

RAND, ANARCHY, AND TAXES

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Introduction

One of the enduring controversies that has led to conflicts, both among Objectivists and between Objectivists and other libertarians, has been the question of anarchy.¹ Certainly it is true that all libertarians want to see severe restrictions on the powers of the State. But does the very existence of a government pose a threat to individual rights, or can one construct such effective restraints on governmental power that this watchdog will never turn on its masters? Unfortunately, this issue has frequently generated intense divisiveness.²

One of the reasons for the persistence of this debate is the daunting complexity of the issue at hand. There are, at the very least, economic, political, philosophical, psychological, and sociological dimensions with which one must ultimately deal. This essay will be more modest in its goals. Here the focus will be primarily, but not exclusively, economic. The intention is to explore a variety of theoretical problems the solutions to which could well constitute an insurmountable problem for those Objectivists who, following Rand, declare that civilized society *requires* a (limited) government. First, there will be a review of Rand's justification for government, her treatment of taxation, and the funding problems that a government of Randian scope might face. Then, Murray I. Franck's very provocative variation on Rand's theme will be presented. The non-neutrality of taxation will be examined in some detail and its relevance for a government of limited powers but funded via compulsory taxes will be explained. Finally, some thoughts will be offered regarding: (1) the fact that Objectivists have usually ignored the body of research that has revealed the *private sector* development of both legal codes and enforcement mechanisms; (2) the philosophical inconsistency of the orthodox Objectivist position; and (3) where Objectivist scholarship should go from here.

Two matters must be clarified before proceeding. First, although

the author of this essay does indeed disagree with certain of Ayn Rand's positions on specific issues, he enthusiastically embraces all the fundamentals of her philosophy. That is, he considers Objectivism to be an "open" rather than a "closed" system. Philosophies can be neither patented nor copyrighted. They are forever open to expansion, modification, and improvement. Some may insist that the term "Objectivist" should be reserved for those who agree with every detail of the philosophy precisely as it was enunciated by Rand. If so, then perhaps those who take an approach to her philosophy similar to that of the present author could be termed "Neo-Objectivists." Alternatively, the modifying terms orthodox and heterodox might be used.

Second, what terms should be used to distinguish between those who advocate a limited government from those who advocate no government? One encounters such phrases as "anarcho-capitalism," "radical libertarianism," "minimal state," "night watchman state," and so forth. They may not be the optimal choices by some standards, but for the purpose of brevity if nothing else, this essay will use the terms anarchist and minarchist.³ The former will be used to signify one who believes that governments perform no legitimate or necessary functions, and that all such functions can be performed by private firms or by private citizens, whether singly or as members of a cooperative group. The latter will be used to signify one who believes that at least a few legitimate and necessary functions can only be performed by a government that possesses a monopoly on the legal use of force. Of course, for the anarchist and the minarchist, the pivotal function that both deem absolutely essential to the workings of a proper society is the protection of individual rights.

Rand on Government

Rand (1967) begins, as usual, with a definition of the concept to be discussed. "[G]overnment is an institution that holds the exclusive power to *enforce* certain rules of social conduct in a given geographical area" (329). Why do men need an institution of that sort? Her answer begins with man's essential nature, moves to the individual's gains from social interaction, and identifies rights as the crucial concept that provides the environment required for the survival and flourishing of the individual at the same time that it maintains the social structure.

Since man's mind is his basic tool of survival, his means of gaining knowledge to guide his actions—the basic condition he requires is the freedom to think and to act

according to his rational judgment. This does not mean that a man must live alone. . . . Men can derive enormous benefits from dealing with one another. A social environment is most conducive to their successful survival—but *only on certain conditions*. . . . Man's rights can be violated only by the use of physical force. . . . [Therefore] the precondition of a civilized society is the barring of physical force from social relationships. . . . The necessary consequence of man's right to life is his right to self-defense. In a civilized society, force may be used only in retaliation and only against those who initiate its use. . . . The use of physical force—even its retaliatory use—cannot be left at the discretion of individual citizens. . . . If a society left the retaliatory use of force in the hands of individual citizens, it would degenerate into mob rule, lynch law, and an endless series of bloody feuds or vendettas. . . . *A government is the means of placing the retaliatory use of physical force under objective control.* (329-31)

