

Morals and the Free Society

What is the appropriate place of morals in a free society? By “free society,” I mean a social order that places heavy emphasis on individual liberty; for example, freedom of speech, of assembly, of religion; freedom from coercive state power, as exemplified by unreasonable search and seizure, incarceration without trial, conscription (military or otherwise), etc.; and freedom of commerce, particularly including the protection of property rights. By “morals” – which I shall use interchangeably with “ethics” – I mean fundamental principles for the conduct of life, making no preconceptions about what those principles must be. For instance, even a simple egoistic hedonism is on the table as a possible moral system and conceivably even as the best.

In asking about the appropriate place of morals in a free society, part of what I’m asking is which morals, if any, are encouraged or even required by a free society. Do the political arguments in favor of a free society imply any particular system of morals? Does the operation or the structure or the maintenance of a free society require or imply any particular system of morals? If a free society does not require any particular moral system, does it at least encourage (or inhibit) any? Or are the politics of a free society and morals completely independent? What *moral vision*, if any, should we associate with a free society?

The purpose of this essay is to explore these questions and eventually to attempt an answer. My strategy is to take the superiority of a free society for granted and ask what implications that has for morality. I aim to show that this strategy is fruitful. Although the conditions and requirements of a free society hardly determine a complete system of morals, I shall argue that they powerfully and helpfully constrain the character of a moral system. There is a moral vision for a free society.

Is a Free Society a Paradise of Moral Tolerance?

One approach to the question of what moral system is appropriate to a free society is to say that no particular system is more appropriate than any other. This view is sometimes held up with pride by advocates of a free society, as a point in its favor. The free society, they say, does not coerce its people in any way and *a fortiori* does not impose morals on them. On this view, people in a free society are left free to work out their own way of life and code of values. Thus, the free society is the social order of tolerance *par excellence*. For instance, Murray Rothbard, in [“Six Myths about Libertarianism”](#) (1980), writes that, “Libertarianism does not offer a way of life; it offers

liberty, so that each person is free to adopt and act upon his own values and moral principles.”

It is odd that this “tolerance” view of the free society is as common as it is, inasmuch as it is so obviously false. The free society is hardly neutral as between “hedonism,” “‘bourgeois’ conventional or religious morality,” and “libertinism,” to quote some alternatives named by Rothbard. On the contrary, the complement of personal liberty is personal responsibility, and the free society is hard on those who forget that. The free society rewards ants (especially ants who get a good education), not grasshoppers. As George Gilder (2012), Michael Novak (1982; 1996), Deirdre McCloskey (2006), and many other writers have pointed out, the free society promotes the virtues of industry, initiative, perseverance, prudence, reliability, honesty, courage, independence, politeness, affability, frugality, probity, discretion, cheerfulness, goodwill, daring, endurance, sobriety, fidelity, restraint, entrepreneurship, and many others, all of a distinctly bourgeois cast. Hedonism and libertinism, by contrast, are punished – not by the government or any coercive authority, of course, but by their outcomes, which the individuals who engage in such practices are left to bear on their own.

One may say that all this is not due to the deliberate imposition of morality by a free society but is an entirely natural consequence of the fact that the free society does not allow persons (e.g., the hedonists and libertines) to impose the consequences of their actions on others. This is true, but it does not alter the fact that a free society is not morally neutral: it is a bourgeois paradise and by the same token a torment to contrary “lifestyles.” Nor is this any mere accident. The conception of individual freedom – as consisting in freedom from coercion, in freedom of all action that is not itself coercive, and in the observance of property rights – that lies at the base of the free society is not some neutral, obvious, universally accepted moral concept sanctified by God, “intuition,” and Harvard University. Rather, it is embedded in and depends on certain predominantly individualistic conceptions of human life, endeavor, responsibility, and happiness.

In addition, obviously the prohibition on coercion and protection of property rights themselves represent moral principles, and the free society is not “tolerant” of their violation. (Rothbard himself is quick to point this out.) Thus, a free society is not morally neutral; it plays distinct favorites.

Is the Perfectly Free Market a “Morally Free Zone”?

A somewhat different and even stronger version of the claim that a free – or at least ideally free – society does not impose morals is given by David Gauthier in *Morals by Agreement* (1986, ch. 4). Gauthier goes further than the mere claim of toleration and

argues that the free market, wherever it works with perfect efficiency, is a “morally free zone,” meaning that morality is neither needed nor even desirable! In such a social context, instrumental rationality is a sufficient guide to life, and it is the only proper guide: any other principle must only damage people’s lives. Thus, in an ideally free society, morals actually *have no place!*

Gauthier draws his conclusion from the neoclassical theory of the market. This theory makes several important, idealizing assumptions: that agents in an economy act exclusively as rational, individual utility maximizers, without concern for the utilities of others; that agents have perfect, costless information concerning the availability of goods and services, and concerning the characteristics of those goods and services, and concerning the outcomes of their choices; and that all goods and factors of production are privately owned, with perfect and costless protection of these rights. These assumptions obviously are idealizations, but as Milton Friedman argued in “The Methodology of Positive Economics” (1953), idealizations, like the physicists’ concept of a frictionless plane, can be useful. The gold standard test of a scientific concept, Friedman argued, is the predictive success or failure of the models that employ it. And as Douglas North (1990, 17) observes, although few economists believe that the neoclassical assumptions accurately reflect human behavior, most do believe that they are useful in building economic models.

In any event, it can be shown that under the neoclassical assumptions of perfect competition, “the market equilibrium must also be optimal – no one could be made better off unless someone else were to become worse off” (Gauthier 1986, 89). So, wherever perfect free market conditions may be thought to obtain and every agent has freely adjusted his own actions to those of others, the utilities of each agent are as high as they can be without introducing coercion; i.e., unless some agent is forced to give up some utility for the sake of another agent. In other words, in conditions of perfect competition, people can only interact to mutual benefit, never to one’s or another’s detriment. And more, to each other’s *optimal* benefit – to the point where everyone has the most utility he can possibly have without forcibly depriving someone else.

This sounds pretty good, and Gauthier indicates that it “may seem to require” us to say that where pure *laissez-faire* can be implemented, it is morally right (1986, 92–93). Read closely, he does not explicitly endorse this argument – though it is not clear why he wouldn’t – but he does explicitly endorse “a more profound interpretation” of it, according to which “morality has no application to market interaction under the conditions for perfect competition.” His defense of this claim rests on two assumptions about morality. First, morality is “a constraint on the individual pursuit of utility” (1986, 93). In other words, morality is conceived to issue directives only against the pursuit of personal gain in one circumstance or another. There is no other sort of moral

rule or guideline. Second, moral constraints must be impartial and not play favorites between individuals (1986, 95). It is this second feature of morality that Gauthier particularly appeals to in defending his claim that morality is inappropriate in a purely free market.

Gauthier begins by observing that a Robinson Crusoe could not complain about the social order, since a solitary, isolated individual has no social order to complain about. He then argues that the free market adds nothing that would differentially worsen the position of a Robinson Crusoe or otherwise give a Robinson Crusoe reasonable grounds for complaint. He notes that the market does not inhibit a person's free activity, since coercion is verboten. Nor does it impose involuntary costs on anyone, since, roughly, such "externalities" always turn out to depend on the existence of shared resources; e.g., a stream, which is no one's private property, the pollution of which by one individual imposes an involuntary cost on another. But under conditions of perfect competition, all goods are privately owned. Finally, the "optimality" of outcomes in a purely free market – the fact that no one can get more unless someone else gets less – means that any alternative to the market distribution entails that someone benefits at another's expense. For, any such alternative (unless of course it makes *everyone* worse off) deprives someone of a benefit and awards someone else an extra benefit relative to what they otherwise would have had in free interaction with each other, and it's hard to see how to interpret this other than as robbing Peter to pay Paul – a situation of which Peter may reasonably complain as prejudicial.

Therefore, the free market itself is not prejudicial, since it allows every agent to act freely, imposes no involuntary costs on any agent, and produces an optimal distribution of benefits to everyone. By the same token, any alternative, unless it makes *everyone* worse off, must be prejudicial, since it must benefit some at the expense of others. Such a prejudicial situation would be the "accomplishment" of any moral directive that people cease to act as economic agents by foregoing their own utilities in certain situations. So, since that is what all moral directives do, on Gauthier's conception of morality, moral directives can never be appropriate in the context of the free market. Therefore, there is simply no space in a free market for morality to exist. The free market and morality are incompatible structures of human behavior.

Gauthier qualifies this claim in certain ways that I am passing over – in regard to the economic concept of "rent" and also to an agent's initial allotment of material goods – but I set them aside because they do not affect the points I wish to make about his overall claim. The spirit of the overall claim is akin to Milton Friedman's claim in *Capitalism and Freedom* (1962; cf. 1970) that the doctrine of "social responsibility" is "fundamentally subversive" to a free society, sloganized in the famous line, "the social

responsibility of business is to increase its profits.” Indeed, Gauthier can be read as providing a serious philosophical argument in support of Friedman’s claims.

Rather than present the free society as open to alternative lifestyles, therefore, Gauthier and Friedman can frankly admit that the free society encourages the bourgeois virtues and discourages their opposites. Certainly Friedman was aware of this link (Burgin 2012, ch. 6). For example, in a private letter to a businessman Friedman wrote, “I would say that a free enterprise system tends to promote a higher standard of morality and a greater relation between values and actions than almost any other. The reason is because it emphasizes individual responsibility. It therefore tends to promote values of self-reliance, of commitment” (Burgin 2012, 189). Despite Friedman’s use of the term “morality” in this statement, however, it seems clear that Friedman conceives the values encouraged by free enterprise as a matter of enlightened self-interest (Burgin 2012, ch. 6). And this, it might be thought, is a minimal sort of morality, if it is morality at all. We have seen that Gauthier thinks it is not.

However, as noted, Gauthier is working with a particular conception of morality, which requires all moral constraints by definition to be constraints on the individual pursuit of utility. This is not the conception of morality I employ here, which I said at the outset can be practically any set of fundamental principles for the conduct of life. Moreover, Gauthier’s argument – to show that the free market is not prejudicial and that moral constraints would only introduce partiality where none had existed before – is not morally neutral. He thinks the situation of a Robinson Crusoe is the appropriate baseline against which to compare free market outcomes. He regards people as free to act whenever coercion is not present. He thinks the institution of property rights is noncoercive and the violation of property rights is coercive. He thinks exchanges that respect property rights constitute “free interaction” and that outcomes that deviate from the outcomes produced by such free interaction are therefore prejudicial. These are all *premises* of his argument. The point, of course, is not that Gauthier is necessarily wrong about any of these claims. The point is that they represent a certain moral perspective, one which is largely individualistic.

