as no human artifice could reproduce, should the processes of gravitation and cohesion [...] In this second type of order no constraint is applied specifically to the individual particles [...] The particles are thus free to obey internal forces acting between them, and the resultant order represents the equilibrium between all the internal and external forces [...] This seems to suggest that when very large numbers are to be arranged carefully, it can be achieved only by the spontaneous mutual adjustment of the units, not by assignment of several units to specifically prescribed positions" ([1951] 1980, 154-56).

Finally, Polanyi concludes that "When order is achieved among human beings by allowing them to interact with each other on their own initiative --subject only to laws which uniformly apply to all of them-- we have a system of spontaneous order in society. We may then say that the efforts of these individuals are co-ordinated by exercising their individual initiative and this self-co-ordination justifies their liberty [...] The most massive example of spontaneous order in society, the prototype of order established by an 'invisible hand', is that of economic life based on an aggregate of competing individuals" (*ib.* 159-60).

For the same reasons and on the same bases mentioned, all these explanations can be extended to include protection and judicial services. As has been explained, the only way to proceed accordingly is through the debate of ideas and persuasion, in the context of an open-evolutionary process. Again, if these ideas are not accepted, nothing can be done other than refining the argument, unless the argument itself contains propositions proven to be false. In any case, abrupt changes in history are not convenient: new ideas should be sifted and implemented in a slow process by which experience is learned through trial and error. Anthony de Jasay explains that non coercive spontaneous orders logically, and thus historically, precede the coercive arrangements of the state apparatus: "There has to be some kind of economic order first, before the state can find the resource to the lay the infrastructure for a new one. Perhaps, however, the old one need not be a 'market' order? Yet, if it is not, can it be productive enough? It cannot if it happens to be 'in ruins.' And if it can, what reason has the state to 'construct the infrastructure' for a different one?" (1994a, 35).

IX

John Bagnell Bury has alluded to the mental laziness and fear generated by new ideas. He wrote "The instinct of preservation strengthens the conservative doctrine that any modification in the structure of society endangers its foundations [...N]ew opinions are considered dangerous and inconvenient; and anybody who poses questions as to why and for what are the reasons of accepted principles, is viewed as a pernicious element" (1941, 8).

We can imagine the steps that would lead to autogovernment into eight stages, which do not necessarily imply either a chronological or a hierarchical order (although the first one may be more important than the rest). I have elaborated on these points in detail elsewhere; I will only mention them very briefly here. The first stage is education (Benegas Lynch 1986, 145-151). If men are different physically, physiologically, biochemically, and, most important, psychologically, it is natural that their inclinations, preferences, and projects of life will be different. The ideal educational system would be tutorial, which would promote the exclusive manifestations of each student's potential. Unfortunately, the cost of such a system is very high (or has been up to now; in the future cybernetics may help establish a reasonable cost system), so economies of scale result in schools and universities. But economies of scale should not mean that *curricula* has to be imposed by government agencies (such as those bureaucratic departments referred to as "ministries of education"). The foundations of an open society do not lie in limiting competition to the production of goods, but in understanding the meaning of an open and competitive educational system. In the name of "equality of opportunity", educational systems are financed through coercion which means that they end up being paid also by those with the lowest purchasing power, through taxes paid via reductions in wages due to capital consumption. The open society means *more* opportunities but not *equal* opportunities. To achieve the latter, we would have to depart from the principle of equality *before* the law, and adopt that of equality *through* the law; that is, to equalize the opportunities of the athlete with respect to the handicapped, the

poor with respect to the rich, and the talented with respect to the incompetent, we would have to grant different rights.

The second stage refers to the health compulsory medical system (Palyi 1950) in which deductions are made from wages of some to deliver “service” to others, who, ultimately, cannot afford to choose their medical care. It is important to understand that solidarity, philanthropy and charity must be carried out voluntarily with one’s own resources; otherwise, it is theft. As with education it is useful to analyze the concept of vouchers, for the sole purpose of showing the *non sequitur* involved. Asserting that taxpayers must be forced to take care of those who cannot take care of themselves does not mean the establishment of a state structure (be it a school or a hospital). Once the *non sequitur* has been shown, we must understand how financing vouchers through compulsion weakens incentives for health care and harm even the poorest members of society who are compelled to finance other people (in education those who are not able to attend school are compelled to finance others: a double handicap). In this context, we should consider what Nisbet (1975) has called “the new despotism”: the unseen intervention of government agents through subtle ways, generally alleging humanitarian purposes. Let us remember that in this sense, Marat exclaimed “People do not recognize me as a philanthropist [...] Oh, what injustice! Do they not see that I want to cut a small number of heads to save many more?” (Camus 1953, 119).