There are several aspects of the above train of thought that are potentially very significant. Notice that the right to self-defense is implicit in the right to life, the one fundamental right from which all other rights flow. And yet this right to defend oneself against aggression *must* be delegated to the government in all cases but those involving immediate danger and no possible recourse to the public police. Also, Rand describes a proper, rights-protecting society as the environment within which a man may best prosper. She does not, however, seem to assume that man can only exist within a societal framework. In contrast, as will be seen later, Murray Franck argues that man is inescapably social in nature. Finally, and most importantly, Rand merely asserts that government is the only means by which individuals' rights can be protected. Neither here nor anywhere else in her writings does she offer any empirical evidence on behalf of that assertion. Indeed, beyond the brief but lurid descriptions of "mob rule and lynch law," the allusions to an objective legal code, and the condemnations of decisions based on individuals' "whims," Rand offers nothing that even approximates a theoretical justification. For instance, why does she think that the development of proper rules of evidence and proper definitions of

crimes can only occur if there exists a single agency with a monopoly on the use of force? She declares that this is so, but gives the reader no clear reason for believing it. This is not to say that Rand is necessarily wrong on this point, but one has to be curious about what she thought the connection might be.

Obviously, for Rand the only proper functions of government were those devoted to the protection of individual rights: armed forces, police, and courts of law (334). But how would these activities of a minarchist government be financed?

Since the imposition of taxes does represent an initiation of force. . . . [i]n a fully free society, taxation—or, to be exact, payment for governmental services—would be *voluntary*. Since the proper services of a government—the police, the armed forces, the law courts—are demonstrably needed by individual citizens and affect their interests directly, the citizens would (and should) be willing to pay for such services, as they pay for insurance. . . . A program of voluntary government financing would be amply sufficient to pay for the legitimate functions of a proper government. . . . the government is *not* the owner of the citizens' income and, therefore, cannot hold a blank check on that income. (Rand 1964, 116, 118)

Rand mentions only two concrete methods of financing: government lotteries and a kind of "insurance premium" to be charged on any contract whose provisions would be governmentally-enforced (116-17). This latter method was, of course, to be entirely voluntary. (Contractual agreements could remain uninsured or, presumably, insured by some private entity.) Both methods would provide more than adequate funds, says Rand, despite the fact that *all citizens*, whether or not they had contributed to the public treasury, "would still enjoy the benefits of legal protection, such as that offered by the armed forces, by the police and by the courts dealing with criminal offenses" (119).

Rand thinks of government financing as "the last, *not* the first, step on the road to a free society" (117), and therefore gives it rather little consideration. In comparison with certain philosophical fundamentals, one can see her point. Sometimes "the devil's in the details," however. If all voluntary methods of government financing should prove inadequate, then

one has only three choices: either give up on the dream of a free society, concede that a free society is a society without government, or admit that taxation cannot be voluntary.

But why might Rand's financing schemes be infeasible? First of all, it is fair to say that until such plans are actually tried, it is impossible to know for certain whether they would succeed or fail. Nothing quite like it has ever existed. Nevertheless, there are technical economic reasons to doubt the viability of any government, however limited in scope, that is funded entirely by voluntary means. One of the most basic—and inescapable—propositions in economics is the law of demand: as the price of a good or service falls, holding other factors constant, the quantity demanded rises. And Rand explicitly advocates a structure in which even those who contribute nothing to the government still receive protective services. In other words, she proposes that government protection will be "sold" to many people at a price of zero. In economic terms, this is a recipe for trouble. Even though the kind of protection will, presumably, remain constant, the *quantity* of that protection requested will rise.