Suppose that – rejecting Gauthier’s claim that morality necessarily constrains the pursuit of individual utility – we insist that virtues such as prudence, industry, initiative, and perseverance are quite as deserving of the name *moral* virtues as any others. It still has to be acknowledged that the morality they represent, insofar as it is what the free market requires or encourages, is purely one of rational hedonistic self-interest. For, that is the *theory* of the market. I think that Gauthier was right about this and that he made a significant contribution to moral philosophy by seeing it clearly and reinforcing it with a rigorous argument.

At the heart of the neoclassical theoretical justification for the free market is a moral vision of pure *egoistic utility maximization* as an ideal. Egoistic utility maximization is presented as a good thing. And to the extent that we can bring about a purely free market, within that context egoistic utility maximization is all the morality we need. Any further requirements or constraints of “morality” would be counterproductive and therefore inappropriate.

Morals That Create the Free Market

Of course, this moral vision of pure egoistic utility maximization applies only within a perfectly free market. This means the free society’s members must abide by the rules whose observance brings the free market into being in the first place. The free market depends on the observance of clearly defined property rights, for example, as well as on the observance of rules against direct coercion. But observing these rules is not always utility maximizing. Notwithstanding the many cogent reasons that have been advanced to show why coercive and rights-violating behavior is often *not* in the agent’s utility-maximizing self-interest, it seems clear that there are still many situations in which such behavior is utility maximizing. Thus, if the free market is to exist, agents must abide by its rules at the expense of their own utility maximization. And these rules – against fraud, theft, and murder, for example – are clearly moral rules. So the free market requires obedience to a certain set of moral rules – namely, the moral rules that establish the free market – that are distinct and apparently not derivable from the morality of egoistic utility maximization.

That’s not all. Recall that the neoclassical conditions for perfect competition included such items as that all agents in the market have perfect, costless information concerning the availability of goods, services, factors of production, and exchange opportunities, as well as the pertinent characteristics of these, that agents are capable of calculating with certainty the outcomes of their decisions, and that rights and contracts are perfectly and costlessly adjudicated and enforced. This is a tall order, and to fill it even approximately requires more limits on egoistic utility maximization than merely observing others’ rights. Consider honesty, for example. The seller of a used car who fails to reveal to the buyer a persistent series of engine problems does not lie, if the buyer hasn’t asked about such problems and the engine is working normally at the time of sale. But the seller’s reticence means the buyer has inadequate (not to mention imperfect) information about the car. So the conditions for perfect competition are not satisfied. And the inefficiency this introduces is clear: used car buyers bear costs of seeking information about potential purchases, and used car sellers bear costs in the form of lower sale prices that result from buyers’ justified wariness. These are costs that would not exist in conditions of more perfect competition where sellers were completely forthcoming about the cars they are selling. Unfortunately, in the sale just

described, if the seller and buyer are strangers to one another and the sale is a one-time transaction (for example, the seller may be selling his own car), the seller can maximize his own utility by keeping quiet about the engine's history. Therefore, to be transparent in accordance with the conditions for perfect competition would impose on the seller a limit on his utility maximization. Notice that keeping quiet does not violate the buyer's rights, but it still violates the conditions of a perfectly free market. (Akerlof 1970 explores the deleterious effects on the market of this sort of example.)

There are many such examples. Thus, even better for market efficiency would be to reveal not only shortcomings of products without being asked, but alternative products offered by rival sellers that might better suit the buyer's needs. Again, litigiousness raises the costs of contracts (in the form legal fees, highly detailed contracts, defensive provisions, insurance, and so forth), which could be avoided by forbearance and accommodation of perceived injuries, which of course means agents limiting their own utility maximization. And again, the phenomenon of bad debt imposes costs (credit checks, credit ratings, loan insurance, lengthy approval process, etc.) which would be greatly reduced if borrowers could be counted on as a matter of honor to always repay their debts.

In all these examples, the efficiency of the market (or in other words, the degree to which the conditions for perfect competition in neoclassical theory are realized) is harmed by people's utility maximizing behavior, even though no one's rights are necessarily violated. Therefore, the free market ideal requires that agents limit their pursuit of utility in ways that seem recognizably moral but that go beyond merely observing the rights of others.

In general, costs of exchange that result from difficulty (or absence) of enforcement of property rights or other rights, or from poor information, about goods or opportunities or about the qualities and intentions of other agents – in short enforcement and information costs – are dubbed by Douglas North (1990) *transactions costs*. Transactions costs tend to be neglected by economists because they represent violations of the assumptions of neoclassical theory. They stand outside that theory and can only be brought into it by kludgy devices. But North argues that they are important. Even in the advanced, relatively free capitalist economy of modern America, transactions costs (associated with banking, insurance, finance, lawyers, accountants, and so forth) amount to 45 percent of national income (North 1990, 28). In general, less free economies will be associated with higher transactions costs. In many cases – in all economies – transactions costs will be high enough that certain transactions are not worth pursuing. High transactions costs choke off economic activity and stifle an economy. North argues that what he calls *institutions*, both *formal* legal codes and political constitutions and *informal* customs, mores, traditions, and habits, have a major

impact on the performance of an economy, for good or ill depending on whether they tend to enhance or destroy economic efficiency by lowering or raising transactions costs. Indeed, he argues that their influence is so important that the difference in performance between the advanced economies and the developing economies of the third world is due largely to differences in their institutions, especially their informal institutions.

I regard North's "new institutionalism" in economics as an extremely important recent development. There is a great deal more to be said about it, but that is a topic for another occasion. For now, the point is that "the free society" is not an all-or-nothing affair, nor does the degree to which it exists depend only on the degree to which individual rights are respected. Rather, it exists to the degree to which the conditions for perfect competition obtain, and this is a matter not only of respect for individual rights but of low transactions costs of all kinds. And this depends in turn on established mores that require agents to forego the pursuit of individual utility for the sake of values such as honesty, candor, forbearance, and fidelity, in addition to respect for private property and the principle of noncoercion.

Gauthier is very alive to the discrepancy between the egoism of the theory of the free market and the moral constraints that are needed to create the free market. The central ambition of *Morals by Agreement* is to show that it is rational for agents to constrain their pursuit of utility in order to observe individual rights. Since he wishes to show this even for purely self-interested economic agents, this means he has set himself the task of showing why agents who are concerned only with their own utility maximization, without regard for the utilities of others, nevertheless have reason to restrain themselves to maintain the conditions of a free market. The problem is that although it is clearly rational for such agents to want to live in a free market society – that is, in a society where *other* agents obey the rules of the free market – it is not so clear why it would be rational to obey those rules oneself on occasions when one can break them with impunity and thereby gain an advantage. As noted previously, such occasions may be fewer than is sometimes supposed (especially in contexts of repeat interactions among the same agents), but it is unrealistic to think they never arise or even that they are not commonplace. Indeed, ironically, the more perfect the market becomes, the greater the opportunities for violating its rules. For, as the free market becomes more perfect, transactions costs decrease – meaning less is spent, because less is needed, on lawyers, police, written contracts, insurance, security, credentials, audits, warranties, certifications, background checks, and so on – making agents in general more vulnerable.

Thus, it is a serious question why agents in a free society will behave in accordance with mores that sustain and perfect it. Gauthier attempts to show that such

behavior is rational even for purely self-interested utility maximizers. Compressed to two sentences, his argument ultimately boils down to the claim that what it is rational to intend in advance to do, it must be rational to follow through on at the moment of action (Gauthier 1986, 182–187). Therefore, since it is rational, when making the social contract, to intend to join a free society and follow its rules—because the alternative of living in an unfree society entails far lower personal utility (and one is not offered the choice of joining with others and then ripping them off, since others will not agree to this)—it must be rational to obey the rules at the moment of action that one intended to when forming the social contract.

Without denying the philosophical difficulties here or the argumentative resources on Gauthier's side, I will just assert that, in my view, Gauthier commits a fallacy by attempting on the one hand to restrict the utility-maximizing choice to the level of the *intention* (for the record, he actually says "disposition") to pursue a certain course of action going forward, and then insisting on the other hand that the future *actions* entailed by that intention so to speak inherit ("carry through," 1986, 187) rationality from the rationality of the intention. According to the argument, it is rational to form the intention to pursue a certain future course of action—say, respecting the rights of others—if genuinely having this intention is necessary to gain admittance to a free society. This is a reason that appeals to the expected value of the *intention itself*, not to the expected value of the future course of action. Therefore, since the argument in favor of forming the intention does not appeal to the expected value of the intended actions, it simply does not follow that the rationality of forming the intention implies the rationality of performing the intended actions. In general, the notion that actions inherit their rationality from the rationality of the intention to perform them is just a mistake. What actions inherit from the intention to perform them is their causation, not their rationality. The true direction of rationality inheritance runs the other way: it is rational to intend to do what it is rational to *do*. The paradox of the present situation—intending to respect others' rights in order to join a society it would be advantageous to be a member of, even though, once a member, it may often be advantageous to *violate* others' rights—it that it presents a case in which one has reason to form an intention for future action that does *not* derive from the rationality of that future action; indeed, a case where the intention is rational despite the *irrationality* of the action intended. It may be questioned whether it is possible to form such a paradoxical intention: a genuine intention to perform an action that one knows will be irrational when it comes time to perform it. (This sort of question is explored by problems such as Kavka's toxin puzzle and Newcomb's two box problem.) However, the very paradoxical nature of such an intention implies that, if it *is* possible to form it, that does not cause the irrational action to be rational after all. Rather, it only means we have the power to genuinely intend to do something irrational.

In any event, my own view is that Gauthier is wrong to suppose that selfish, utility-maximizing agents are rational to obey the rules of a free society on all occasions, even if they genuinely intended to at the time when they opted into the society. (For a similar analysis of Gauthier's stand on a closely related problem, see David Lewis 1984. See also Frank's 1988, 243n. comment on Gauthier.) So, whatever such agents originally intended, when obeying the rules is irrational they ought not to obey them. And if agents *are* rational, they *will* not.

It therefore seems that the economic agent presupposed by neoclassical economic theory – an egoistic utility maximizer – has reason on many occasions to violate the behavioral rules that are necessary for an even approximately free market to exist. If there is no solution to this problem – and it appears that there isn't – then neoclassical economic theory cannot explain how the free market can exist. The free market must be created and maintained by action on the part of the agents who compose the economy that is *irrational* from the egoistic, utility-maximizing point of view. As Chicago economist Frank Knight put it, writing in 1935 (“Intellectual Confusion in Morals and Economics,” quoted as the epigraph to Buchanan's 1975):

And the main, most serious problem of social order and progress is... the problem of having the rules obeyed, or preventing cheating. As far as I can see there is no intellectual solution of that problem. No social machinery of “sanctions” will keep the game from breaking up in a quarrel, or a fight... unless the participants have an irrational preference to having it go on even when they seem individually to get the worst of it.

