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“The Complexity of Self-Ownership in Libertarian Ideology: The Corporate Self”
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INTRODUCTION

During the past fifty years in the United States, party affiliation has been an unreliable indicator of opinions concerning the role the United States government should have in the lives of citizens. For example, currently, most Democrats would be in favor of government intervention in the economy and increased taxes on the wealthiest of Americans. Meanwhile, they reprimand government officials who support similar forms of intervention in social issues such as what goes on in the privacy of one's home in terms of drug use or same-sex marriage. Similarly, Republicans often stand up for fiscal freedom and reject any kind of government intervention in the economy, but expect the government to get involved in moral and social spheres.

Libertarianism is considered a more logically consistent and predictable stance concerning the role and rights of government. The libertarian movement, which has recently gained increased popularity with the rise of the Tea Party and the relative success of Congressman Ron Paul in the Republican Presidential Primary, prides itself on consistently adhering to an ideological creed, creating a party that is interested in principle rather than popularity, success in elections and repaying political favors. According to The New Palgrave Dictionary of Economics Online, libertarianism in the current American usage refers to an ideology that prefers to organize the world through the decentralized mechanisms of private property, trade, and voluntary cooperation, rather than through government.¹ When compared to the inconsistency of current partisan politics, libertarianism takes a clearer stance in its position of denouncing government intervention. The central claim of libertarians is fairly simple. Each individual has a right to liberty, that is "the right to do whatever we want with the things we own, provided we

¹ Friedman, David

respect other people's rights to do the same" (Sandel 60). At the heart of this ideology is the idea of self-ownership.

In the third chapter² of Michael J. Sandel's book, he asks the basic question: "Do we own ourselves?" In answering this question and perusing the ideology of libertarianism, he examines five common objections to the libertarian denial of the merits of wealth redistribution and poses what he believes is the way libertarians would reply to those objections. Although his libertarian responses do not come from his own beliefs, (Sandel is not a libertarian and only presents an overview of others' argument), his objections are based in legitimate rights-based libertarian political philosophy. After examining Sandel's objections and replies, I will describe the fundamental doctrines of libertarianism, as described by Murray N. Rothbard and Robert Nozick. We will come to see that they all depend on the seemingly valid notion that we own ourselves absolutely. From this, libertarian theorists deduce that we must own our time and labor and any attempt to redistribute any of our labor or wealth by the government, beyond a *minimal state*, is coercion on par with enslavement.

What I will then be offering is a refutation of some of these oversimplified conceptions of ownership by prominent rights-based libertarian theorists that are at the heart of Sandel's somewhat elementary examination. After exposing inherent inconsistencies in the libertarian conception of ownership and how it relates to natural rights, I will show how my new conception of ownership changes the way we can survey popular issues, as Sandel did, allowing us to test the limits of this growing political ideology. Finally, I provide a more accurate answer to Sandel's original question of "Do we own ourselves?"

² Titled *Do We Own Ourselves?/ Libertarianism* p.58-74

SANDEL, HIS OBJECTIONS AND REPLIES

In the book *Justice: What's the Right Thing to Do?*, Michael J. Sandel gives a basic overview of the libertarian theory of rights and reveals that libertarians believe that many activities of the modern state should be viewed as illegitimate violations of liberty. He correctly advances Robert Nozick's idea that only a minimal state – one that enforces contracts, protects private property from thefts and keeps peace is compatible with the libertarian theory of rights.³ Sandel then begins to vet libertarian stances on the issue of wealth redistribution by modernizing Nozick's example of Wilt Chamberlain as used in his book *Anarchy, State and Utopia*⁴.

Instead of Wilt Chamberlain, Sandel rehashes the history of Michael Jordan's financial success to show how libertarians consider extensive taxation on wealthy individuals, like Jordan, to be coercive and essentially slavery. Taxing Jordan's \$31 million salary is an entrenchment on his freedoms, especially if it is for direct redistribution of his wealth to others. For libertarians, "Taxation of earnings from labor is on par with forced labor" (Sandel 65).

Let us have a brief examination of each of Sandel's proposed objections to the libertarian stance against any type of wealth redistribution and Sandel's libertarian replies:

Objection 1: Taxation is not as bad as forced labor. The argument presented against libertarians here is that an individual always has the choice to work less and pay lower taxes, when one is being forced to labor, that choice is not available. Therefore,

³ Nozick ix

⁴ Sandel 64-70

taxation is incomparable to forced labor. *Sandel's Libertarian reply:* Although one still does reserve the right to choose how much work he undergoes, the government should not be able to force that choice onto someone. Sandel makes the case that it is illegitimate to tax people who prefer leisure activities less than those who prefer activities that cost money.

Objection 2: The poor need the money more. Sandel's Libertarian reply:

Although this may be accurate, it does not justify coercing the affluent to support the needy beyond a wealthy person's free choice. "Stealing from the rich and giving to the poor is still stealing, whether it's done by Robin Hood or the state" (Sandel 67).

Objection 3: Michael Jordan doesn't play alone. He therefore owes a debt to those who contribute to his success. Sandel's Libertarian reply: He agrees that Jordan's success depends on others, as basketball is a team sport, but recognizes the people who directly make his success possible like teammates, coaches, trainers, referees, broadcasters, stadium maintenance workers, and so on. He continues by affirming that these individuals have already been paid the market value of their services. Therefore, there is no reason to suppose that Jordan owes them a portion of his earnings. Furthermore, even if Jordan was in debt to these individuals, it has no correlation with the redistribution of his wealth to the poor.

Objection 4: Jordan is not really being taxed without his consent. As a citizen of a democracy, he has a voice in making the tax laws to which he is subject. Sandel's Libertarian reply: Sandel claims that democratic consent is not enough to override rights. "Does this mean that simply by living here as citizens, we write the majority a blank check, and consent in advance to all laws, however unjust? If so, the majority may tax the minority, even confiscate its wealth and property, against its will" (Sandel 68).

Objection 5: Jordan is lucky. This alludes to the assumption that no matter how hard Jordan has worked to develop his talents, he cannot claim credit for his natural gifts or being alive at a time when basketball skills are heavily valued. Therefore, since his talents are not of his doing, he should not be morally entitled to keep all the money his talents obtain. Hence, “the community does no injustice by taxing his earnings for the public good” (Sandel 69). *Sandel’s Libertarian reply:* He attacks the assumption that Jordan’s talents are not his own and stresses the dangers revolving around this assumption. He exclaims that, if Jordan is not entitled to gains that result from his exercising his talents, then he does not actually own them and therefore does not own himself. In that case, who does?

These five basic objections reflect the most common and obvious refutations to libertarian ideology and highlight the difference in thinking between libertarians and their opponents. But Sandel’s libertarian replies are really only surface arguments. The main theory and justification behind Sandel’s libertarian replies are not found in his piece, but can best be found in the works of Murray Rothbard and Robert Nozick.