For an obvious example, if the public police patrol residential neighborhoods, what is to prevent a citizen who pays no "voluntary taxes" from calling them for assistance whenever the most trivial (or even imaginary) problem arises? The police cannot know in advance whether it is trivial or life-threatening, so they must respond. Every time this happens, the total cost of providing police protection rises above the level required for dealing with actual criminal activities, while payment for it does not. Moreover, since all the resources used for protective services are scarce, frivolous demands would increase the probability that the police might not respond in a timely fashion, or at all, to a true crime being committed at a different location. Any such failure would constitute a serious breach of the government's promise to combat all violations of rights and would encourage individuals either to turn to private security agencies or to take the law into their own hands. Rand seems to forget that "police protection" is not some monolithic whole. Neither is national defense nor the adjudication of crimes, for that matter. They all consist of specific resources allocated to specific services. If payment is divorced from the receipt of benefits, serious economic problems ensue. Rand herself likens these government services to private insurance, but she is so committed to the assumed need for government that she ignores such problems.

Furthermore, what might occur in the long run? If all individuals receive the benefit of the government's basic protective services, and yet none are compelled to pay, it seems that this asymmetry must almost certainly lead to an increased incidence of non-contribution. Of course, Rand insists that when a proper government comes to exist the citizens will willingly make the necessary contributions, much as individuals do now for private services such as insurance. But that declaration would seem to involve a variant of the logical error which Rand herself called "concept-stealing."⁴ People willingly pay for such private services if (1) they value the service and (2) they will not, under normal circumstances, receive the service *unless they pay for it*. It is invalid to assume that such willingness will be equally evident when the link between payment and benefit has been severed. Rand errs in applying a feature of the private-sector supply of goods and services to a situation in which only the government can legally supply the service in question.

The problem of non-contribution discussed above is commonly known as the "free rider" problem.⁵ Rand is at least vaguely aware of the problem, but she perceives it entirely as an issue of morality rather than practicality. This is clear from her statement that such protective services "may be regarded as a bonus to the men of lesser economic ability, made possible by the men of greater economic ability—*without any sacrifice of the latter to the former*" (119). One can readily grant that Rand's proposal violates no moral principle, and yet still question its feasibility. While it is correct to say that what is truly practical must be consistent with what is moral, it is incorrect to conclude that any action which is moral will also necessarily be practical. There may exist an array of concrete courses of action, all of which might be moral. This tendency to assume there is always a one-to-one correspondence between the moral and the practical is characteristic of orthodox Objectivists.

There is another aspect of Rand's proposal that is puzzling, although for philosophical or psychological, rather than economic, reasons. On the one hand, she insists that most if not all citizens will be glad to pay for the essential protection provided by the government. In other words, she assumes that most men are and will be, at least largely, rational and just. This follows from the fact that one of the characteristics of the virtue of rationality is that "one must never seek or grant the unearned and undeserved, neither in matter nor in spirit (which is the virtue of Justice)" (26). Presumably, men choose to make voluntary contributions to the government because they do not seek the unearned. On the other hand, Rand (1967) believes that, without government, if a man's wallet is stolen,

he might go storming through his neighborhood and shoot "the first man who gave him a dirty look, taking the look to be proof of guilt" (331). How can it be that human beings possess so finely-tuned a sense of justice that they would contribute to the public treasury even if they were not forced to do so, and at the same time possess so little sense of justice that they will kill innocent people in a mad search for their stolen property? When juxtaposed in this fashion, it seems impossible that both propositions can generally be true.

Finally, what is to be done with private security agencies, private arbiters, and so forth? If the government has a literal monopoly on the legal use of retaliatory force, then there would seem to be a severely reduced role for private security. Such firms could still provide alarm and monitoring services for homes and businesses, but no armed response could be allowed. The latter would be an infringement upon the government's exclusive domain. As far as private arbitration is concerned, individuals presumably could choose to abide by the decision of the arbiter, but the government would certainly not enforce the conditions of the agreement.

There is the possibility, however, that many individuals might prefer both private security and private arbitration due, at least in part, to their greater effectiveness and efficiency in comparison to parallel government services. It is an inescapable economic fact that not-for-profit organizations, whether public or private, exhibit a strong tendency to be ineffective and inefficient. The reason is simple. Without the feedback and discipline provided by profits and losses, it is difficult for any organization to remain focused on its goal of providing, presumably, the best possible product or service at the lowest possible cost. Of course, Rand would prohibit all armed private protection agencies. She assumes without justification that this would eliminate them from consideration by the consumers of their services. In fact, this might create a "black market" in such services, which could lead to a multitude of additional problems.⁶ Not the least of such problems would be the rising costs necessitated by the suppression of black market protective services. But the black market issue is omnipresent. If the probity and sagacity of private arbiters and private judges are generally perceived as superior to that of the government's judges, or if private firms provide judicial services more inexpensively than does the government, then government revenues will decline as the frequency of private adjudication rises.