The Moral Contradiction of the Free Society

We have arrived at a peculiar situation. For the free market to exist at all requires that people adhere to certain moral principles that constrain their pursuit of their own utility, such as respect for property rights and the principle of noncoercion. And these minimal principles aren't sufficient for a perfectly efficient free market (one that satisfies the conditions for perfect competition), only for a modestly efficient free market. Of course, no market will exhibit perfect efficiency, but efficiency will improve the more open, honest, probative, loyal, forthcoming, fair-minded, and so forth that people are, again at the expense of their pursuit of their own utility. And this generates the apparent paradox that people must be community-spirited in order to set the stage for them to be selfish!

So, what is the message here? Are people supposed to be egoists or not? In the purely competitive market, people are supposed to follow only one principle: egoistic

utility maximization. But for such a market to exist, even approximately, people have to follow certain “moral” principles – principles of good behavior distinct from egoistic utility maximization and that often conflicts with egoistic utility maximization.

To be clear: The problem is not that the free society seems to require two different sorts of moral principles. It’s that the different sorts of moral principles *conflict*, and no rationale is provided for resolving the conflict. We have seen that the egoistic utility maximizer has no reason to forego his own utility to promote an efficient free market (or any free market) where this can be avoided. On the flip side, it’s at least ironic to insist on “moral” rules to create an egoistic free-for-all. *Why* should people care about nonegoistic constraints on the pursuit of their own utility if their observance is only in the service of egoism?

That a social order should require devotion to principles that sometimes require individuals to restrain their pursuit of their own utility is hardly very surprising or problematic. It’s the mixed message that is the problem. It’s that we demand that people care about the rights of others and simultaneously embrace *as their moral vision* egoistic utility maximization. On the one hand, we’re supposed to care about community-spirited values; on the other hand, we’re supposed to care only about our own benefit. The problem is to reconcile these two directives.

Resolving the Contradiction

A satisfactory moral vision for a free society cannot be a schizophrenic opposition of moral directives. Yet that’s where we’ve been led by our investigation of the moral implications of the economic theory of the free market. How can these conflicting directives – to constrain our pursuit of our own utility for the sake of the free market as a whole, but also to pursue our own utility egoistically – be reconciled into a consistent moral picture?

To investigate this problem, it will be useful to survey some attempts to provide some sort of morals for the free society.

Nozick

Nozick (1974) speaks of the moral rules that bring the free market into existence as “side constraints.” The idea is that one maximally pursues one’s own goals in a state of unconcern for the goals others, while at the same time observing a set of extraneous, more or less absolute restrictions on one’s range of action. You pursue your own goals however possible, except that you aren’t allowed to kill or maim anyone, rob people, defraud them, etc. The constraints are called “rights,” and they are conceived as prohibitions on allowed action that stand completely outside the order of ends or utilities. According to Nozick, the source of rights is that “individuals are inviolable”

(1974, 31). "Why?" asks the market egoist. "Why should I care about *other* individuals?" Nozick: "Because Kant."

So there are rights, which appear as a set of rules separate from the rest of life, and there's the rest of life, which can supply no intrinsic motivation to respect rights.

This is obviously no solution. It is just a reaffirmation of the very schizophrenia we want to escape. It sets rights and market behavior in opposition, the selfless versus the selfish, with the irony that the selfless observance of rights exists to create the selfish market. It invites people to think of the market as something that does not reward and even punishes rights-respecting behavior, and to think of rights-respecting behavior as something it's better to get others to do while avoiding for themselves. In addition, it treats *rights* as the only source of moral constraint on the pursuit of one's own goals. Now, perhaps the bare observance of rights is enough to secure "liberty." But we have seen that a perfectly efficient market, which optimizes the outcomes of all, requires the elimination of *all* transactions costs and therefore requires adherence to mores of behavior, such as candor and fair-mindedness and forgivingness, that go well beyond the bare observance of rights.

Hayek

Nozick's is a *split* view. There is the morality of the side constraints, and there is the egoistic morality of the market, and they have essentially nothing to do with each other. From the perspective of either, there is no intrinsic reason to care about the other. A similar critique ultimately applies to Hayek's otherwise very interesting take on a moral vision for a free society in *The Fatal Conceit* (1988).

Hayek believes human behavior is structured in three tiers. The lowest tier is instinctual and includes genetically supported behavioral patterns and impulses that evolved over the thousands of years of our hunter-gatherer prehistory. The second tier is that of culture. Cultural customs, traditions, mores, and practices are transmitted through social learning. They evolved through a blind, quasi-Darwinian process of relatively random variation and selection through the success or failure of those who adopt them. They are *not* the product of reason. Reason itself, which is the third tier, is a late product of this process of cultural evolution. It enables us to consciously and critically evaluate evidence, hypotheses, and proposals. It is the only self-aware capacity of the three, but it is a very weak instrument. It is almost entirely incapable of grasping the reasons or justification or purposes of our actions or of predicting their effects. Hayek believes reason across the board is highly overrated. It serves mostly as a source of post hoc rationalizations of our behavior. One should not trust reason, whether theoretical or practical, very far at all. (The hostility to reason betrayed in this book is stunning. But further discussion of this point is a topic for another time.)

The different tiers are the source of different and sometimes conflicting behavioral imperatives, particularly “moral” imperatives. Our more primitive instinctual impulses evolved to promote the success of people living in small bands of 25 or so, whose members not only know each other but usually have familial relations and can easily meet face to face and make decisions by consensus or under the influence of a leader. Our instinctual impulses are therefore appropriate to small groups whose members have common interests and a shared context of knowledge. These impulses accordingly promote collective values of social cohesion (obedience to rules and authority, loyalty to group members and goals) and sympathetic regard for others (willingness to share one’s own rewards with others). Hayek summarizes these principles as “solidarity and altruism.”

Being genetically evolved over millennia, solidarity and altruism are deeply ingrained impulses. So it is unfortunate that they are ill-suited to the successful functioning of large-scale societies – what Hayek calls the *extended order*. In the extended order, most people do not even know each other, much less are they kin. They do not have particularly common interests or agreed-upon shared goals or a shared context of knowledge. In the absence of some widely shared, unifying goal, obedience to collective decisions or directives issued by a central authority is unlikely to serve the interests of most agents very well. Similarly, strong feelings of loyalty to members of one’s “group,” when that group extends to thousands (not to talk about millions) of people, is misplaced, inasmuch as one probably has little more in common with the typical member of one’s own group than one has with the typical member of the rival group. Again, altruism – sympathetic giving – will often be misplaced when people have no real knowledge of others’ contexts and actual needs. In short, an extended order is not a family unit, and it is a mistake to behave as if it were.

Instead, the extended order requires an entirely different, *culturally* evolved set of traditions. Indeed, Hayek thinks, it is only such culturally evolved traditions that allowed extended orders to emerge from small bands in the first place. These are traditions that present themselves as abstract rules – as *principles* – rather than as shared goals. The rules of an extended order may vary widely, but to the extent that they enable the extended order to be vigorous and prosperous, they will be rules that promote free market activity. These are rules that impose private property (which he calls “several property”), honesty, contract, exchange, trade, competition, gain, and privacy. He summarizes these principles as “several property and personal responsibility.” Clearly these are more individualistic values than those that stem from the instincts.

As I noted previously, he thinks the cultural principles of several property and personal responsibility have evolved through cultural evolution, not design. The

process, interestingly, is one of *group* selection. That is, the cultural principles that promote the free market have evolved by promoting the greater strength and prosperity of some groups relative to others. These principles spread because the groups that adopt them displace other groups (or inspire other groups to emulate them). Significantly, this process does not require the principles in question to be optimally beneficial to individuals. This is important, because we have seen economic reasons to believe that they are *not* optimally beneficial to individuals.

Hayek thinks he can explain a lot of bad social theory and policy in terms of the conflict between the earlier, genetic instincts and the later, culturally evolved social rules. Both are deeply embedded in our psyches, and they can pull us in opposite directions in certain situations. For example, altruistic impulses make us want to help strangers halfway around the world, although truthfully we don't know the strangers' situation very well and are usually poorly qualified to help them, whereas the market, if allowed to operate, would automatically find the most efficient ways to satisfy people's wants. Again, impulses of solidarity push us to favor our friends, family, ethnic, or other group members despite what the abstract, impersonal rules dictate, generally to the detriment of the economy as a whole. Thus, our instincts, which did not evolve by promoting the success of large groups, typically disrupt the successful functioning of such groups. But, being instinctual, it is emotionally satisfying to follow them and emotionally painful to neglect them, whereas abstract cultural dictates carry less emotional weight. Since we now live in large groups whose successful functioning depends on abstract rules of several property and personal responsibility, we do best to follow those rules and suppress our instinctual impulses. But of course, for reasons just explained, this is easier said than done. Hayek thinks a large part of the problem we have making modern society work, and a large part of the appeal of socialism, is due to the strong emotional pull of our "atavistic" instinctual impulses.

From the point of view of my project in this essay, Hayek's approach is interesting because, like me, he proceeds by asking which moral principles are required by the thriving social order, not which principles of social order are required by thriving individuals. Our approaches also agree in taking the view that only a free society is capable of thriving. We differ, however, in that I also take seriously the question of what principles will produce thriving individuals and the problem of integrating the two sets of principles, whereas Hayek seems remarkably uninterested in individuals as such. It is noteworthy, for example, that he denigrates happiness as a goal and denies that the moral principles that make for a thriving social order should be expected to produce happiness (1988, 64, 69). It also seems clear that he regards the whole enterprise of moral philosophy – except where moral principles are the culturally evolved principles of the extended order – as a hopeless muddle and a waste of time (1988, especially ch. 5).

The distinction between genetically driven principles and culturally evolved principles has a certain plausibility, as does the particular assignment of altruism and solidarity to the first and several property and personal responsibility to the second, and it is amusing to read the erudite Hayek accuse his socialist adversaries of being in the grip of primitive and superannuated impulses and of being unable to come to terms with the more advanced cultural principles necessary to support large-scale societies. We should not accept these claims uncritically, however. For one thing, genetic and cultural evolution do not appear to be as distinct and hierarchically related as this model assumes (Richerson and Boyd 2005). For another, our genetically determined emotions (along with other genetically determined elements of our psychology) are not all bad from the point of view of an extended social order (Wilson 2002). If they were, the extended social order would hardly be possible. For example, as we shall see shortly, Robert Frank (1988) argues that certain genetically inherited emotional dispositions benefit the operation of a free market economy and may have evolved in part for that reason. Thus, *both* our genetic emotional dispositions and our culturally evolved practices should be scrutinized for appropriateness. And the standard by which they should be evaluated is – Hayek says – roughly the efficient functioning of the free market.