THE FUNDAMENTAL BELIEFS BEHIND SANDEL’S OBJECTIONS

In *For a New Liberty: The Libertarian Manifesto*, Murray Rothbard advances the belief that the libertarian creed rests upon one central axiom: “that no man or group of men may aggress against the person or property of anyone else” (Rothbard 23). He calls this the “nonaggression axiom” and aggression is defined as the initiation of the use or threat of physical violence against the person or property of anyone else. He asserts that if everyone has the absolute right to be free from aggression, then this at once implies that the libertarian also stands for all civil liberties, like the freedom of speech, to publish, to

assemble, and to engage in “victimless crimes” such as pornography, sexual deviation and prostitution. He defines a crime as a violent invasion of someone else’s person or property.

Similarly, since the libertarian opposes invasion of the rights of private property, Rothbard maintains that the libertarian emphatically opposes government interference with property rights. This would include any government interference with the free-market economy through controls, regulations, subsidies, or prohibitions. He maintains “For if every individual has the right to his property without having to suffer aggressive depredation, then he also has the right to give away his property (bequest and inheritance) and to exchange it for the property of others (free contract and the market economy) without interference.” (Rothbard 24) All of this sounds nice and elaborates the libertarian position, but how is their position justified?

Historically, there have been disagreements as to the main groundwork or support for libertarianism, which can roughly be divided into three broad types of foundations for the libertarian axiom: an emotivist, utilitarian and a natural rights viewpoint. The emotivists assert that they take liberty or nonaggression as their premise purely on subjective, emotional grounds. Although they showcase their intense emotion as a valid basis for their own political philosophy, it falls short in logically convincing anyone else. They ultimately take themselves outside of rational discourse by relying purely on these emotions instead of rational and logical argument, thereby insuring the lack of general success of their own cherished doctrine.⁵

The utilitarian viewpoint declares, from their study of the consequences of liberty as opposed to alternative systems, that liberty or nonaggression will lead more surely to

⁵ Rothbard 25-27

cherished goals like harmony, peace, prosperity, etc. No libertarian will argue that liberty will not achieve these goals, but Rothbard finds problems with this justification because the utilitarian viewpoint does not speak to whether the very nature of the act itself can be considered good or evil.⁶ Utilitarian's justification of libertarianism will rarely adopt a principle as an absolute or consistent yardstick to apply to varied concrete situations of the real world. Therefore, a utilitarian cannot be counted on to maintain libertarian principles in every specific application. Rothbard shows the danger in this by using examples that would justify the murder of innocent civilians because of the utility it would bring to the rest of society. He points out how a natural rights based libertarian would "not be influenced in the slightest" (Rothbard 27) when opposing these types of executions or any rights violations. He maintains that the natural rights libertarian would be dedicated to justice and logical consistency.

NATURAL RIGHTS BASED LIBERTARIANISM AND SELF-OWNERSHIP

This conception of libertarianism, the natural rights based conception of libertarianism, has been the viewpoint adopted by most libertarians, past and present. The idea of "natural rights" is the foundation of a political philosophy that, in turn, is entrenched in a greater structure of "natural law." Natural law theory maintains that humans exist in a world of multiple entities and that each entity has specific properties, "a distinct 'nature,' which can be investigated by man's reason, by his sense perception and mental faculties." (Rothbard 28) Copper has a distinct nature and behaves in a certain way as does iron salts, etc. Humans, therefore, have a specific nature, as does the world around them and the way all of these entities interact between them. As Rothbard states:

⁶ Rothbard 26-27

To put it with undue brevity, the activity of each inorganic and organic entity is determined by its own nature and by the nature of the other entities with which it comes in contact. Specifically, while the behavior of plants and at least the lower animals is determined by their biological nature or perhaps by their “instincts,” the nature of man is such that each individual person must, in order to act, choose his own ends and employ his own means in order to attain them. Possessing no automatic instincts, each man must learn about himself and the world, use his mind to select values, learn about cause and effect, and act purposively to maintain himself and advantage his life. Since men can think, feel, evaluate, and act only as individuals it becomes vitally necessary for man’s survival and prosperity that he be free to learn, choose, develop his faculties and act upon his knowledge and values.

The path of human nature follows this system and to interfere with this process by using violence directly violates what is necessary by man’s nature for his life and prosperity.⁷ Interference by outside actors, including the government, with a man’s learning and choices is therefore profoundly “antihuman”; it violates the natural law of man’s needs. (Rothbard 28) This is not to say that man cannot learn from others. Libertarians embrace the flow of free-exchange of experience and information, but they believe that nobody has the right to force one man’s decision and act in ways different from what his own mind dictates. The protection of this quintessential characteristic of the human experience is the bedrock on which libertarianism stands.

The most concrete way to explain the role this natural right plays in libertarian ideology is encompassed by the axiom of the right to self-ownership. “The right to self-ownership asserts the absolute right of each man, by virtue of his (or her) being a human being, to ‘own’ his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value and choose his or her ends

⁷ It is important to note here that not all natural rights theorists are libertarians. In fact, there are many natural rights arguments for non-libertarian policies but this does not detract from natural rights being the lynchpin for rights-based libertarianism.

and means in order to survive and flourish, the right to self-ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation” (Rothbard 28). It is vital to realize that this type of ownership is *absolute*, meaning that each person must own 100% of themselves.

Rothbard then considers two other options that are not this type of absolute ownership. He points to the consequences of denying each man the right to own his own person. The way he sees it, there are the only two alternatives: either 1) a certain class of people, A, have the right and make a claim to own another class, B; or 2) everyone has the right to own his own equal quotal share of everyone else. The first option implies that Class A deserves the rights of being human as defined by his nature, but Class B is actually subhuman and does not deserve those rights. But since “they are indeed human beings, the first alternative contradicts itself in denying natural human rights to one set of humans” (Rothbard 29). Moreover, allowing Class A to take claim over Class B means that the former is allowed to exploit the later. Therefore, Rothbard asserts that the first option is illegitimate and unacceptable if one respects human’s natural rights.

The second alternative, which Rothbard calls “participatory communalism” or “communism”, has three apparent and destructive flaws.⁸ First, Rothbard points out that this ideal rests on an absurdity, proclaiming that every man is entitled to own a part of everyone else, yet it not entitled to own himself. Secondly, he finds this world to be impossible. It would be a world in which no man is free to take any action without prior approval of everyone else in society. In this world, no one would be able to accomplish the necessary functions of survival leading to the eventual extinction of the human race. Furthermore, if a world of zero self-ownership and one hundred percent other ownership

⁸ Rothbard 29

spells death for the human race, then any steps in that direction also contravene the natural law of what is best for man and his life on earth. Finally, this second alternative cannot be physically put into practice because it would be impossible to keep continual tabs on everyone else in order to exercise their equal equal share of partial ownership over every other man. In practice, control and ownership of others would devolve upon a specialized group of people who become the ruling class resulting in the Class A-Class B system that was already concluded to be illegitimate.

In summation, the libertarian would reject the alternatives of one group of people owning another and the option of every person earning an equal share in everyone. He adopts as his primary axiom the universal right of self-ownership, a right held by everyone by virtue of being a human being where everyone owns himself or herself absolutely. Once this has been settled, what becomes more complicated is how to settle on a theory of property in nonhuman objects, especially things of this earth.