For all of the foregoing reasons, one has to question the viability

of Rand's vision. If even a government of strictly limited powers may prove unable to fund itself by voluntary contributions, then is there an alternative that remains consistent with Rand's basic principles? Murray I. Franck, who is both a professor of law and a practicing attorney, thinks there is.

Franck on Taxation

Franck confronts the question of how to finance a minarchist government with bluntness and eloquence. He finds Rand to be wholly correct about the proper role and scope of government, but quite wrong about its funding.

In regard to taxation, Ayn Rand has left us with two irreconcilable tenets. On the one hand, she held that . . . man *requires* a geographically monopolistic and strictly limited government. . . . On the other hand, she held that taxation to finance that government constitutes the initiation of force. . . . I believe that because Rand's first position is correct, her second is mistaken. And I wish to challenge it. A requirement, or *necessity*, without a means of implementation constitutes a contradiction. . . . Because government is inherently necessary to define rights *ab initio*, and to give substance and meaning to rights by protecting them thereafter, its very existence is both a prerequisite and a component of rights. Thus, the parameters of property rights must account for access by government to *some* portion of one's money to support its existence. To withhold that support is to destroy government. (Franck 1994, 9-10)

Franck implicitly recognizes the infeasibility of voluntary taxation and, given his *a priori* rejection of anarchy,⁷ takes the only path left open to him. If, then, the necessity of government implies the necessity—and morality—of taxation, what sorts of taxes are appropriate? “Possibly a transaction tax pegging payment to the scale of individual economic activity. Possibly a value-added tax” (11). More recently, he has also considered “[u]niversal taxation by a fixed dollar amount” and “a flat percentage tax,” but has suggested that “a consumption or transaction tax may, in fact, be the most equitable system” (Franck 1998, 16). To reassure those who might fear that the power to tax would inevitably lead to an

expanding and intrusive government, Franck (1994) declares that “the constitution would prohibit the expansion of the scope of government and *all redistributive practices*” (11). It should be noted that Franck explicitly concedes that governmental practices which redistribute wealth or income must be prohibited.

The key problem for Franck's position is that all forms of involuntary taxation, whether intended to do so or not, unavoidably involve such redistributions. This observation is known in economics as the “non-neutrality” of taxes. It parallels the non-neutrality of money, the fact that, as long as men are not omniscient, changes in the money supply will have different effects on different people (Mises [1949] 1966, 415-19). Assume, for instance, the usual modern case in which the money stock is controlled by a central bank. Assume further that the money stock rises. Those who receive the increased money balances first will benefit most, while those who receive them last will benefit little or not at all. Because such monetary changes are not experienced equiproportionately and simultaneously by everyone, they bring about changes in (1) the relative prices of both consumer goods and the factors of production, (2) the structure of production, and (3) the distribution of income and wealth. Every change in money changes the relative economic positions of individuals. The same is true of taxes. “[T]here is no such thing as a ‘neutral tax’—a tax that will leave the market free and undisturbed—just as there is no such thing as neutral money” (Rothbard [1970] 1977, 137).

It is of course true that all taxes affect individuals' income or wealth in absolute terms. That is, all taxes intentionally redistribute command over resources from the private sector to the government. In absolute terms, clearly, no taxes are neutral. But can a tax structure be devised such that, in the process of taxing the citizenry, the government affects the array of relative prices and the distribution of relative income or wealth in a fashion comparable to market participants? This is the issue at hand.