Hayek's ideas about cultural evolution also seem questionable. Although some social orders have been observed to implode under the weight of their own economic and political incompetence – the Soviet Union and the imperial Spain of the 16th and 17th centuries come to mind – this does not seem to be usual. Most of the economies of Latin America and Africa, for example, have suffered from massive inefficiency from the time they gained independence from their colonial overlords to the present. But few of these economies have either disappeared or become imitators of the practices of developed economies. For that matter, Russia and Spain did not disappear or have their social orders replaced with more efficient ones. They're still here and still largely incompetent. This raises a second point, which is that the dominant informal mores and practices of a society do not as a rule seem to change very quickly or easily. I do not mean the laws of the land or other formal institutions, but the informal customs and mores. For instance, property rights apparently have been reasonably well respected in England since the 13th century, despite the many vicissitudes that country has endured from then till now (Stark 2005, 153; McCloskey 2010, 315, 334–5). Thus, there does not seem to be very great scope for a quasi-Darwinian process of cultural variation and selection by resulting success or failure. Although quasi-Darwinian cultural evolution may well operate to some degree (to *some* degree perhaps it is inevitable), it may be a more fruitful line of inquiry to ask what forces induce and maintain the relevant cultural mores and practices. Another advantage of North's new institutionalism is that

it provides tools for this investigation, which, however, will have to be pursued in another place.

Finally, to repeat what I said at the outset of this excursion into Hayek, rich as his view is in many ways, it does no better than Nozick's at solving the key problem that confronts any attempt to provide a morality for the free society; namely, to integrate the moral principles that are necessary to maintain a free society with the apparently egoistic behavior that is licensed within a free society. For Hayek, the moral principles of several property and individual responsibility that sustain the free society are arbitrary cultural imperatives with nothing to recommend them except their ability to allow the extended order to exist and thrive (cf. 1988, 70). This provides no reason for the members of the extended order to obey these principles if they can successfully evade them to their own advantage. And it sets up the paradox that people should selflessly devote themselves to these community-oriented values to create a space for the selfish behavior of the free market. To solve these problems, we shall have to look elsewhere.

Frank

Frank (1988) could hardly be accused of attempting to provide a moral vision for a free society, but he makes a case for one way of resolving the moral contradiction of the free society. He attempts to show how a seemingly selfless adherence to the moral principles that support the efficient operation of the free market might ultimately be justified in egoistic terms after all. The basic strategy is reap the long term benefits of playing by free market rules by foregoing the short term gains that can be made by breaking them. Of course, this depends on finding other agents who also obey the free market rules – and enabling them to find you. Otherwise, as Frank shows, the strategy will be undercut and ultimately defeated by rule breakers.

How this strategy works can be illustrated by the case of honesty. Honest behavior is economically selfless on those occasions when one could gain by dishonesty (for example, perhaps by not paying the bill of a supplier who is about to go bankrupt or the bill of a small contractor who can't afford to sue). Now, suppose you committed yourself to a policy of strict honesty. If others knew this, they would have reason to prefer doing business with you over others, to give you easier credit, etc. For, they could be confident that you would not rip them off; i.e., impose costs on them through dishonesty. In North's terms, doing business with you would lower their transactions costs. Thus, by foregoing the occasional rip off, you reap the rewards of doing more business on better terms. And notice, by the way, that even if other people adopt the same honesty strategy, thereby undercutting your "market edge," your terms of doing business will still be better. Transactions costs are still lowered, even if *everybody* becomes completely honest (indeed, they are lowered even more).

Of course, this works only if people *know* you are completely honest. And how are people to know this? Frank suggests two mechanisms, reputation and emotional signaling. Reputation is basically the record of your past behavior. Learning this entails a transactions cost, but not necessarily a particularly high one. A potential problem with reputation as a sign of honesty is that if a dishonest person is sufficiently clever, he will only exploit only “golden opportunities” – situations where the chances of one’s dishonesty being detected are very low – and remain honest in all other situations. If dishonest people could maintain this strategy, reputation would have little value. However, Frank argues that people typically do not have the discipline to restrict their dishonesty to golden opportunities. Therefore, people who are dishonest will usually in fact have bad reputations. By the same token, people with good reputations will usually have a strong general disposition to honesty, one that leads them to be honest not only when the chances are good that dishonesty would be detected, but in golden opportunities as well.

Frank thinks a general disposition to honesty is mainly a matter of one’s emotional constitution. One is prone, for whatever reason, perhaps somewhat by nature but especially by socialization, to feel bad about dishonesty. One maintains honesty, then, because the material incentive to dishonesty is counterbalanced by the emotional painfulness of dishonesty. The fact that honesty is maintained by emotional incentives lies at the heart of the second process whereby one’s commitment to honesty can be made known to others, emotional signaling. The idea is that emotions are hard to mimic. Actors and others can learn to do a fair job of imitating various emotional expressions reasonably well with talent and lots of practice. But this takes deliberate effort. For most people, emotional states are not that easy to fake. If this is so, then the emotions associated with lying might be difficult to mask, those associated with sincerity difficult to simulate. And in that case, people might know of one’s commitment to honesty by being able to “judge character.”

To support this theory, Frank presents the results of an experiment he performed in which participants met and chatted with one another in groups of three for half an hour before playing, for real money, a simple prisoner’s dilemma game. Each participant would play twice, once with each of the other two in his group. The players’ choices, “cooperate” or “defect,” for each game were kept completely private and anonymous. Even the payouts were partially randomized so that no participant could infer later what choices his fellow players had made. The participants were told at the start that they would finish by playing the prisoner’s dilemma game. The half hour of chat before playing enabled the players to get to know each other, size each other up, even talk about their feelings and ideas about prisoner’s dilemma games. Then, before playing, each participant made predictions about the other two participants’ choices. The results showed reasonably good accuracy. Even after only a half hour with

completely anonymous strangers, participants predicted cooperation with 75% accuracy (base rate: 68%) and defection with 60% accuracy (base rate: 32%). The accuracy of defection predictions is particularly impressive: Since only 32% of players defected, 60% accurate predictions is nearly twice the rate that would be expected due to chance.

It isn't just honesty. Frank analyzes certain other moral impulses similarly. For instance, the desire for retribution. As with honesty, there are occasions when it does not pay to exact retribution. For example, suppose I have a \$200 leather briefcase. If you were to steal it, I could press charges, but the hassle of doing so and going to court would cost me \$300. You are about to leave town, and I will never see you again or have any future dealings with you anyway. In this situation it is economically irrational (it is the sunk cost fallacy) to pursue punishing you if you should steal my briefcase. But there is a particularly obvious downside to economic rationality in this case, which is that, if you know that I am an economically rational person (and know the pertinent facts in this case), and if *you* are an economically rational person (meaning, in this situation, *unscrupulous* – see preceding remarks re honesty) then you would get a free briefcase and I would be your patsy. You would be deterred only if you had reason to think I would commit the sunk cost fallacy and pursue you for retribution instead of just buying a new briefcase and getting on with my life. Since pursuing punishment in this case cannot be justified economically, my doing it would have to be motivated by lust for revenge or for righteous punishment. If I were prone to this lust and you could sense it, you would be deterred from stealing from me. The ironic benefit, of course, is that the deterrent effect of my penchant for revenge would mean I would rarely need to act on it. And this is an *economic* benefit of my uneconomic behavior. By deterring violations of my property rights, I spare myself the need *either* to punish a thief *or* buy a new briefcase. Again, to put this in North's terms of transactions costs, a society with less stealing is a society of reduced transactions costs and correspondingly greater market efficiency. Of course, this economic benefit accrues only because of my (and others') penchant for a certain form of economically irrational behavior.

Frank emphasizes the economically irrational element in always pursuing honesty and punishment (and certain other moral principles). In certain situations, being honest and exacting punishment require sacrificing material gains. It may be that these sacrifices are made up for in the long run – Frank argues that this might generally be the case and that its being the case has led to the genetic evolution of certain moral emotions – but there is no guarantee of this, and it will almost certainly not hold true for all agents.

More importantly, if long-term material rewards are to accrue, the commitment to foregoing material rewards in certain short-term situations must be genuine. There can be no second guessing, when these situations arise, whether to follow through on

one's commitment to being honest or pursuing punishment. For, if one considers the material rewards in these situations, they will impel one to be dishonest or forego punishment. And this will mean that one's commitment is fake. But fake commitments will not produce the looked-for long term benefits. People will not trust you if they think you are only honest as long as you can't benefit from dishonesty or fear you if they think you only seek revenge when it is not economically costly. The strategy requires that people believe that your commitment to honesty and punishment is genuine. The only way they are likely to believe that is if your commitment to honesty and punishment *is* genuine, as evidenced by emotional and behavioral signals that are very hard to mimic.

Thus, ironically, the strategy for securing long term material benefits requires that you genuinely *not care* about those benefits as opposed to certain moral values. So, certain genuine moral commitments, distinct from the egoistic material reward seeking of the free market, can be justified ultimately in terms of egoistic material rewards. Frank seems to have shown that the free market itself rewards and thus justifies certain nonegoistic moral commitments.

Frank's derivation of moral commitments from the egoistic values of the free market is ingenious. He succeeds in providing a reason why an egoistic utility maximizer should want to make nonegoistic moral commitments and an explanation of the role of these commitments in the operation of the free market. And this is what we asked for. Furthermore, his solution seems potentially comprehensive in that *every* way in which transactions costs can be reduced through moral commitments might be covered by his strategy – though this has not been shown.

If there is any reason to be unhappy with Frank's approach, it is that it is reductive in what seems to be the wrong direction: moral values of honesty, respect for property, and so forth, are reduced to material values of health and wealth, not vice versa. This comes out in several ways. For instance, as Frank acknowledges, an alternative to the moral commitment strategy is to become good at *mimicking* moral commitment and exploiting the opportunities for safe and profitable wrongdoing that one thereby encounters. Certain aspects of human psychology might make the mimicking strategy difficult for most people to pull off, as Frank argues (1988, ch. 8), but probably there will be people with the needed talents, and in any event it is from the view of Frank's theory a merely technical question. From this view, to be a good mimic able to rip people off effectively would be a *good* thing for the mimic. Moreover, as we have noted before, the mimicking strategy gets easier as the free market becomes more efficient. The more trustworthy, law-abiding, forthcoming, and amiable are the agents in the free market, the less point there is in going to the expense of background checks, credit checks, security guards, vaults, and so on. In the limit of perfect market

efficiency, these disappear altogether. And as such safeguards decline, so does the cost of mimicry, to the point where agents practically invite rule violations. And on the view of Frank's theory, rule violations in such a situation are the *appropriate* response for many agents. Inevitably such agents will emerge as the free market becomes more efficient, forcing people to be more guarded and market efficiency to correspondingly decline. This process fluctuates until an equilibrium position is reached in which none of the morally committed agents can do better by switching to the mimicry strategy and none of the mimicking agents can do better by switching to the moral commitment strategy. And in this equilibrium, none of the mimickers has any reason, on Frank's premises, to change.