PROPERTY RIGHTS IN NONHUMAN OBJECTS

When it comes to property rights theory in regards to nonhuman objects, it is almost impossible to find a piece of work that fails to mention John Locke and his theory of property rights as it concerns labor. This theory, as laid out in Locke's *Second Treatise of Civil Government*, contends that:

...every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the

labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.⁹

This paragraph has been the basis and measuring stick for claiming ownership over one's labor since the 17th century and is used to justify why libertarians believe that since they have an absolute right over themselves, they must have an absolute right over their labor. As in the case of ownership over people's bodies, Rothbard again provides three logical possibilities: 1) either the creator of the labor has the property right in his creation; 2) another man or set of men have the right in that creation i.e. have the right to appropriate the creation by force without the creator's consent; or 3) every individual in the world has an equal equal share in the ownership of the creation – the “communal solution.” (Rothbard 32)

He rejects the last two options using the same logic provided in his assessment of those options for owning another person. At this point, Rothbard has declared that man owns his own person absolutely and therefore he owns his own labor absolutely. By extension, he owns whatever property he has created or gathered out of the previously unused, ownerless, “state of nature” as described by Locke, “Thus labour, in the beginning, gave a right of property, wherever any one was pleased to employ it upon what was common...” (Locke Sec. 45)

A temporary roadblock arises when Rothbard considers who owns the earth itself, but Rothbard contends that the natural rights justification for the ownership of land is the same as the justification for the original ownership of all other property. Once someone puts his labor into the untouched land, no man can deny his claim to it. He follows a similar line of reverse logic and raises the question that if the person who works the land

⁹ Locke Section 27

were not entitled to the land or the fruits of their labor then who is? If some “others” claim ownership over that property then they claim ownership over that person’s labor. And if they claim ownership over that person’s labor, then they are claiming ownership over that person, and that is a violation of his natural rights.

CORE LIBERTARIAN CREED AND HUMAN RIGHTS

Rothbard eventually arrives at and defines the central core of the libertarian creed, which is to “establish the absolute right to private property of every man: first, in his own body, and second, in the previously unused natural resources which he first transforms by his labor.” (Rothbard 39) He asserts that these two axioms, the right of self-ownership and the right to own one’s labor, establish the complete set of principles of the libertarian system. The rest of the libertarian doctrine, he maintains, becomes the application of all the implications of this central doctrine. He goes on to show how the right to private property justifies free contracts and the free-market economy. “But if a man owns anything, he then has the right to give away or exchange these property titles to someone else, after which point the other person also has absolute property title” (Rothbard 39).

This is his justification for the free-market economy with a specialized division of labor. He acknowledges that it has been one of, if not the most, productive forms of economy known to man, but that is simply a fortunate utilitarian result of the free market and not the prime reason the libertarian supports this system. The libertarian’s prime reason is “moral and is rooted in the natural-rights defense of private property” (Rothbard 40). This morality defines the concept of *freedom* or *liberty*. “Freedom is a condition in which a person’s ownership rights in his own body and his legitimate material property are not invaded, are not aggressed against” (Rothbard 40). Therefore, a man or group of

men who steals another man's property are invading and restricting the victim's freedom. He also defines *slavery* as the opposite of *freedom* and a condition in which the slave has little or no right to self-ownership; his master systematically expropriates his person and his produce by the use of violence. (Rothbard 42)

Furthermore, Rothbard maintains that "human rights" and property rights are inextricably intertwined. He mentions that current liberals will concede the right of every individual to his "personal liberty," the freedom to think, speak write, and engage in such personal exchanges but then deny his right to property. The basic flaw in the separation of human rights and property right is that people are treated as ethereal abstractions. He asserts that property rights are indeed *human rights*. He tests this way of viewing human rights by vetting the classic example of the need to curb one's freedom of speech by restricting their ability to yell "fire" falsely in a crowded theater.

He does not see this limitation on what one can say in specific situations as an intrusion on the freedom of speech but a basic means to protect property rights and free-market contracts. He logically asserts that the yeller can only be one of two types of people, the owner or a patron. If he is the owner he has committed fraud by taking the patrons money and breaking up the performance, therefore he has violated their property rights by reneging on the contractual obligation he made when he sold the ticket. If the yeller is a patron, he is violating the property right of the owner and other patrons because he gained access to the property on certain terms, including an obligation not to violate the owner's property or disrupt the performance. Rothbard continues to say that, for libertarians, there is no need for individual rights to be restricted as in the case of the false shouter. "The rights of the individual are *still* absolute; but they are *property* rights. The fellow who maliciously cried 'fire' in a crowded theater is indeed a criminal, but not

because his so-called ‘right of free speech’ must be pragmatically restricted on behalf of the ‘public good’; he is a criminal because he clearly and obviously violated the property rights of another person” (Rothbard 44). So the eventual question needs to be asked, how and who would punish this false yeller who has violated another’s property rights?

THE STATE AS THE AGGRESSOR

To answer the question of who is responsible for rendering justice and punishment for the crime committed by the yeller or any other violator of property rights, the libertarian reluctantly accepts the creation an outside enforcement agency. The most important word in that sentence may very well be “reluctantly”. Libertarians view the State as the overwhelming leader in the violation of individual’s property rights. “In fact, if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band and all of the libertarian attitudes will logically fall into place” (Rothbard 46).

The libertarian sees crucial and unsettling distinctions between government and all other institutions. Every other person or group receives its income by voluntary payment, like voluntary contributions or gifts or by voluntary purchase of its goods or services on the market. Only the government obtains its income by the direct threat of confiscation or imprisonment if payment is not forthcoming. A second distinction is that, apart from criminal outlaws, only the government can use its funds to commit violence against its own or any other subjects. Similarly, only the government can force paternal and moral adherence like prohibiting pornography, compelling religious observance, or imprisoning those who sell goods at a higher price than the government deems fit. Both distinctions, get at the libertarian’s main critique, “only the government, in society, is

empowered to aggress against the property right of its subjects, whether to extract revenue, to impose moral code, or to kill those with whom it disagrees” (Rothbard 47). Libertarians see crime as crime and aggression against rights as oppression, regardless of how many citizens agree to the oppression. But there must be a way to prevent or punish crime and protect the property rights of citizens. To answer this, we move our focus to Robert Nozick and his evolution and justification for the *Minimal State*.

NOZICK AND THE MINIMAL STATE

Robert Nozick begins his book, *Anarchy, State and Utopia*, with what has become a battle cry of sorts for the libertarian cause against big government. “Individuals have rights, and there are things no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the question of what, if anything the state and its officials may do” (Nozick ix). The conclusion he arrives at is that the only justified state is a minimal state which is limited to the narrow functions of protection against force, theft, fraud, and of enforcement of contracts. A government that is more extensive than those roles violates persons’ rights not to be forced or coerced to do things they do not want to do. He makes two specific notes of these types of violations. The first violation is when the state uses its coercive power for the purpose of forcing some citizens to aid others and the second is when the state prohibits activities to people under the premise that it is for their own good or protection.