The object of the quest is *not* to leave the income distribution the same as if a tax had not been imposed. The object is *to affect the income “distribution” and all other aspects of the economy in the same way as if the tax were really a free-market price.* And this is a very different criterion. No market price leaves relative

income "distribution" the same as before. If the market really behaved in this way, there would be no advantage in earning money, for people would have to pay proportionately higher prices for goods in accordance with the level of their earnings. (159)

The search for some sort of tax(es) that would be "neutral" in this sense has lasted for more than two hundred years. Adam Smith ([1776] 1937), for example, devotes a great many pages to a discussion of the proper principles of taxation (777-858). It would seem that Franck ought largely to agree with Smith's dicta that taxes should be: levied on taxpayers "in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state"; known with certainty; payable at the convenience of the taxpayer; and no greater in magnitude than is actually necessary for the maintenance of the government's legitimate functions (777-78). As reasonable as Smith's proposals might sound, they are not persuasive, because they fail to deal with several significant problems.

Fundamentally, what is it about (involuntary) taxes that makes them radically different from free-market prices? In contrast to taxes, market prices result in an economic structure that reflects individuals' preferences, especially their *time preferences*. Time preference refers to one's preferred rate of spending relative to saving. Alternatively, it can be described as the rate at which an individual discounts the future or as the ratio of demand for present goods to demand for future goods. Those who have a low rate of time preference tend to save and be suppliers of credit, while those with a high rate of time preference tend to borrow and be demanders of credit. The interplay of all persons' individual time preferences generates the "natural rate of interest," which has also been referred to as the "pure rate of interest" or "ordinary interest" (Rothbard [1962] 1970, 319-23; Mises [1949] 1966, 534-36).

Time preferences are of critical importance because as they change, the entire structure of production changes. Consider, for example, a decline in the rate of time preference and, therefore, a decline in the natural rate of interest. More saving and investment are undertaken, the average period of production lengthens, and the prices and quantities of capital goods rise relative to the prices and quantities of consumer goods. Further, the incomes of those associated with the production of capital goods (workers, entrepreneurs, and stockholders) rise relative to the incomes of those in consumer goods industries. This redistributive result

causes no significant problems, because it is fully in accord with the changes in time preference that individuals freely express.

One might be tempted to think that taxes could be varied so that a similar result could be obtained. That, however, is utterly false. If the government tries to change the structure of relative prices by, say, raising the sales, excise, or value-added taxes (recall that the last of these is mentioned as one possibility by Franck) on some goods while lowering such tax or taxes on other goods, the net effects on firms' revenues and consumers' expenditures will be unpredictable. The reason is that the actual incidence of any such tax, that is, the question of who is most burdened by the tax, depends on the relative elasticities⁸ of supply of, and demand for, the goods. At best, such elasticities can only be known *ex post*, never *ex ante*. Therefore, the structure of production, relative prices, and relative incomes would match the market result only by coincidence. Any government that attempted such manipulations would surely be faced with the endless task of trying to correct for its own past errors.

A tax on consumption or transactions is viewed very favorably by Franck, but such a tax also faces problems.⁹ First of all, unless there is dissaving¹⁰ on the part of consumers, taxes on consumption always have the same economic impact as taxes on income, but at a lower numerical rate (Rothbard [1970] 1977, 108-11). Since Franck wants to prohibit redistributions of income via income taxes, one must presume that he would want to be consistent and also reject consumption taxes. If there is dissaving in the economy, then taxes on consumption serve as taxes on accumulated wealth and, as such, they lower the standard of living in the society (111-12). Again, this is a result Franck ought not to encourage.

Secondly, any true consumption tax will alter the structure of production, relative prices, and relative incomes because "there will be a shift *in favor of consumption* to the extent that a diminished amount of money causes an increase in the rate of preference for present goods" (110). This restructuring of the economy will create economic problems, because after-tax incomes are lower due to the tax and individuals will reduce the absolute dollar amounts of both their consumption expenditures and their saving. In the absence of such a tax, a shift of time preference toward more consumption would mean an increase in dollar expenditures for consumption and a decrease in dollar savings.

A flat percentage tax is yet another option to which Franck gives attention. The immediate question which it seems one should ask is: A flat percentage of what? It would be interesting to know the answer, but the

point is really moot. All taxes are, in effect, either taxes on current income or taxes on accumulated wealth. A flat tax will bring about equiproportionate reductions in everyone's net income or wealth, as those are officially measured. This, however, is entirely unlike market prices. The prices of goods and services, whether one thinks them determined by costs of production or by the subjective valuations of consumers, do not vary as the buyer's income or wealth varies. A poor man pays the same price for any given good or service that a rich man pays.