The problem is that although the moral commitment embraced by those who pursue the moral commitment strategy must be genuine, nevertheless ultimately the only values recognized on this view are those of material reward. The moral commitment strategy remains ultimately a sneaky way of maximizing material rewards in the long term. Therefore its normative force is contingent on its ability to actually do this. By the same token, this view finds no place for intrinsic, nonmaterial rewards. As McCloskey asks in her brief discussion of Frank, "What about human flourishing, beyond bread alone?" (2006, 414). A moral vision for a free society should explain the place of this as well.

Rand

Ayn Rand claimed that her system of ethics "is the moral base needed by...*Capitalism*" (1961, 33, all citation emphases original). Her moral defense of a free society can be stated very briefly as follows. Human beings must live by reason. Other animals may be able to get by on instinct, but the human animal cannot. This point is made particularly clear by considering economic activity since the industrial revolution. The exponential growth in quality of life by essentially every indicator – from life expectancy to population to nutrition to health to education to comfort and leisure opportunities to you-name-it – since the industrial revolution has been made possible not only by the application of scientific and technological knowledge but by innovation and entrepreneurship. These are the achievements of a rational animal and only a rational animal. But the achievements of advanced economies are only the most dramatic demonstration. In every aspect of life, at any level of civilization, we can and must employ reason to determine our interests, goals, and actions, if we want to be successful in the game of life.

Now, reason is a faculty of individuals. There is no group consciousness. The exercise of reason must always come down to the judgment of the individual reasoner. Moreover, action performed under the judgment of reason cannot coexist with coercion. When a person is coerced, he acts regardless of his own rational judgment – and

presumably *despite* it, or why would coercion be necessary? Thus coercion is antithetical to living in accordance with reason, which is the only way human beings can live successfully.

And there is another point, which stems from the egoism for which Rand is so much vilified. “An organism’s life,” she writes, “is its *standard of value*: that which furthers its life is the *good*, that which threatens it is the *evil*” (1961, 17). This principle has two consequences as applied to human beings. First, human beings are organisms of a certain type, with certain objectively discoverable requirements, functions, resources, and liabilities. These facts about human nature strongly constrain what particular values and actions will further our lives and what will threaten them. Of course, Rand particularly has in mind that human beings must exercise reason to live successfully. She expresses this point by saying that the standard of value in her ethics “is *man’s life*, or: that which is required for man’s survival *qua man*” (1961, 23). Second, each person applies this standard of value to the pursuit of his *own* life. Human life is individual, as is the exercise of reason. One therefore holds “one’s own life as one’s ultimate value, and one’s own happiness as one’s highest purpose” (1961, 29). Therefore, once again coercion, which means that others impose their judgment upon one by force, can never be acceptable. There can never be any reason for others to do this – bypassing persuasive means – except to force one to do what is not in one’s interests as determined by one’s own rational judgment.

The ban on coercion is Rand’s core political principle. It means a ban on the *initiation* of physical force. One may not employ physical force against the person or property of another except in the defense of one’s own person or property. This principle is codified in a system of individual *rights*, including property rights. “*Individual rights are the means of subordinating society to moral law*” (1963, 13). With the observance of individual rights, the free society is created. Life in a free society is one of personal responsibility and interpersonal relations based exclusively on trade.

This is a system of benevolence. When coercion is banned, people must deal with each other by persuasion. People must deal with each other by offering values in exchange for values, not threats, demands, blows, expropriation. If another cannot see the value of what one offers, one may not force it on him. If he is wrong, it’s his loss, and someone else will be bound to see the value; if not, he has not been imposed on. People who use reason more effectively to find better ways of doing things are left free to do so. They may not be forcibly prevented by the stupidity, fear, and superstitions of others – who, be it noted, benefit most from this arrangement. For, the thoughtless will eventually, with the passage of enough time, learn to appreciate and benefit from the innovation which the creator has provided and which would not exist if it were left up to the thoughtless; whereas the creator will be liable to live better in any event.

Here we have a moral vision for the free society derived from claims about human nature and the needs of individuals. Instead of Nozick's unmotivated "individuals are inviolable" and Hayek's requirements of the "extended order," which need not be expected to promote individual human happiness, we have a moral system based squarely on the aim of promoting happiness. We also have a system that makes moral values primary, not a potentially discardable means of achieving other, nonmoral values, as in Frank's approach.

But a glaring problem remains, which is that no reason has so far been given why the egoistic individuals in Rand's free society should observe the rights of others. Unfortunately, she says very little that directly addresses this difficulty. Roderick Long (2000, 46) notices a passage in which Rand says, "men cannot survive by attempting the method of animals, by rejecting reason and counting on productive *men* to serve as their prey. Such looters may achieve their goals for the range of a moment, at the price of destruction: the destruction of their victims and their own" (1961, 24). As Long observes, this amounts to saying that a strategy of parasitism fails because the parasite must eventually run out of victims. This is unpersuasive, for a variety of reasons, the main one being that its premise is false. For instance, we have been "parasites" on cattle for a long time, and we show no sign of running out of cattle.

At the end of his discussion of this issue in his critique of Rand, Nozick (1971, 218) claims that Rand never tries to produce any reason why, if two individuals had conflicting interests, either should refrain from forcibly interfering with the other's pursuit of those interests. Instead, she claims that, "there are no conflicts of interests among rational men" (1962, 31. Von Mises 1922, 360–363 makes an essentially similar argument. It is an intriguing question how far Rand may have been influenced by it. It is well known that Rand was deeply influenced by von Mises. For example, see Burns 2009, 141–143. But I am unaware of any discussion of this specific question.). If her claim is correct, our problem evaporates: the reason why egoistic individuals should observe the rights of others is that it is in their interests to do so – or at least *not* in their interests to violate them. The essay in which she defends this claim makes many important points. She points out that *rational* interests is an objective notion in her (in this respect admirable) view, not just whatever anyone randomly desires. She notes that a free market economy is not a zero-sum game in which no agent can gain except by the loss of another. She observes that no one depends on any one *particular* job, good, or opportunity. She points out that what one person achieves in a free society is not taken from those who did not achieve it. She points out that competition, which entails that there will be winners and losers, is a condition of the *existence* of the market opportunities over which people compete. However, none of this is really very much to the point. Her argument boils down to the observation that the conditions of a free market are in a person's rational self-interest. But this is not disputed (not by anyone

who thinks a free society is desirable, anyway). The question is why a Randian egoist, who holds his *own* life as his ultimate value, should respect the rights of *other* people if he can enhance his own life by violating those rights with impunity. Why would that not be in the interest of a rational man?

The doctrine that there are no conflicts of interest among rational men leads to an important difference between Rand and Nozick in respect of their political philosophies. Rather than insist that the interests of rational individuals never conflict, Nozick admits that they can conflict. That is why it is necessary to impose side constraints on individuals' pursuit of their own interests. It is also why it is necessary to have a *political* agency – one that is not motivated purely by self-interest – to enforce the side constraints. For, a purely self-interested enforcement agency would violate those constraints whenever they conflicted with its pursuit of its self-interest. For Rand, however, there are supposed never to be any such conflicts. Therefore, an enforcement agency, though admittedly necessary to restrain short-sighted and irrational people, should never find it in its interest to coerce or violate the property rights of anyone. Self-interest can be counted on to restrain enforcement agencies, which therefore would be best left to their own devices and even to compete on the open market like any other business. This being so, there really is no need for government – a politically controlled monopoly on enforcement – to exist at all. Rand herself apparently never saw this consequence of her doctrine, but subsequent writers were not slow to point it out (Childs 1969).

Rand herself says nothing serious in answer to the question why a rational egoist should not violate others' rights, if he can thereby enhance his own life, beyond what I have already mentioned. But her ethics may yet have the resources to provide a satisfactory answer. The question turns on what a human being's real interests are. What is in one's real interest depends on what is good for one, so the answer will depend on Rand's conception of the human good. In a general way, we have already seen what this is: "that which is required for man's survival *qua* man." Unfortunately, there are notorious interpretive difficulties concerning just exactly what she means by this. (See for example the discussion in Long 2000 and Badhwar 2001.)

On the one hand, she often talks as though the ultimate value is simply long-term *survival*. On this interpretation, long-term survival is the ultimate value, and all other values are rated by their propensity to promote or threaten long-term survival. On this view, the qualification *qua man* in the phrase, "man's survival *qua* man," serves only to signal that the characteristic features of human nature – the *kind* of being we are – shapes our most effective means of survival. In particular, *reason* is the means human beings must employ to achieve their survival.

This interpretation is the most frequent, and I think it could be called even the standard interpretation. The reason, in my opinion, has less to do with the precise wording of her pronouncements concerning the ultimate value than with the fact that it fits well with the doctrines and arguments she makes on related topics. Thus, she tends to give merely instrumental justifications for moral principles. The argument mentioned above that the life of a looter is futile because one will eventually run out of victims and then be left helpless is an example. Again, she famously claims that there is no conflict between the moral and the practical, and “the practical” in this context tends to be characterized in material terms (“whatever you must practice to exist, whatever works, succeeds, achieves your purpose, whatever brings you food and joy, whatever profits you” [1957, 1053]). Again, she regards the virtues as merely instrumental. (“*Value* is that which one acts to gain and/or keep – *virtue* is the act by which one gains and/or keeps it.” [1961, 25] And: “Virtue is not an end in itself. Virtue is not its own reward... *Life* is the reward of virtue – and happiness is the goal and the reward of life.” [1957, 1021]) It seems unlikely that she would say these things if she regarded virtue as an essential constituent of life. Rather, it sounds like she thinks that no particular way of pursuing life – no virtue – is intrinsically valuable. The only value that ultimately matters is “life,” and virtue is important only as a means to this separate end. This impression is reinforced by her remarks on ethics as a system of hypothetical imperatives in “Causality versus Duty.” These are worth quoting at length (1970, 4):

Life or death is man’s only fundamental alternative. To live is his basic act of choice. If he chooses to live, a rational ethics will tell him what principles of action are required to implement his choice. If he does not choose to live, nature will take its course.

Reality confronts man with a great many “musts,” but all of them are conditional; the formula of realistic necessity is: “You must, if –” and the “if” stands for man’s choice: “ –if you want to achieve a certain goal.” You must eat, if you want to survive. You must work, if you want to eat. You must think, if you want to work. You must look at reality, if you want to think...