In his attempt to formulate the limits of the State, he first defines exactly what a *state* is. “A state claims a monopoly on deciding who may use force when; it says that only it may decide who may use force and under what conditions; it reserves to itself the sole right to pass on the legitimacy and permissibility of any use of force within its

boundaries, furthermore it claims the right to punish all those who violate its claimed monopoly” (Nozick 23). Over the course of the first part of his book, Nozick describes how, in the state of nature, one similar to that described by Locke, private protective security agencies would form to protect individuals and their property. People would pay for this service as they would pay for any other service. This type of transaction does not violate any one’s property rights.

Inherent to this type of protective agency is a right to exercise the right of punishment, which includes the right to stop others from wrongfully exercising the same right of punishment or justice. Eventually, the market will produce a dominant protective agent and only the dominant power will be able to exercise this right against all others. This is a *de facto* monopoly, there is no unique grant of exclusive right and other protective agencies can enter the market and lure others away, but the dominant agency can offer something no other agencies can match “Only those procedures we deem appropriate will be used on our customers.” (Nozick 109) But not everyone is forced to employ this protective agent so it has not yet made the jump to the status of *state*.

There may be some people who choose to not buy the services of a protective agency, preferring self-help enforcement, creating a problem for the dominant protective agency. This agency may deem the non-clients methods and procedures of enforcement as unreliable or unfair. Having already promised that only procedures the agency deems appropriate will be used on their customers, they must apply their method to the non-client in order to protect their clients as well as the rights of that individual. Therefore, it provides this protection at what would be a reduced cost that is shared by the original clients. Nozick does acknowledge that this may result in free-riding but he reminds the reader that only client-client relationships are handled in this manner, so the more free-

riders there are, the more desirable it is to be a client always protected by the agency.

This attempt at providing protection services to non-clients is not a redistribution of wealth but a form of compensation that is required by his principle of compensation which requires “those who act in self-protection in order to increase their own security must compensate those they prohibit from doing risky acts which might casually have turned out to be harmless for the disadvantages imposed upon them” (Nozick 114).

At this point he arrives at what he calls a minimalist state without an unjust imposition of a monopoly. The current de-facto monopoly grows by an invisible-hand process and by morally permissible means, without anyone’s rights being violated and without any claims being made to a special right that others do not possess. He stresses the point that requiring the clients of the de facto monopoly to pay for the protection of those they prohibit from self-help enforcement against them is not only far from immoral, it is in fact, morally required by the principle of compensation.

This minimal state holds and respects all of the individual liberties and property rights expressed by Rothbard. According to Nozick, this minimal state is responsible for three sets of rules of justice: 1. How things not previously possessed by anyone may be acquired; 2. How possession may be transferred from one person to another; and 3. What must be done to rectify injustices arising from violations of (1) and (2). A distribution is just if it has arisen in accordance with these three sets of rules. (Nozick 151-152) This follows Locke’s conception that a person has a right to own what his labor produces and to appropriate anything that is not yet claimed as long as there is enough and as good for others. Of note, Nozick goes on later to affirm his stance against redistributive action by government. He says taxation or money collection and enforcement beyond this minimal state is equivalent to forced labor, claiming, as Rothbard also does, that taking a

proportion of someone's earnings is like making that person work a proportion of his working time for another's purposes.¹⁰ Therefore, it is unjust to force a person to work for another's benefit and violates their natural rights as humans.

WHAT DID THEY MISS?

Rothbard's fundamental libertarian principles, which are based on the axioms of the right of absolute ownership over ones' self and one's labor, have been used to carve out a minimal state that meets the libertarian requirements that prohibit the state from violating any individual's property rights. The premise of *self-ownership* is at the heart of both of these works. But, could it be that these authors missed another available option beyond owning yourself absolutely, one class of people owning another and everyone owning an equal goutal share in everyone else?

Furthermore, I will argue that Rothbard's characterization of ownership has an unavoidable flaw at the heart of its argument, and the only way to remedy it is to acknowledge that the *self*, and the ownership claims attached to it, is unique from other more simple types of ownership. Subsequently, ownership over the *self* will deserve a more complex and sophisticated view of ownership. This leaves the door open for a government that reaches beyond the limits of Nozick's minimal state while preserving the sanctity of liberty and one's right to his property.

ROTHBARD'S UNAVOIDABLE FLAW

¹⁰ It is important to realize that Locke does not view taxes this way. He believes that taxes and larger government is permissible as long as consenting citizens through some type of freely elected representation choose it.

Let us recall how exactly Rothbard defines the right of self-ownership:

“The right to self-ownership asserts the absolute right of each man, by virtue of his (or her) being a human being, to “own” his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish, the right of self-ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation.” (Rothbard 28-29)

This justification is what is used to define Rothbard’s *core libertarian creed* which is to “establish the absolute right to private property of every man: first, in his own body and second, in the previously unused natural resources which he first transforms as his labor.” (Rothbard 39) The primary axiom, the universal right of self-ownership, establishes the complete set of principles of the libertarian system. The *absolute* right to private property in one’s own body and labor is the heartbeat that keeps libertarianism alive because as Rothbard suggested earlier, a utilitarian and emotive based theories of libertarianism fall short of consistently protecting individual liberties. This all seems fine and dandy, but Rothbard gives specific definitions as to what it means to *own*. “If a man owns anything, he then has the right to give away or exchange these property titles to someone else, after which point the other person also has absolute property title” (Rothbard 39). Herein lies the fundamental flaw in Rothbard’s conception of ownership.

In his own words, if a man owns anything then he has an untouchable, free-from-molestation natural right to do whatever he wants with what he owns. And since he owns himself, he should be free to do what he wants with himself as long as it does not violate the nonaggression principle towards other. Therefore, by his definition, a man should have every right to sell himself and give up complete property rights in himself as says his absolute right to transfer one’s property to another, the characteristic that defines

owning something. The problem that now arises is that the same natural right that guarantees self-ownership stands directly in the way of practicing that ownership to the extent he might wish to do so.

As Rothbard said in his original explanation of natural rights and specifically, the natural right of humans interfering with or molesting a human to do something with his property against his wishes is criminal and violates his right of self-ownership. For the sake of simplicity, this discussion over selling one's self into slavery is in regards to a free-market transaction free from any outside coercive forces. For instance, maybe it was this person's dream to always live a life of unrestricted servitude. Nevertheless, under this pretense no person, organization or state should have a right to tell a person he cannot sell himself into slavery (under the aforementioned condition). His natural right apparently, gives him a right to violate his natural right.

Moreover, the libertarian holds steadfast to the point that the state should not and cannot legitimately legislate paternalism or morals so the justification as to why this should be outlawed cannot come from a paternalistic or moral argument, but from an argument that revolves around the nonaggression axiom; that is the "central axiom that the libertarian creed rests upon" (Rothbard 23) which says that no men or group of men may aggress against the person or property of anyone else. It would seem that that the theory of natural rights is invalid and it is not in the nature of man to have an absolute and universal right to own one's self because practicing that ability on the self would make that universal right conditional and subsequently *non*-universal.