Furthermore, taxes on income or wealth, whether proportional or not, face a problem that has proven to be immune to correction. It is the problem of defining "income" or "wealth." Does income, for example, include only personal income? Or does it also include corporate income? If the latter, then stockholders are being taxed twice. Does income include capital gains? If so, then these must be adjusted for inflation or the beneficiary of the capital gain is effectively being taxed at a higher rate than those paying taxes on wage income (105-7). If adjustments for inflation are made, which index of prices does one use? A fixed-weight consumer price index? A chain-weighted GDP deflator? The choice of index alone could make a significant difference in the individual's dollar tax liability. And are taxes on capital gains as income to be levied on *accrued* or *realized* gains? Also, is an inheritance to be taxed at all? These and other questions must be answered successfully before one can conclude that proportional taxes on either income or wealth neither disrupt the economy nor violate individuals' rights.

Finally, one must consider the idea of a capitation tax, that is, a fixed dollar tax levied on all citizens. This "would be far more nearly neutral than any of the other taxes considered, for it would attempt to establish an equal 'price' for equal services rendered" (158). However, such an "equal tax" would be plagued by the fact that the cost of providing the government's protective services could vary dramatically from area to area. For those in high crime areas, or perhaps near a border across which exists a hostile nation, government protection would then be artificially underpriced. For those in other areas, such protection would be artificially overpriced. If so, then the former would experience shortages, while the latter would experience surpluses. Such misallocations would clearly violate the minarchists' promise of equal protection for all individuals' rights. Overriding all minarchistic attempts to simulate market prices, prevent redistributions of income or wealth, avoid unsustainable changes in the structure of production, and yet have a monopoly supplier of all protective services, is the fact that to accomplish this one must have a tax

which is always in harmony with individuals' time preferences. That is simply impossible. The reason is quite straightforward, but easy to overlook. The natural rate of interest, which is the key economic reflection of time preferences, is an *unobservable datum*. One can infer what the natural rate may be, but it can never be "seen." This follows from the fact that time preferences themselves are unobservable.

Government as the Precondition

Despite all of the foregoing, there might still be one way to salvage the minarchist position. In an attempted rebuttal to the non-neutrality of taxation argument, Murray Franck has perhaps struck at the very foundation of the clash between anarchists and minarchists. Whether or not his response is ultimately persuasive, one must acknowledge that it is a brilliant bit of reasoning, and Franck deserves considerable credit for trying to see into the heart of the matter. The trump card he reveals is the claim that since a sufficiently funded government is the precondition for the existence of markets, then taxation cannot be condemned on the grounds that it is an unnecessary, burdensome, or disruptive imposition on market activity. Taxes are merely an unavoidable part of everyone's costs.

Although taxation is non-voluntary and is coercive . . . it does not violate rights as it does *not* constitute the *initiation of force* . . . one cannot produce and trade without a tax-supported government. . . . Because consent is irrelevant to the justification of government power, and because money is necessary for government to function, the necessity of consenting to pay for government's legitimate functions also is not required . . . no one has a right to use or dispose of that portion of his wealth which makes the very notion of property rights possible to begin with. (Franck 1998, 15-16)

Per Murray Franck, government is in no sense contractarian because man is inescapably social by nature and society requires it. Consent of the governed is irrelevant, for Franck, and all persons receive a net benefit from the government's protective services. Given those premises, taxation is necessary and morally defensible. Furthermore, there is no free rider problem because the payment of taxes is mandatory. But what about the other issues raised earlier in this essay, namely 1) the

inherent inefficiency of not-for-profit organizations and 2) the redistributions of income and wealth which are implicit in all known tax structures? The existence of the former might be granted by Franck, but he would no doubt dismiss it as a necessary component of the costs of protecting rights. Issues of efficiency do not particularly concern him. Franck quite rightly thinks that the effectiveness of rights-protection is of primary importance. Efficiency is important, but still secondary. In contrast, the latter of the above mentioned problems cannot be easily dismissed.