In order to make the choices required to achieve his goals, a man needs the constant, automatized awareness of the principle which the anti-concept “duty” has all but obliterated in his mind: the principle of causality – specifically, of Aristotelian *final causation* (which, in fact, applies only to a conscious being), i.e., the process by which

an end determines the means, i.e., the process of choosing a goal and taking the actions necessary to achieve it.

The trouble with the “survivalist” view of the human good, from the perspective of our inquiry, is that it leaves her helpless before the question why a fully rational agent should not violate another’s rights if it would really promote his survival. She is forced to claim that such a situation is impossible. This claim is not credible.

On the other hand, it sometimes seems as if she has a more expansive conception of “man’s life” than mere long-term survival. That is to say, she sometimes writes as if to survive “*qua man*” means to live a certain *kind* of life, namely a *human* life. On this view, the phrase, “that which is required for man’s survival *qua man*,” designates in part features that are intrinsically necessary for a distinctively human existence. Thus, reason for example is important not merely as a means to biological survival – a means which might be dispensed with if one could somehow secure survival some other way – but as an essential component of a distinctively human life. And similarly for the other virtues, such as honesty and integrity. They are not merely useful for survival; they essentially characterize the only *way* of surviving that is human and thus fit for a human being.

As both Long (2000) and Badhwar (2001) point out, this more expansive view of the human good represents an Aristotelian interpretation of her thought (and is in consequence supported by her own claims to be a neo-Aristotelian). They also point out that the strongest evidence for this Aristotelian interpretation comes not from Rand’s philosophical writings but from her fiction, specifically from the noble attitudes and exploits of her heroes. An obvious example is John Galt’s willingness to kill himself to prevent Dagny Taggart from being tortured to make him talk. He states that this would not be an act of self-sacrifice, but if his own biological survival is his ultimate good, it is hard to see how this can be true. His statement makes better sense if his ultimate good is a distinctively human kind of survival, where one does not put oneself at the mercy of torturers and murderers. (See also the discussion of this example in Nozick 1971, 219).

The more expansive view of the human good on this interpretation of Rand enables her to explain why one should respect the rights of others. Namely, because to do so is an essential component of a distinctively human life. The question, of course, is whether this interpretation is very well supported by her writings. On balance, I’m inclined to think it isn’t.

But whether it is or it isn’t, it begins to be a moral vision for a free society that can explain why observance of the rights of others is something one should care about even where this conflicts with one’s material interests. Now, this interpretation, as

noted, is broadly Aristotelian. This suggests that we should consider what a broadly Aristotelian moral vision for a free society might look like.

Aristotelianism

The basic tenets of a broadly Aristotelian approach to ethics are, I think, familiar. Therefore, I shall just provide a basic sketch of the sort of view I have in mind without dwelling overmuch on the details. The aim is to show how an Aristotelian ethics might resolve the difficulties that have been identified for any moral view that hopes to provide a moral vision for a free society. Those difficulties, to repeat, are: first, to provide a reason why agents operating within a free market should care about observing (a) the rules that create the free market (basically, individual rights to one's own person and property) and ideally also (b) additional principles that reduce transactions costs, such as candor, loyalty, reliability, zeal for just punishment, and fair-mindedness; and second, to reconcile this reason to care about maintaining the free market with the sort of motives and behavior that are appropriate *within* the free market.

I take the fundamental claim of an Aristotelian ethics to be that the highest value for any organism is to be a good organism of its kind. All organisms have highly complex structures of interdependent functional components. The components must function both individually and together, and they can do so well or poorly, in varying degrees. The better they function, the better the organism is of its kind. In terms of individual bodily functioning, this notion is familiar under the label *health*. It is significant that the physiological functions that health depends on are reasonably objectively identifiable, so that what constitutes health for a given organism, as well as *which* organisms of a given kind are healthy (or how healthy they are), is itself a reasonably objective, empirical matter. I take Aristotelian ethics to be an attempt to apply this strategy not only to health but to the whole life of the organism, including all its facets. An organism that functions well overall is a good organism. Of course, for organisms other than man, the question of *ethics* does not arise, since they do not explicitly formulate principles for living well. If they *did*, however, their functional structure would provide the basis from which to justify such principles. And in the human case, of course, where we *are* searching for principles for living well, our own functional structure does provide that basis.

Thus, the aim of life is to live well, i.e., to *function* well, which is to be excellent of one's kind. For Aristotle, this is particularly to actively exercise certain excellences, sometimes translated *virtues*. Aristotle's own list of excellences included wisdom, practical wisdom, courage, moderation, liberality, good temper, friendliness, and wit, among other items. These are each looked upon as consisting in the excellent performance of a particular function. But Aristotle also makes clear that living well does

not consist simply in the good execution of particular functions in a vacuum, without regard to the context of one's life overall. Rather, the particular excellences are to be enacted in the pursuit of a whole life structured around long term goals—of career, family, business, honor, knowledge, accomplishment, etc.

There is, of course, nothing sacrosanct about Aristotle's particular list of excellences. Not that I mean to suggest there is anything terribly wrong with it, as far as it goes. However, it has been frequently observed that Aristotle's list exhibits an aristocratic skew. From the present perspective, it is lacking in the "mercantile," or as McCloskey would say, *bourgeois* virtues, such as industry, frugality or thrift, resolution, enterprise, trustworthiness, responsibility, and prudence, that we find in the lists of virtues made by such writers as Hume (*Enquiry*), Benjamin Franklin (*Autobiography*), and McCloskey herself (1994; see also McCloskey 2006, 348). And there are no doubt still other gaps (as McCloskey 2006 argues).

The specifics of the human excellences—their number and names and characteristics—are less important than the standard by which they are to be decided; namely, as stated, the human functions and their interdependent organization. To the degree possible, I envision the investigation of the excellences as an empirical matter capable of being put on a formal, scientific footing, as opposed to being a matter of intuition and armchair theorizing. In my view, it is a serious problem with all tables of excellences, from Aristotle's to the present, that they are derived by the latter method.

I realize that my view in this regard is unorthodox (and, to many, anathema). Much more common is the view, described with evident approval by Irwin (2007, 1–3), that the proper method of ethics (of ethics in general, and of the Aristotelian ethics in particular) is to take the prevailing ethical beliefs as the basis of investigation—as the data—and then seek to systematize and reconcile as many of these as possible. The method is dialectical: by raising puzzles and challenges concerning prevailing beliefs (known in the Aristotelian tradition as *endoxa*), we identify inconsistencies but also underlying uniformities that enable us to preserve the bulk of prevailing beliefs in a relatively well-organized system while discarding as few as possible. Specifics of this method vary from one philosopher to another, of course, but this is the general procedure. What it does not include is any substantial attempt to correct or test prevailing ethical beliefs against objective facts external to those beliefs. And that is the trouble. What is the source of the prevailing ethical beliefs? Accumulated cultural wisdom? Or merely cultural traditions and innate prejudices that bear no systematic positive relation to human life functions? One would very much hope the prevailing ethical beliefs reflect accumulated wisdom. But in that case, their "wisdom" must consist in tapping practical sources of genuine good functioning. That means the prevailing ethical beliefs must relate to facts external to them, facts about what kinds of

behavior tend to produce human good functioning – which ought to be objectively discoverable. But if the prevailing ethical beliefs do *not* tap practical sources of genuine good functioning, they should not be made the basis of ethics. Either way, prevailing ethical beliefs should not be taken as basic.

However, I have no objection to taking prevailing ethical beliefs as a *starting* point. Indeed, I think they can take us a fair distance. That is because the idea that they, or at least some of them, represent accumulated cultural wisdom strikes me as quite plausible. Surely many prevailing ethical beliefs are the time-tested fruit of experience. Many others, of course, probably represent unproductive or even counterproductive cultural traditions and innate prejudices. But until we have some objective principles for sorting out which is which, all prevailing ethical beliefs should be treated with respect. This is my basis, for instance, for thinking that tables of virtues such as those of Aristotle and Hume and McCloskey are worth taking seriously.

My point is that it should not be left at that, with every new thinker producing his own list of excellences and no effective way to decide between them. Nor does it seem consistent with the functional approach itself to take prevailing beliefs as basic. The whole idea of the functional approach is to show how standards of excellence can be grounded in relatively objective facts about human functions. The problem is to find them and show that they exist in some convincing, empirical manner.

I don't see why psychology, anthropology, sociology, economics, and political science shouldn't help us to do this. Indeed, in various ways it seems to me that they are already doing so. Perhaps the most noteworthy explicit attempt recently by psychologists to provide such help – impressive for the sheer size of the team assembled for the effort and the amount of labor they expended – is the “character strengths” project spearheaded by Martin Seligman (Peterson and Seligman 2004). Unfortunately, despite the empirical character of the work, it still basically employs the prevailing-ethical-beliefs strategy. The authors scoured seemingly every possible literature and culture and tradition and religion, including some quite off-beat sources – Hallmark greeting cards, Pokémon character profiles, and statements attributed to the Klingon Empire (2004, 15) – and distilled a catalogue of 24 “character strengths” grouped into six “virtues.” Thus, for example, the virtue of courage comprises the character strengths of bravery, persistence, integrity, and vitality. Then for each strength they looked for research studies of its correlates and consequences, its developmental trajectory across the lifespan, factors that encourage or thwart its development and display, and so forth. They also created and validated an assessment tool, the Values in Action Inventory of Strengths, to measure individual differences on the 24 character strengths. ([You can self-administer it here.](#)) All this is valuable, in my view, but the authors make no attempt to derive their system of character strengths

from human life functions, and they make no serious attempt to relate their character strengths, once derived, back to human functions. They are less interested in the validity of their categories than in assessing how people differ along them. In this, as they acknowledge (2004, 7-9), they are inspired by the *Diagnostic and Statistical Manual of Mental Disorders*. They want to create a complementary “manual of the sanities” (2004, 4). This is laudable, but surely such a manual will more truly useful the more fully it relates its “sanities” to the facts of human functioning.

When it comes to the social arena – an important one for ethics, obviously – I suggest that insights from economics can provide guidance concerning human functioning. I have in mind especially North’s (1990) analysis, mentioned earlier, of economic functioning in terms of institutions and their effects on transactions costs. That analysis showed that economic growth and prosperity depend on social institutions that reduce so-called transactions costs; i.e., costs associated with trade. In general, any established practice that makes human interactions more predictable and transparent has this effect. Simple examples are the convention of driving on the right side of the road and a uniform system of weights and measures. In the latter case, think of the difficulty of putting together a trade of, say, a certain quantity of cloth in return for a certain quantity of corn, without a mutually understood, reliable means of assessing the quantity and quality of these goods. The trade might still be made, of course, but the gains to the parties will be reduced by the additional time and effort required to assess the goods.