Therefore, there are two options that resolve this apparent conflict. The first option is that there is actually no such thing as a nature of man and he is in fact able to forfeit the false natural right of always choosing his own ends without the threat of force

as long as he is not aggressive towards another. Under this scenario, there is no restriction on what someone can do to himself, including selling himself into slavery or committing suicide. Similarly, so could the government or state as long as it was a free-market transaction. This goes against everything natural rights based libertarians stand for and attempts to justify a practice that nobody in the modern world would agree with.

The second option allows for consistency within the natural rights based theory of self-ownership based on the assumption that there is something unique about the *self*. That is, the ownership of a person is different than any other type of ownership. Property rights in regards to the *self* are different than any other type of property rights. This must be the case or else the entire libertarian creed would collapse in on itself. For the sake of libertarians and the length of this paper let us attempt to save the ideas of natural rights, owning the self, and the protection of property rights. To do this, I am going to take a page out of Sandel's and Nozick's book by using the story of a pop-culture icon, whose economic importance is at the heart of modern economy, to show another way someone can *own* oneself.

TONY STARK TO THE RESCUE

Although Nozick and Sandel use athletes like Wilt Chamberlain and Michael Jordan, respectively, my generation is a bit more dorky so I am going to use every fanboy's favorite genius billionaire superhero (besides Bruce Wayne, of course), Tony Stark. In the film *Iron Man*¹¹, which is set in the United States with its current corporate

¹¹ The story of Tony Stark and Iron Man started in comic books written by Stan Lee, but I am using the story in the 2008 movie *Iron Man* directed by Jon Favreau with writing credit to Fergus, Ostby, Marcus, Holloway, Lee, Heck, Lieber, and Kirby.

structure and laws, Tony Stark is majority shareholder, CEO and the namesake of the multinational corporation known as Stark Industries.

As any superhero geek will recall, at the beginning of *Iron Man*, following a showcase of Stark Industries' latest super weapon to the US military, a terrorist group abducts Tony Stark in an attack on his Humvee. After weeks of being held captive by the terrorist cell, being forced to build them his latest weapon, and witnessing his weapons fall into the wrong hands, Stark breaks out of detention and finds his way back to US with a newfound sense of purpose and mindset toward the work Stark Industries (the world's largest weapons manufacturer) does.

Upon return, Stark holds a press conference where he adamantly claims that he will be taking the company in a new direction and will be terminating all company initiatives toward manufacturing weapons. During this press conference, his behavior is erratic and mentally unstable. Although Stark Industries is still Stark's company and he is the majority shareholder, Tony Stark is unable to keep his promise of turning the company in a new direction away from manufacturing weapons. The Board of Trustees files an injunction against Stark, claiming he is suffering from Post-Traumatic Stress Disorder and is therefore unable to rationally decide what is in the best interest of the company's owners, its investors, the Board of Trustees and himself. They affirm their rights as investors in the company, even though Tony Stark is still the majority shareholder.

Although this short synopsis concerning a story about corporate ownership is fictional, the setting is based in reality. A similar example that did occur in real life was when Steve Jobs was forced out of Apple. But the justification in that example is much more complicated and detracts from the overall point of the story of Tony Stark, which is

that “owning” things is not as simple as it sounds, especially when taking into account the entity that one is claiming to own. This characterization brings to light a new conception of ownership, which Rothbard failed to account for in his discussion on the possibilities as to who can possibly own the *self*.

THE THIRD ALTERNATIVE: A CORPORATE LENS

In Rothbard’s consideration of the consequences of denying each man the right to own his own person absolutely he maintains that there are only two alternatives to a person completely owning his self: 1) A certain class of people A, own another class of people B; and 2) Everyone owns an equal goutal share of everyone else. As aforementioned, he rejects both of these options on the grounds that they violate man’s natural rights. Based on why these alternatives were rejected, a new third alternative against Rothbard’s absolute theory of self-ownership must not: 1. Create a class of people that has and exercise more rights than another class of people thus dehumanizing them; 2. Allow for dominant ownership over oneself if that person is claiming any type of ownership over another; 3. Allow for people to be restricted in making decisions for themselves that would interrupt free-flowing natural activity that is necessary for the preservation of the human species; 4. Result in the indirect eventuality of the three above-mentioned results.

For this third alternative, the fourth option overall, let us remember the story of Tony Stark and his corporation. What if instead of owning oneself in the basic sense of owning property, (i.e. I own this computer therefore I can do whatever I want with it whenever I feel like it) somebody could own oneself in the same way somebody owns his or her corporation. They could be the Chief-Executive-Officer and majority shareholder

in themselves. They control the day-to-day operations of themselves. The individual decides what transactions or deals to make and with whom to make them with. But the individual does have a check, as did Tony Stark. Under certain circumstances, the individual does have to answer to *others*. These *others* have a stake in the company that is the individual. The others, or in Tony Stark's case, the Board of Trustees, also have some ownership rights, which include ensuring that the person in charge is acting and making decisions that preserve his natural right of being a human which granted him that ownership to begin with.

THE BOARD OF TRUSTEES

The obvious question in the analogy is “who exactly is the Board of Trustees?” The answer is, purposefully, not so clear-cut. In this analogy, the Board of Trustees is the last protector of a corporation's mission statement, the declaration that defines that nature of the corporation. For every person, the job of protecting one's natural rights could be different, but every person in some way, shape, or form needs to have a protector in order for libertarian society to be rationally consistent. For some people, the Board of Trustees could be their parents. For others, it might be their community at large. For some, it could be members of the same race, socioeconomic status or religion. And as a protector of last resort, it can even be the government.

Both Nozick and Rothbard agree that a Minimal State can (and will) form while preserving individual property rights. The libertarian does see a role in society for a state that, in Nozick's own words, enforces contracts, protects private property and keeps

peace.¹² Additionally, doesn't Rothbard's entire rights based libertarian argument revolve around asserting that one's body is private property? Therefore, it would be within the jurisdiction of Nozick's protective or enforcement agency to protect and preserve the certain property rights of man, which are based on and include his natural rights.

Anything that interferes with a man's ability to "choose his own ends, employ his own means in order to attain [those ends]" (Rothbard 28) must be stopped. If man is not "free to learn, choose, develop his faculties and act upon his knowledge and values," (Rothbard 28) then his natural rights and subsequently, his property rights are being violated and any entity is justified in stepping in. Why can't this entity that is stepping in be part of Nozick's initial *dominant protective agency*? This the same dominant protective agency which eventually and without violation of other property rights, becomes a *de facto* state which covers all citizens through the payment of clients to cover independent self-enforcing individuals under the pretext of the compensation principle.