The third stage is related to money (White, 1989). The monetary authority, usually referred to as the central bank, may decide between three possible courses of action: to expand the stock of money, to contract it or to leave it unchanged. Relative prices will be distorted as a result of whatever political decision the central bank enforces. If it decides to expand, relative prices will be distorted because of the political decision to expand. If it decides to contract, relative prices will be distorted because of the political decision to contract. If it decides to leave the stock of money unchanged while the market needs more money, deflation will occur. If, on the other hand, the market demands less money, inflation will occur. If by leaving the quantity of money unchanged the monetary authority is doing exactly what the market would have done without resorting to force, there would be no reason to interfere at all. (Moreover, the only way to find out what the people prefer is to allow the market to operate.) Even though sovereignty reasons and other nonsensical arguments are advanced, the only purpose of leaving money in the hands of government is that it enables the coercive financing of the state. This is why the debate over whether or not the monetary authority should be independent from the executive or legislative branches is irrelevant, since, the main difference between a dependent and an independent monetary authority lies in the fact that the latter will make its mistakes independently. To inquire what good should be chosen as money or what quantity of money the market will prefer is analogous to wondering how much wine will be available at the market and what kinds of wine will be produced at any given time.

The fourth stage concerns the environment (Anderson-Leal 1991). In systems compatible with individual liberty, problems are solved in the best possible way by respecting property rights. Thus, in open and competitive judicial processes, given the available technology and the present needs, the internalization of externalities is maximized

and disputes are settled regarding the extinction of certain animal species, carbon monoxide pollution, excessive noise, contamination of rivers, acid rain caused by sulfur dioxide, chlorofluorocarbons and their effect on the ozone layer, or the greenhouse effect caused by carbon dioxide. These problems will undoubtedly worsen if corporate lobbies ally with political power to determine what is "sustainable growth" (Schmidheiny 1992, chap. 6) regardless of market indicators.

The fifth stage entails realizing the disadvantages of nationalism and the convenience of a free movement of goods and persons in all directions without restrictions of any sort, which allows division of labor and specialization to expand, and a more efficient allocation of resources. This, in turn, leads to increase productivity, while rights are not infringed (Benegas Lynch 1995; 1992, 420 ff.).

The sixth step consists of showing the advantages of putting all streets, avenues and highways in private hands (Lave 1985). This privatization --and not the system of concessions where political criteria are prevalent-- provides better transit options at a cheaper cost and an improved quality, and will offer greater security, cleanliness, and depoliticization of issues such as pornography, drugs, etc.

The two final stages refer to the extension of the concept of privatization of protection agencies and arbitrators. On the first of these concepts, David Friedman wrote "Private protection is already a big business [in the United States]; more than one-third of all expenditure for protection against crime goes to private firms, and a majority of all security personnel are now private" (1973, 219). As for the second, Murray Rothbard pointed out that "Currently, the American Arbitration Association [...] has 25 regional offices throughout the country [the United States] with 23,000 arbitrators. In 1969 the Association conducted more than 22,000 arbitrations" (1973, 229-30).

Understanding and adopting these steps involves drastically reducing the volume of taxes and public debt, as well as eliminating inflationary processes. Once these ideas are widely understood, and the proposed stages are implemented, a small group of bureaucrats will be left, with no prestige and low salaries, who will be tempted to accept better offers in the private sector. In any case, at that point, it will not be hard for people to refuse to pay what few taxes will still be standing, *de facto* repudiate liabilities, and decide the procedure to distribute the remaining assets, if any.

The evolution of this process will depend on the degree of acceptance of these ideas among intellectuals and the success in cutting the umbilical cord between privilege-seeking pseudobusinessmen and political power. Ultimately, as Albert Schweitzer said "Every age lives in the consciousness of what has been provided for it by the thinkers under whose influence it stands" (1959, 50). It is important to look beyond present events and try to shift the axis of the debate in the direction that will produce better results. Otherwise, as Alfred Whitehead warned "When ideas descend to the practical level, the result is stagnation" ([1936] 1965, 54). Paraphrasing the famous Andersen story, the essence of our argument is to show that the emperor is naked: the monopoly of force is only a guise of protection, or at best, is deficient and always combined with institutionalized aggressions, while there are more fertile processes for delivering services presently monopolized by government. Jorge Luis Borges wrote "One of the evils of our time is the State and the division of the world

into countries. There will come a time when we will be cosmopolitan, citizens of the world, as the stoics used to say, and something as absurd as borders will disappear" (1986, 76). In any case, as Antony Flew has said ([1975] 1989, 113), for a task to be successful, its end has to be considered a new beginning.

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