The problem of income distribution may prove insoluble for minarchists who advocate involuntary taxation. If the only justification for government is the protection of individuals' rights, and if one grants that such rights include the essential right to earn and retain an income, then every attempt to finance government creates a paradox. To protect individuals' rights one must, allegedly, tax those individuals, but by imposing involuntary taxation, one violates those same rights by redistributing incomes (both from individuals to the government and among individuals). One solution to this conundrum is to propose that government funding be attained entirely through voluntary contributions or fees for specific services rendered. This is the tack that Rand takes. Of course, she then faces the problem of non-contribution that was discussed earlier. It would seem that the only other logical possibility is exemplified by Franck's approach. For him, redistributions of income that result from taxation are irrelevant. He claims that no one can even earn an income without a government to identify, codify, and enforce rights. Therefore, to speak of such redistributions is meaningless, because incomes themselves cannot exist outside the context of minarchy.

It is clear that Franck believes he has solved the puzzle. His argument is compelling, one might even say irrefutable, *if he can prove that only governments can protect rights*. He need not demonstrate that all governments always protect rights and never violate them. He needs only to prove that consistent rights-protection by governments is possible and that rights-protection is impossible under anarchy. If he fails to demonstrate this, then the necessity of government cannot be assumed, and the alleged morality of taxation must remain questionable. And fail he does.

Much like Rand, Franck offers no empirical evidence and little in the way of theoretical reasons for his claim. He almost seems to think it self-evident that civilized societies must have governments. The closest he comes to a justification is, perhaps, his claim that "[i]n the absence of

government to define and protect legal rights, they constitute mere moral declarations. . . . To possess a right, the protection of which requires that the possessor constantly focus upon and engage in defensive activity . . . is to possess only a moral claim to . . . a survival akin to that of an animal" (14). Unfortunately for Franck, this begs the very question that is being asked. In essence, what Franck argues is that 1) a civilized, humane life requires that rights be protected in a systematic way by some agency whose mission is to be a protector of rights and, therefore, 2) governments are necessary. The problem is that the second does not necessarily follow from the first. Indeed, that is precisely what the controversy is all about. Many libertarian anarchists would agree that a life of constant "defense activity" is a sub-human existence and unacceptable. They would, however, argue that private protection agencies, private courts, and privately developed legal codes may be better able to defend one's rights than any government.

To summarize, Rand avoids the problem of an inappropriate structure of production, but faces the likelihood of inefficiency, declining contributions, and rising costs. Franck avoids the problem of non-contribution, but faces inefficiency as well as the disruptive and redistributive effects of compulsory taxes. Neither effectively faces the challenges raised by anarchists. Neither offers a compelling defense of minarchy.

Conclusion

To anyone familiar with a wide range of libertarian, anarchist, and Objectivist literature, one very basic fact can be neither avoided nor overemphasized. No one has yet uncovered a clear-cut historical example of a minarchy whose functions remained strictly limited to rights-protection for any period of time, or of a society of any significant size that was entirely devoid of government and yet survived. As for the former, Rand (1967) herself admitted that even in the United States "certain contradictions in the Constitution did leave a loophole for the growth of statism" (336). As for the latter, the examples that are most frequently cited are both from the Middle Ages: Ireland and Iceland.¹¹ Despite the interesting lessons that might be learned from the Irish and Icelandic cases, the temporal remoteness of these two has caused many people to question their applicability to modern societies.

In Ireland, national defense and certain religious functions were the responsibility of the king, who held his position by election, however,

rather than by hereditary claim. The adjudication of disputes was based on custom and was administered by a group of private, professional jurists. Medieval Iceland, which was remarkably anarchistic insofar as the legal code and litigation were concerned, had a legislature but no king. All law was civil law, and restitution paid to the victim was the means of rectifying injustices. Unfortunately, this very unusual social structure disappeared after Iceland fell under the control of Norway in the thirteenth century. Furthermore, even libertarian anarchist David Friedman does not consider the Icelandic experience to be a perfect example of anarchy. It merely "comes closer than any other well-recorded historical society" ([1973] 1989, 208).