It is necessary to briefly acknowledge here that in Chapter 9 of Nozick's *Anarchy, State and Utopia* titled *Demoktesis*, he does consider alternatives beyond a minimal state and proceeds to reject them. One of these attempts involves a corporate structure of rights. His conception is completely different from what I am attempting to do and in a backwards way also violates people's natural rights. He allows for a person to break-apart his rights like selling off assets in a corporation They can then sell these assets to others possibly forfeiting rights like their right to free speech or trade with specific people or countries, etc. He accepts that people could justifiably sell themselves into slavery claiming "Since this very extensive domination of some persons by others arises by a series of legitimate steps, via voluntary exchanges, from an initial situation that is not

¹² Nozick ix

unjust, it itself is not unjust” (Nozick 283). The difference here is that Nozick is still treating the *self* as a regular commodity with no natural rights, which is the very basis upon which one has a right to oneself to begin with. His analogy commodifies a person’s rights and results in the eventuality of a select class of people owning others, which has already been rejected by Rothbard’s second alternative.

The obvious difference between Nozick’s attempt and the one I have laid out so far is that my view of a person as a corporation does not break up the person into separate assets, but maintains the self as one sole entity. In the context of the analogy, a shareholder or a Board member does not own the manufacturing department or the marketing department, but they own a share of the complete corporation as a whole. Nozick corrupts this idea in a way that violates natural rights and property rights, while dehumanizing the self in a way that my conception purposefully avoids. Furthermore, the Board of Trustees would not allow the CEO to, as Nozick suggests, give away the company’s natural rights to the highest bidder because that is the very check the Board was primarily created for.

Now that this possible confusion has been eliminated, it is necessary to return to the vetting of my alternative through the four problems that Rothbard identified with the others. The first problem is resolved because my option does not create a separate class of people. Each person has his or her own Board of Trustees. This is not a specific group of people; it is possibly interchangeable at different times in one’s life i.e. from parent to husband to wife to government. Although the last line of protection would be the State, the state could recognize the role of that individual’s Board of Trustees in interfering in their life, (i.e. not allowing them to sell themselves into slavery or keeping them from committing suicide) not because they are paternalistic, but because they violate their

natural right. Furthermore, the State or the individuals in the state in charge of executing this, would also be under the purview of this entity. In the same way, an employee for the dominant protective agency or the Minimal State cannot violate another's property rights and is not exempt for the nonaggression axiom, so to is that person not exempt from having a Board of Trustees that ensure his or her natural rights.

The second problem of ensuring that dominant ownership over oneself is maintained if that person is claiming any type of ownership over another is also avoided. By making someone the CEO and majority shareholder people are still in control over their rights as long as they don't violate anybody's natural rights, including their own. Similarly, being CEO solves the third problem of restricting the efficient flow of society as to lead to the downfall of the human race because it makes everyone still be in control of his or her own life and not look to anybody else for authority in almost all decisions. Lastly, the alternative of considering the self as a corporation with the individual being the CEO and majority shareholder, but with a Board of Trustees that is responsible for ensuring that one's natural rights are preserved, would not logically evolve into a government where a certain class of people own another. Thus, it avoids the eventuality of the creation of a specialized ruling class to coordinate operations, which occurs as a result of the impracticality of implementing the communal alternative. Finally, the corporate conception has passed all the tests that the other two alternatives failed while maintaining the principles of self-ownership, individual liberty, and solving the paradoxical flaw that arises if one owns oneself absolutely. Now that this corporate conception of ownership has been validated, it is useful to test the boundaries of the analogy and start considering the role of other types of investors in a person life.

INVESTORS

In order for an individual's corporation to grow to its full potential it requires some sort of investment by outsiders, be it through an Initial Public Offering (IPO), venture capitalist, investment banks etc. Nobody would argue against the fact that these investors have certain rights and that they might expect some return on their investment. Just as the Board of Trustees had rights in Stark Industries when Tony Stark was making decision in an impaired mental state, so do other shareholders. These investors have some rights depending on the amount of investment they have made in that corporation. Similarly, one can make the case that the amount that *others* "invest" in a person's life entitle them to some rights and privileges that a stranger does not enjoy.

One of the major snags with Rothbard's conception of self-ownership is that he makes no mention of the rights of parents, caretakers, children, friends or a community in the life of an individual. Similarly, his conception of natural rights that requires a person to be "free to learn, choose, develop his faculties and act upon his knowledge and values" (Rothbard 28) is impossible without the help (or investment) of others. If a mother were to leave a child in the wilderness directly after birth, how would that child ever have a chance to develop his faculties? Furthermore, a man's knowledge and values are not found in isolation, but are a result of the history human kind and the passing down of tradition from generation to generation.¹³ This is a somewhat separate, yet still valid point to consider.

¹³ Rothbard might consider this under the realm of *inheritance*, discussed on page 41 but he only deals with the passing down of tangible property and wealth not ideas, values, and theories.

When John Locke's baker¹⁴ mixes his labor with the wheat of the land, he uses techniques that were passed down to him by past generations. Techniques like when to collect the wheat, when to bake it, and how long to let it arise have been perfected by generations and he will likely add to this societal accumulation of knowledge. This same societal accumulation of knowledge occurs throughout all industries, value systems, and sciences that the current advancement of society depends upon. But who owns this? Who has the right to use or prevent the use of knowledge that man has arrived at over the course of his history? Libertarians suggest that the notion of "society" is a tool that is used to coerce power from individuals to the state. But, if as Rothbard suggests, there are only individuals and everything falls under the realm of property rights, then who owns the history and knowledge of the human experience? If it only belonged to the first people that discovered these methods, would it be illegal when somebody refused to start from a state of nature, resulting in a continuous cycle of generations of people reinventing the different "wheels" of the world?

The history of mankind has invested in the advancement of humankind; as do personal actors in someone's life, like one's parents, community or even the government, invests in the life of one citizen. These outsiders might invest immense amounts of time, effort and money in ensuring the survival and success of an individual. The problem with affirming one's complete ownership over one's self is that it disregards and invalidates any other person's investment in that person's existence. In a corporate structure, non-majority shareholders are entitled to at least hear the CEO's plans for the direction of the company and possibly voice their opinions. Additionally, sometimes these shareholders combine forces to present a sizable opposition or roadblock to the CEO. Consequently,

¹⁴ Section 43, On Property

even if all their shares combined still do not outweigh the majority shareholder's stake and the CEO pushes through with his decision, those shareholders still deserve a seat at the table when major decisions in the corporation's path are being made. So too should the investors in a person's life, like parents or even the government, have a legitimate seat at the table in directing and advising a person on the best ways to live their life or at the very least ensuring that they do not destroy their life through actions that violate their own nature. s

What Sandel's Michael Jordan example consistently fails to account for are these investments by others, specifically the government, which makes Jordan's success possible. The US government and its democratically arrived to laws have made possible a society where someone can be paid millions of dollars for throwing a ball into a basket. Nozick would argue that taxation that provides a minimal state would be sufficient and is the only amount that is justified. The problem here is that his wealth was not the product of a minimal state. With this new conception of corporate conception of ownership and the rights of the Board of Trustees and other investors in mind, let's understand the implication for the Minimal State and Sandel's response to libertarian objections.

IMPLICATIONS FOR A MINIMAL STATE

Under the definition of *ownership*, as it has been used, the minimal state can use its membership fees in a manner it sees fit to guarantee the protection of its clients. Similarly, an agency within the state, dedicated to the preservation and protection of natural rights may form and it too may use those fees it know rightfully owns. The minimal state or this natural rights protector (lets call this agency the NRP from now on) does not have unlimited ability to do what it wants with its property, even though it

rightfully belongs to them, but the wiggle room is significant and it is an intellectual exercise worth investigating.