More interestingly from the point of view of ethics, transactions costs are reduced when property rights are scrupulously observed, and more, when economic agents are candid about the characteristics of their goods and services and are forthcoming with economic information generally, when their honesty can be trusted implicitly, when they are forbearing of others’ faults and of perceived injuries, when they are not litigious, when they are faithful to long term agreements, when they are reliable. Observance of such principles, where it is widespread, is a sort of institution or set of institutions, the social mores. It seems that we can learn from economic analysis which social mores are most important for producing a prosperous society in which desire satisfaction is optimized for everyone through voluntary arrangements. This is an instance of the strategy I mentioned at the outset, and which we noticed in Hayek, of taking the superiority of the free society for granted and asking what moral principles are required to sustain it. The strategy is powerful, inasmuch as history demonstrates pretty clearly that free social arrangements promote human social functioning at its best. Where free social arrangements have prevailed, there wealth has grown – for all, but perhaps for the poorest most of all – personal dignity has been respected, and humanity has flourished. Moreover, arguably any alternative social arrangement must depend on the principle of coercion, which – theoretical reasons and historical evidence

seem to show – is incapable of producing a prosperous society of flourishing individuals. To the degree that all this is true, we have good reason to think that effective *social* functioning depends on the social mores that create and promote a free society. And this would seem to be an application of the Aristotelian functional approach to discerning proper ethical principles for the social realm.

Notice that the social excellences derived by this method directly benefit the *group*, not the individual. That this is so is implied by the argument we have seen repeatedly now – in looking at Gauthier, Frank, and Rand – that it is sometimes not in the interest of an egoistic individual to respect the rights of others. There are times, particularly when the expected damage to the social fabric and risk of detection are both nugatory, when one can benefit oneself substantially by committing fraud, theft, murder, and other crimes. The same can be said of the other principles just enumerated: candor, probity, patience, nonlitigiousness, loyalty, and reliability. These are all principles that substantially improve economic efficiency in any society in which they become widely established – “institutions” in the jargon of new institutionalism in economics – but which invite free riding on the part of individuals.

Of course, individuals do benefit from acting in accordance with these institutions, in a variety of ways. They avoid the opprobrium and censure of others that result when noncompliance is detected. If they have been socialized to believe in the relevant institutions, then compliance enables individuals to avoid having a bad conscience. Even if they haven't been so socialized, it enables them to avoid having to worry about getting caught and having to expend energy to avoid detection. Also, it may well be that people are psychologically disposed, culturally or genetically, to certain principles such as honesty, in which case deception will impose corresponding psychological difficulties. There may also be, in certain cases, the sort of long term benefit to individuals that Frank talks about. However, whether these considerations are necessarily always, or for all people, enough to tip the balance in favor of compliance seems doubtful. Of course, there is also an *indirect* benefit of compliance, namely the benefit of living in an efficient economy. But this benefit *is* indirect, and inevitably it is occasionally surpassable by noncompliance. There thus seems to be no escape from the conclusion that respect for the rights of others, along with other transactions cost-reducing principles – candor, probity, and the others – are fundamentally pro-*group* principles, not pro-individual.

Frank's example of zeal for punishment illustrates these points. As described earlier, in certain conditions it can be more economically costly than beneficial to pursue punishment of a person who has committed a crime against one. Therefore, if everyone in a society is perfectly economically rational – both the criminals and their victims – crimes will occur whenever the requisite conditions obtain. Potential victims will

therefore have to expend resources to guard against these conditions, and so transactions costs will increase. It seems clear that economic rationality on this issue damages the economy as a whole and the interests of potential victims in particular. The problem can be prevented if the members of the society are committed to punishing offenders for the sake of punishment, even when it does not pay to do so in economic terms. As Frank emphasizes, however, pursuit of punishment in such circumstances remains economically irrational in the sense that it is damaging to one's material well-being. It thus invites free riders who will let other society members pursue punishment in adverse circumstances but who will not do so themselves.

This implies that zeal for punishment is, at least to some extent, a pro-group function, not pro-individual. That is, to some extent its function is to benefit *society* as opposed to the individual. For, in certain circumstances the individual's interests are sacrificed for the well-being of society as a whole. The sacrifices are not frequent and not typically large, and everyone benefits substantially from the freedom and general prosperity that results. Still, there is no getting around the fact that, materially, an individual can always do better as a parasite (i.e., as one who avoids pro-group responsibilities such as pursuing punishment whenever they are burdensome and safely avoidable) in such a society than as a solid pro-group citizen.

I have taken care to say that pro-group functions like zeal for punishment are *materially* or *economically* irrational. That is because the argument is grounded in considerations of material interest. This leaves open the question of whether individuals might have nonmaterial interests as a result of which "pro-group" functions might be individually rational after all. The individual rationality of pro-group functions might seem especially plausible if such functions evolved genetically. Presumably pro-group functions are the result of some evolutionary process. I have left open, and shall continue to leave open, the question whether this evolution has been genetic or cultural or some combination. As noted earlier, Hayek maintains that the pro-group functions that support a free society are culturally evolved; whereas genetically evolved pro-group functions are mostly appropriate only for life in nuclear families and very small groups. And this is why, he thinks, we find living in accordance with the pro-group principles that support a free society psychologically difficult and even painful. By the same token, however, where – if anywhere – such principles are genetically evolved, we ought to find them psychologically easy and even pleasing to follow. In the case of zeal for punishment, to continue that example, there is evidence that this is so (Boyd et al. 2003; Fehr and Gächter 2002; de Quervain et al. 2004). Human beings *do* have zeal for punishment, in the sense that they derive intrinsic satisfaction from punishing rule violators. The neuroscientific evidence is consistent with the intrinsic satisfaction of punishment being genetically determined, although the studies do not address this question directly. These studies also show, using both computer models and

experiments with human participants, a large boost to cooperative behavior due to the introduction of “altruistic punishment” of defectors by cooperators, potentially sufficient to explain the evolution of large-scale, impersonal cooperative behavior by a process of group selection (whether cultural or genetic).

If it is true that punishing rule breakers is psychologically satisfying, then we might be able to say that although zeal for punishment is not always materially rational, it is always (or nearly always) rational overall, when all sources of satisfaction, emotional as well as material, are taken into account. And this might be true of other behavior required by pro-group functions as well – although, looking at the above list, they mostly involve a sort of self-discipline that doesn’t seem particularly natural. But where pro-group behavior can be shown to be a part of our deep psychological constitution, it might be plausible to say that it is individually rational after all, inasmuch as it promotes overall individual happiness. If letting wrongdoers get away with their evil deeds feels bad, and punishing them feels good, then individual happiness is promoted by punishment, even where punishment is not cost-effective in material terms.

Unfortunately for the prospects of a purely individualistic ethics, however, all this argument really seems to show is that our psychological impulses can be misaligned with our individual interests. If we have pro-group functions, it is only to be expected that we should have psychological impulses which motivate us to manifest them. The honeybee that stings an invader to protect the hive, thereby killing itself, must be motivated to do so somehow by innate honeybee psychology. The bee must have a deep desire to sting the invader. This does not convert what is manifestly a pro-hive, self-sacrificial behavior into a behavior that is somehow “really” selfish. The same must be true of human beings. Our being genetically or culturally programmed – if we are – to desire to perform pro-group actions such as punishing wrongdoers, when we would be better off letting them be someone else’s problem, does not somehow convert this into rationally egoistic behavior. Rather, from an egoistic perspective it only means we are saddled with psychological impulses we have reason to regret and to seek to overcome.

This is why, despite presenting this view as Aristotelian, I have not described the result of living a good human life as flourishing, thriving, well-being, or eudaimonia. These have an egoistic flavor that I regard as misleading in light of the evidence that pro-group functions are important in human life. They imply that for one to function well and be a good human being is also good *for* one. But, because of pro-group functions, this is not always true. Sometimes functioning well and being a good human being are good for one’s community at the expense of oneself. I don’t wish to exaggerate the role of pro-group functions in human life. I think their role is relatively

small. Moreover, the benefits of life in a free society, which pro-group functions support, accrue generally to every individual. But the fact remains that, if there are pro-group functions, then functioning well is not always egoistically justifiable. So, if functioning well is the aim of life, then egoism is false. And if eudaimonism is a species of egoism, however enlightened, as it is often thought to be, then the ethical system presented here is not eudaimonistic. (For more on this, see my earlier post, "Aristotelian Egoism and the *Ergon* Argument.")

The social excellences that I have suggested can be derived by considering the effective functioning of a free society make a conventionally appealing set: respect for others' rights, candor, probity, patience, nonlitigiousness, loyalty, and reliability. But it should not be thought that every widespread intuition – "prevailing ethical belief" – about social ethics is thereby confirmed, or even most of them. A couple of examples of prevailing ethical beliefs that are contradicted by the argument from the needs of a well-functioning free society will help make clear the sort of social ethics that is implied by this line of thought.

People in our society today often have strong notions of "fairness" that are not economically rational. An example is the prevailing attitude that it is "unfair" for a merchant or producer to raise the price of a good that suddenly becomes scarce for any reason. For instance, in 2007–2008, the Nintendo Wii game console was so popular that the company's production facilities could not keep up with demand. Despite producing 1.6 million Wii units every month in 2007, and increasing production to 2.4 million units per month in 2008 (per Wikipedia), new shipments sold out immediately and the Wii was hard to find in stores. Why did the company not simply raise the price to solve this problem? Economic analysis would say that raising the price would increase economic efficiency: Wiis would be distributed to those who valued them most, as evidenced by their willingness to come up with the requisite cash, instead of to whoever happened to be in the store at the opportune moment; moreover, the additional revenue would automatically supply the capital needed to increase production. But the company did not raise the price, presumably because it feared – with good reason – an angry public backlash spurred by the feeling that it was taking "unfair" advantage of the situation. The company probably reasoned that it is better to forego the additional revenue in this instance than to incur potentially long-term public anger, even though the public anger should be due to economic ignorance and irrational attitudes about "fairness." Unnecessary shortages of this sort, caused by public perceptions of fairness, are common, as evidenced by the frequency of the charge of "price gouging." There are various other economic distortions caused by widespread-but-economically-irrational public attitudes about fairness, well-explored and -summarized by Kahneman, Knetsch, and Thaler (1986). The point is that these attitudes, despite being prevailing ethical beliefs, are not endorsed by the present ethical analysis. Rather, they are regarded as

false and counterproductive; it would be better for society and its members if people could be educated out of them.