Despite the fact that there is no overwhelming historical evidence in favor of either minarchy or anarchy, episodes such as those in Ireland and Iceland strongly suggest that anarchy is feasible. In a similar vein, Bruce Benson has done an enormous amount of research, which seems to demonstrate that "our modern reliance on government to make law and establish order is not the historical norm. Public police forces were not imposed on the populace until the middle of the nineteenth century in the United States and Great Britain, for instance, and then only in the face of considerable citizen resistance" (1990, 2). Furthermore, "the development of medieval commercial law, *lex mercatoria*, or the 'Law Merchant,' effectively shatters the myth that government must define and enforce the 'rules of the game'" (30). In fact, there are reasons to believe that privately-generated or "customary" law is always more likely to focus on the protection of individuals' rights than is governmentally-generated, or "authoritarian," law. This is due to such customary law using reciprocity as its foundation, treating offenses as torts rather than crimes, and relying on restitution rather than punishment as an enforcement mechanism (12-15). One might add that any legal code which revolves around reciprocity would seem to be in keeping with the Objectivist belief that men should view one another as traders, rather than as predator and prey.

It is curious that orthodox Objectivists rarely exhibit any knowledge of the research on anarchy that has been done in recent years. This ignorance is not, in itself, reason to think them wrong and the anarchists right. However, one has to be puzzled by the apparent inconsistency. Objectivism is explicitly based on an inductive approach to knowledge. If one really wishes to discover whether anarchy is compatible with a rigorous protection of rights, then surely one should study and reflect upon both the historical evidence and the theoretical principles drawn from that evidence. If Objectivists are ever to defend minarchy

effectively, they must first engage anarchists on their own ground. That is, Objectivists must become familiar with the extensive anarchist literature and, then, if they can, refute it. Needless to say, those libertarian anarchists who are not already familiar with the Objectivist defense of minarchy, must do likewise.

NOTES

1. The author does not agree with the orthodox Objectivist insistence that, in terms of political philosophy, one should think of "libertarian" and "Objectivist" as wholly different categories. Taxonomically, it seems to make much more sense to think of Objectivism as a variety of the species libertarianism. This does not deny the fact that there are, indeed, significant epistemological and ethical differences between Objectivists and certain non-Objectivist libertarians.
2. For examples of this acrimony, see Peikoff 1989, Kelley 1990, and Schwartz 1986.
3. The obvious problem from an historical standpoint is that many alleged anarchists have most definitely not been friendly toward free markets. See Reichert 1976 and DeLeon 1978. To examine the ideas of various anarchists of a more libertarian nature, one should see Martin 1970.
4. This fallacy occurs when people use certain concepts "while denying the roots and existence of the concepts they are using" (Rand 1957, 964). In other words, one must not ignore or forget the context within which a concept is applicable, and one must never use a concept in a context that is inapplicable.
5. See Johnson 1991, 110-13, *et passim*, for a standard treatment of this and related issues.
6. See Gambetta 1993 for the argument that the Mafia arose in this way.
7. One must describe Franck's rejection of anarchy as being of an *a priori* nature, because there is really no evidence offered for the proposition that rights cannot be effectively protected in an anarchistic framework. There are merely assertions such as "government is inherently necessary" for the definition and enforcement of individual rights. What is it about the nature of rights that, allegedly, makes government indispensable? And, moreover, where is the historical evidence that any government has ever actually been a consistent protector of rights as Franck (or Rand) would define rights?
8. Elasticity is the ratio of the percentage change in the quantity demanded (or supplied) to the percentage change in the price of the good.
9. It is not entirely clear what Franck includes under "transactions." Does it include the purchases of financial assets, capital equipment, or raw materials as well as consumer goods?

It appears to be identical to a tax on consumption, since Franck (1998) says the dollar amount of the tax will depend "on the price of the goods and services consumed" (16).

10. "Dissaving" in economics means that consumers are purchasing goods and services by spending out of their past savings rather than out of current income.

11. See, respectively, Peden 1977 and Friedman 1979; [1973] 1989, 202-8.

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