In the strictest sense, any person or organization acting as the Board of Trustees must use any property appropriated from the individual in a way that fulfills the bare minimum of ability to guarantee and protect natural rights. For instance, it might be able to only use these funds to prohibit others' from selling themselves through some type of annual check up or it could devote funds to ensuring the buying of another person is punishable beyond a level that anybody, no matter how powerful would risk.

In a more loose sense, and one that is a bit unnerving to libertarians, the NRP could use the allocation of funds, not only to prevent the violation of property rights, but to shape society in a way that ensures that no man will ever encounter a situation that interferes with a man's ability to "choose his own ends, employ his own means in order to attain [those ends]" (Rothbard 28) and to be "free to learn, choose, develop his faculties and act upon his knowledge and values" (Rothbard 28). Under this premise, one could argue that the scope of the NRP and the once Minimal State could extend into faculties previously banned. The only condition is that the policies cannot be blatantly morally paternalistic or redistribute¹⁵ wealth.

In the same way the original minimal state is guided by market activity on how to best enforce contracts and protect private property, so too will the market guide the NRP. The NRP may find that, in order to ensure people are always free to learn, choose and develop their faculties, which is their natural right and the basis for any type of self-ownership, it might be most effective to, for example, fund schools that ensure that those

¹⁵ Keep in mind Nozick makes a difference between liberal forms of redistribution and the simple act of distributing funds that may have once belong to another. (27)

freedoms are respected by society so that it is well-known to never be infringed upon. The NRP could even fund a social welfare program that people become eligible for once they've hit rock bottom and are no longer able to "choose his [or her] own ends and employ his [or her] own means in order to attain [those ends]" (Rothbard 28) in order to ensure that all persons' natural right to choose is never in jeopardy.

Additionally, imagine if a bolt of lightning physically disabled a person and caused a subsequent mental breakdown that leads to his abandonment by society. Can that person still exercise the actions that are unique to man's nature? i.e. choose his own ends, employ his own means in order to attain, and be free to learn, choose, develop his faculties and act upon his knowledge and values. Some could argue that they can, but others may argue that his natural rights have been stripped. In this case, who should be punished for this violation of his natural property rights in order to compensate the individual? Maybe punishment is not necessary, but at the very least, attempting to re-establish his natural rights is sufficient to ensure that the individual is fulfilling the nature of man. And if no other person has invested in him, meaning no other person would qualify as his Board of Trustees, then why could not the NRP or the minimal state step in and be his natural right protector of last resort to guarantee that his uniquely human natural rights are maintained?

This scenario is not dependent on a moral obligation to help the needy. It is not dependent on a paternalistic attitude toward citizens by an overbearing government. This scenario is dependent on ensuring that no man, person, organization, or event can take away a person's innate nature, especially in times where that person may be unfit to correctly realize that he is taking steps that will result in him violating his natural rights. Furthermore, this scenario is not necessarily an exercise in redistribution, as characterized

in Sandel, but can be more along the lines of just compensation as characterized by Nozick. More specifically, all people in a region would realize this threat to their own natural rights and they opt in to this NRP program. Then, they realize that they may someday be burnt by lightning beyond recognition (as an example) and therefore extend their coverage to everyone in society, even to those who do not contribute to the program, in order to ensure that if they are ever unrecognizable they would still be covered. By extending this coverage to people who may not have wanted it or could not have afforded it, they justly compensate those whose risky behavior of not having coverage threatens their livelihood. All of this follows Nozick's principle of compensation. In this manner, wealth is not "redistributed" in the same manner that the minimal state does not redistribute wealth when it transitions from the dominant protective agency to a *de facto* monopoly of power that is the Minimal State.

Furthermore, it is appropriate now to take some jabs at other inconsistencies in the minimal state that become more evident once a new conception of ownership has been revealed and justified. One of the first "No-Nos" of the state according to libertarians is that the state cannot legislate paternalism. This is based on the presumption that man owns himself absolutely and therefore nobody has a right to tell him what to do. Well, if man does not fully own himself and instead, owns his *self* up until a degree that does not allow for him to violate his innate natural human rights, then maybe that does allow for the Board of Trustee instituting paternalistic policies on the grounds that it's the only way they can protect natural rights. Additionally, the entire idea of banning paternalism is in itself paternalistic in that it is making the assumption that citizens would not allow for government to ever reach that level because they know it violates their rights. To mandate that guideline is paternalistic and under libertarians' own definition would

violate an individual's or a set of individuals' right to be free to choose certain policies and learn from their mistakes.

Lastly, the idea that no morals can be legislated is similarly paradoxical in that it uses a rights-based judgment to make it unjust to have laws that are based on morals, when a type of moral code is the foundation of those rights. For example, John Locke, who created the base that Rothbard consistently uses to justify ownership in one's self and labor, bases his entire theory on the fact that man was created by God and it is God who in fact grants people access to their labor, talents, and natural resources. Throughout his treatise, he relies on scripture to justify the appropriation of property. For instance, in regards to homesteading, Locke uses the example of Abraham herding his sheep as a historically factual example.¹⁶ His religion, or what some may consider his moral code, is at the heart of his entire idea of property. So, it is hypocritical to outlaw legislation that takes this into account morals, which are the basis for it's the initial justification of the right self-ownership that shapes the role of government.

With this new eye for examining inconsistencies with the limits set on government and a new "corporate" conception of what it means to *own* one's self or his labor it would be a useful exercise to vet this theory and see how a libertarian, like the one that Michael Sandel portrays, would respond to the five objections brought up in Sandel's chapter titled *Do We Own Ourselves?*

NEW LIBERTARIAN REPLIES: A CORPORATE NOTION OF OWNERSHIP

Objection 1: Taxation is not as bad as forced labor. Rebuttal through a more complex view of ownership: Sandel's case that it is unfair to tax people who prefer

¹⁶ Section 38

activities that involve making money instead of leisure does not hold water if one sees government collection of taxes as simply a claim on the Board's property rights. In this way, the state is just charging a fee that insures everyone's natural rights are impervious to violation by anyone in the same way the minimal state collects fees in order to uphold contracts and private property. This type of taxation was not viewed forced labor before so it should not be now considering the fact that without the government being a natural rights protector of last resort the entire fabric of rights-base libertarianism comes apart.

Objection 2: The poor need the money more. Rebuttal through a more complex view of ownership: The possibility of having a natural rights protection agency that may end up helping the poor is not based on a moral or utilitarian argument that sympathizes with the poor. It is based on the preservation of natural rights for every person from any person, including himself. Being in line with Rothbard's anti-utilitarian based libertarianism stance, the fact that the poor would have a higher utility in NRP services is irrelevant. But ensuring that everybody's natural rights are preserved is relevant. Thus, the government could provide the poor with the NRP services, but the rich, who have no other Board of Trustee-type entity in their life, could also utilize these services.

Objection 3: Michael Jordan doesn't play alone. He therefore owes a debt to those who contribute to his success. Rebuttal through a more complex view of ownership: I agree with Sandel's libertarian reply in that he recognizes the people who directly make his success possible like teammates, coaches, trainers, referees, broadcasters, stadium maintenance workers, and so on are already compensated, but what he does not take into here is the investment made by society that make this wealth possible. For instance, the investment by the city of Chicago, ensures that the area surrounding the stadium is safe enough to have tourism be possible. Similarly, the traffic congestion, pollution and other

negative externalities that others have to deal with as a result of the flocks of thousands going to see Jordan (the same fans that ultimately are responsible for his salary) are not covered in the compensation that Sandel deals with. In Jordan's case, these costs fall on the city and the city does not have a problem with this because it realizes that the taxation on the wealth that is being generated by this activity will cover those costs and possibly even go to other natural rights protection programs.

Objection 4: Jordan is not really being taxed without his consent. As a citizen of a democracy, he has a voice in making the tax laws to which is subject. In opposing this objection, Sandel makes the jump from democratic consent justifying taxation to justifying the taking of liberties like the freedom of speech and religion. He maintains that consent of the majority does in and of itself make the seizure of something permissible. *Rebuttal through a more complex view of ownership:* In the same way, an individual in the Minimal State might not 100% agree on the justice system decided by the dominant protective agency, which was formed without violating anyone's property rights and legitimate free-market transactions, the citizens are still subject to its rules and modes for carrying out justice. So too are citizens exposed to possibly undesirable, but equally legitimate methods of carrying out justice in the protection of natural rights by the NRP. Therefore, Jordan's personal consent is not the issue here as no fundamental natural or property rights are being violated as Sandel first suggested. But, it is simply an exercise in how to best protect the natural rights of people. Furthermore, under a more complex view of ownership, property is not being "taken" at all, but fairly distributed to investors (i.e. the government) that have enabled Jordan's success possible outside of simple market compensation.

Objection 5: Jordan is lucky. Sandel's line of reasoning in his opposition has multiple steps that may seem a bit convoluted. He starts by attacking the assumption that Jordan's talents are not his own and the danger revolving this assumption. He exclaims that if Jordan is not entitled to the gains that result from him exercising his talents, then he doesn't actually own his talents. And if he doesn't own his talents and skills, then he doesn't actually own himself. Finally, he asks that if Jordan doesn't own himself, then who does? Implying that this is an attempt to attribute property right in citizen to their political community. *Rebuttal through a more complex view of ownership:* Since the corporate conception allows for a middle ground where one can be the dominant owner in oneself and not the absolute owners of his self, his questions go from rhetorically trying to point a fallacy to being easy to answer. Jordan does own his talent and skills but over time many people have invested in making his success possible. Thus, other's may have certain rights in his person that could justify compensation for allowing the possibility of achieving great wealth through the exercising of his talents. This is as long as the money goes to ensuring natural rights are protected.

My last point here is probably scary for most libertarians. They probably fear that the line of reason of "protecting and promoting mankind's natural rights" will turn into a huge window that allows unlimited growth of central government in the same way the Commerce Clause in the US Constitution has been used to justify many growths in the size and scope of the US government. And the building up of barriers based on improperly challenged premises to protect this *fear* is where the true problem lies.

CONCLUSION

When using a corporate conception of self-ownership the limits on the role of government that respects the natural rights of man and the right of man to have dominant ownership in his self and his labor are expanded beyond what a more basic conception of *ownership* allows for. Viewing the *self* with a corporate lens more accurately portrays the complexity of ownership and an entity as complex as the *self* probably requires an equally complex view of ownership. I do not want to say that this fourth corporate alternative to ownership is perfect. I barely fleshed out what exactly a government under this conception would like or how it would collect taxes or how much it would be entitled to. My theory might be incomplete in its reasoning, as are most ideologies. As Nozick says in his preface “I believe that there also is a pace and a function in our ongoing intellectual life for a less complete work, containing unfinished presentations, conjectures, open questions and problems, leads, side connections as well as a main line of argument. There is room for words on subject other than last words” (Nozick xii). Ultimately, this paper isn’t about creating a new foolproof conception of ownership that results in an expanded role for a rights-based libertarian government, it is about thinking creatively about “rigid “fundamental principles at the heart of long held ideologies.

In the future, and even right now, new property rights cases are coming up that past political theorists could have never accounted for. For example, with the advent of social media on the Internet, questions about property rights over our digital *self* are being fleshed out. Nobody is quite yet sure who really owns or is responsible for your digital self or the intellectual property you create. Does Facebook own your Facebook identity or do you? Is there some type of shared ownership? Even though Facebook provides a free platform and can shut down your account at anytime, are they still liable for your actions? In a year or two, another thesis student might write a paper on how to

view self-ownership in the way we view ownership over our social media identities. The point is that our knowledge of ownership is constantly evolving, thus, our ideologies that rest upon axioms of self-ownership must also be allowed to evolve.

Currently, the conventional libertarian view of government leaves no gray area for what the government may do. Its practice relies on a black-and-white view on the role of government. For libertarians, government can only pass laws that are not paternalistic, based on morals or redistribute wealth. This type of rigid guideline does not advance the thought and introspection unique to the nature of man. Man's nature is indeed to learn from his mistakes, to make decisions for himself, learn lessons based on those results and then be free to choose his new path based on this education, which is at the heart of the libertarian creed. My corporate conception of ownership allows natural rights-based libertarians to expand their realm of possibilities so that they can their uniquely human curiosity as to what the government may be entitled to do.

Abruptly ending introspective political policy considerations on the grounds that those policies go against an oversimplified conception of people's right to self-ownership robs humanity of its ability to learn about better ways to govern. Furthermore, the way to best promote libertarian ideals is not by simply striking down any and all advances of government because they are potentially paternalistic, based on morals, or redistribute wealth, but instead having to explain and rationalize why laws that do these things have the potential to rob some people of their natural rights. In this way, a public conversation is started that ensures people are taking into account the nature of man and his property when they are deciding the best and most legitimate ways to govern. Hopefully, a point that this paper brings to light is that the best and most legitimate way to govern is constantly evolving and we are stakeholders in its evolution.

At the end of the preface to *Anarchy, State and Utopia*, Nozick's writes:

“Much of what I say rests upon or uses general features that I believe such theories would have were they worked out. I would like to write on these topics in the future. If I do, no doubt the resulting theory will differ from what I now expect it to be, and this would require some modifications in the superstructure erected here. It would be foolish to expect that I shall complete these fundamental tasks satisfactorily; as it would be to remain silent until they are done. Perhaps this essay will stimulate others to help.”

Even though Nozick may not have agreed with a lot of the points I put forward in this paper, I believe that he would agree that this analysis is part of the “help” he was looking for. Furthermore, I hope this piece of work stimulates others in the way Nozick, Locke, Rothbard and even Tony Stark stimulated me to answer Sandel's basic question “Do we own ourselves?” In the end, I answered it by answering a better question, “*How* do we own ourselves?”

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