Again, the present ethical analysis suggests that it is inappropriate to make economic decisions on the basis of sympathetic altruism. The free market is most effective at satisfying the needs of all when every individual acts to best satisfy his own interest as he understands it. Continuing to buy the same quantity of candles after one has acquired electric light bulbs – or forcing other people to do so through legislation – out of sympathy for the candle makers, wastes resources and impedes beneficial social change. Lowering the price of gasoline or some other essential commodity below the price set by free market forces, in the name of ensuring access by the poor, really only ensures that there will be continuing shortages, as noted above, and that gasoline in general will not be allocated where it is most needed. Raising the price of labor above what it would be in a free market, as with minimum wage laws, in order to help the poor, really only prices certain workers – indeed, the most vulnerable – out of the market. It is true that the operation of the free market in these cases entails painful local circumstances for certain people: the candle makers, the poor who can't afford gasoline and have to find another way to make do, people with few skills. But the economy *as a whole* functions best when people pursue their own interests through voluntary exchange, and in the long run those who locally suffer are better off as well. The candle makers find something more productive to do, the price of gasoline falls due to the profit seeking of the producers, the unskilled acquire skills on the job. More importantly, the unskilled who work for low wages can enjoy cheaper, better electric lights – as well as, for similar reasons, cheaper, better food, housing, transportation, entertainment, and so forth. This is true of everyone in society, but, as noted once before, it is the most vulnerable to whom these benefits make the most difference. It is a fact of life that resources are always limited and not everybody – indeed, nobody – gets everything he wants. It is in a free market society that the greatest of people's needs are most widely satisfied.

Nevertheless, this can seem harsh. Individuals are instructed to pursue only their own profit and those who do not succeed are left in the cold. This is without doubt the free society's greatest PR problem. This is what inspires titles like, "With Charity Toward None," (in reference to Ayn Rand) and nasty critical remarks such as, "harder-line, more brashly self-confident, less concerned with getting things quite right, and without sympathy for losers," (written by Nobel economist Robert Solow in reference to Nobel economist Milton Friedman [back cover blurb to Burgin 2012]). This sort of sentiment is the precise target of Hayek's analysis, described earlier, according to which on the one hand the abstract moral principles of several property and personal responsibility are late cultural developments, which we find emotionally painful to adhere to but are necessary to maintain the "extended order" of large scale society;

while on the other hand the visceral moral principles of solidarity and altruism come naturally and feel good but are appropriate only to the smallest of social units. Trouble ensues when we evaluate the operation of the extended order by the standards of the latter, micro-group principles, but this is hardly avoidable given their primeval origins, and supposedly rational intellectuals are not least among the offenders. According to the present analysis, it would seem that Hayek has largely got this right.

To conclude, the Aristotelian moral vision for a free society rejects the view of Nozick and Frank and Gauthier that material self-interest is the fundamental principle in terms of which motives for action, insofar as they are rational, must be grounded. Moral rules, such as those which demand respect for individual rights, are not arbitrary side constraints required to set up the free market, which is itself an anything-goes free-for-all of selfish desire satisfaction subject only to the said side constraints. Rather, the Aristotelian view is that the important thing is to be a good human being, and this means that all of one's pursuits should be constantly structured by the human excellences, both pro-individual and pro-group. This has two consequences. First, we have a reason in terms of what is important in life to respect others' rights and to adhere to a variety of additional principles that contribute to the good functioning of a free society, such as being candid, scrupulous, patient of others' faults, nonlitigious, loyal, and reliable. These values are not arbitrary. They are of a piece with all other fundamental human values; they consist in functioning well as a human being. The free society is not grounded only or even primarily in the selfish needs of individuals (though it is grounded in them, too), but in the pro-group excellences that are required for effective social functioning. Second, the fundamental values we pursue as individuals are not – or not merely – desires or utilities, but excellences required for good human functioning throughout life. Thus, the Aristotelian individual pursues not merely desire satisfaction but a happy, meaningful, fulfilling, fruitful, and even noble life. He is trying to be good and do good, to accomplish something, build something, make whatever mark he can on the world, achieve something really valuable. (This point is perhaps the principle burden of McCloskey 2006, her presentation of "a libertarian version of Aristotelianism" [497].) These pursuits could be called egoistic in a broad sense. The functions in question are pro-individual, and their excellent performance could be characterized as individual thriving or flourishing. But their meaning is of a piece with the pro-group excellences; they are all part of being a good human being.

There is thus moral guidance within the free society, not just to create it. Personal conduct within the free society context is not an anything-goes free-for-all, nor is the encouragement to "virtue" merely instrumental, as in "the early (thrifty, prudent, industrious, entrepreneurial, bourgeois) bird catches the worm." Rather, the pro-individual excellences are intrinsically valuable components of living a good life, the

life of a good human being. There is thus no conflict between the values that are necessary to create and maintain a free society and the values one pursues within it. Both stem from the same fundamental source and contribute to the same goal.

It is unfortunate that the free society has been represented, since almost before it existed – at least from the early 18th century with Mandeville – as a “Yee haw!” pursuit of unconstrained desire satisfaction. I hope here to have shown – in a preliminary way; I know the case I have given is sketchy – that this is a gross distortion. Both the ethical principles that create and perfect the free society, and the ethical principles that promote the best life within it, stem from the same source in excellent human functioning (whether social or individual). The free society is neither a place of unlimited toleration nor a morally free zone. Far from it. It *is* a moral place, created and promoted by moral principles and enabling the pursuit of a flourishing and meaningful life. It deserves to be recognized and defended as such.

References

- Akerlof, George. 1970. “The Market for ‘Lemons’: Quality, Uncertainty, and the Market Mechanism.” *The Quarterly Journal of Economics*, 84 (3): 488–500.
- Badhwar, Neera K. 2001. “Is Virtue Only a Means to Happiness?” *Objectivist Studies*, 4.
- Boyd, Robert, Herbert Gintis, Samuel Bowles, and Peter J. Richerson. 2003. “The Evolution of Altruistic Punishment.” *Proceedings of the National Academy of Sciences*, 100 (6): 3531–3535.
- Buchanan, James M. 1975. *The Limits of Liberty: Between Anarchy and Leviathan*. University of Chicago Press.
- Burns, Jennifer. 2009. *Goddess of the Market: Ayn Rand and the American Right*. Oxford University Press.
- Burgin, Angus. 2012. *The Great Persuasion: Reinventing Markets since the Great Depression*. Harvard University Press.
- Childs, Jr., Roy A. 1969. “Objectivism and the State: An Open Letter to Ayn Rand.” *The Rational Individualist*, 1 (10).
- Fehr, Ernst, and Simon Gächter. 2002. “Altruistic Punishment in Humans.” *Nature*, 415 (January 10): 137–140.
- Frank, Robert H. 1988. *Passions within Reason: The Strategic Role of the Emotions*. Norton.

- Friedman, Milton. 1953. "The Methodology of Positive Economics." In *Essays in Positive Economics*, University of Chicago Press, pp. 3–43.
- — —. 1962. *Capitalism and Freedom*. University of Chicago Press.
- — —. 1970. "The Social Responsibility of Business Is to Increase Its Profits." *The New York Times Magazine*, Sept. 13.
- Gauthier, David. 1986. *Morals by Agreement*. Oxford University Press.
- Gilder, George. 2012. *Wealth and Poverty: A New Edition for the 21st Century*. Regnery.
- Hayek, F. A. 1988. *The Fatal Conceit: The Errors of Socialism*. Edited by W. W. Bartley III. University of Chicago Press.
- Irwin, Terence. 2007. *The Development of Ethics: A Historical and Critical Study. Volume I: From Socrates to the Reformation*. Oxford University Press.
- Kahneman, Daniel, Jack L. Knetsch, and Richard H. Thaler. 1986. "Fairness as a Constraint on Profit Seeking: Entitlements in the Market." *The American Economic Review*, 76 (4): 728–741.
- Lewis, David. 1984. "Devil's Bargains and the Real World." In Douglas MacLean (ed.), *The Security Gamble: Deterrence in the Nuclear Age*. Rowman and Allenheld.
- Long, Roderick T. 2000. "Reason and Value: Aristotle versus Rand." *Objectivist Studies*, 3.
- McCloskey, Deirdre N. 1994. "Bourgeois Virtue." *The American Scholar*, 63 (2): 177–191.
- — —. 2006. *The Bourgeois Virtues: Ethics for an Age of Commerce*. University of Chicago Press.
- — —. 2010. *Bourgeois Dignity: Why Economics Can't Explain the Modern World*. University of Chicago Press.
- Mises, Ludwig von. 1922. *Socialism: An Economic and Sociological Analysis*. Translated by J. Kahane. Page references are to the Liberty Classics edition, 1981.
- North, Douglas C. 1990. *Institutions, Institutional Change, and Economic Performance*. Cambridge University Press.
- Novak, Michael. 1982. *The Spirit of Democratic Capitalism*. Simon and Schuster.
- — —. 1996. *Business as a Calling*. The Free Press.

- Nozick, Robert. 1971. "On the Randian Argument." *The Personalist*, 52: 282–304. Page references are to the reprinting in Jeffrey Paul (ed.), *Reading Nozick: Essays on Anarchy, State, and Utopia*, Rowman and Littlefield, 1981: 206–231.
- — —. 1974. *Anarchy, State, and Utopia*. Basic Books.
- Peterson, Christopher and Martin E. P. Seligman. 2004. *Character Strengths and Virtues: A Handbook and Classification*. Oxford University Press.
- Potts, David. 2015. "Aristotelian Egoism and the *Ergon* Argument." *Policy of Truth* blog post, July 22.
- Quervain, Dominique J.-F. de, Urs Fischbacher, Valerie Treyer, Melanie Schellhammer, Ulrich Schnyder, Alfred Buck, and Ernst Fehr. 2004. "The Neural Basis of Altruistic Punishment." *Science*, 305: 1254–1258.
- Rand, Ayn. 1957. *Atlas Shrugged*. Random House.
- — —. 1961. "The Objectivist Ethics." Paper delivered at the University of Wisconsin Symposium on "Ethics in Our Time," Madison Wisconsin, Feb. 9, 1961. Page references are to the reprinting in *The Virtue of Selfishness*, New American Library, 1964.
- — —. 1962. "The 'Conflicts' of Men's Interests." *The Objectivist Newsletter*, 1 (8): 31–35.
- — —. 1963. "Man's Rights." *The Objectivist Newsletter*, 2 (4): 13–16.
- — —. 1970. "Causality versus Duty." *The Objectivist*, 9 (7): 1–6.
- Richerson, Peter J. and Robert Boyd. 2005. *Not by Genes Alone: How Culture Transformed Evolution*. University of Chicago Press.
- Rothbard, Murray. 1980. "Six Myths about Libertarianism." *Modern Age*, 24: 9–15. (Original title: "Myth and Truth about Libertarianism.")
- Stark, Rodney. 2005 *Victory of Reason: How Christianity Led to Freedom, Capitalism, and Western Success*. Random House.
- Wilson, David Sloan. 2002. *Darwin's Cathedral: Evolution, Religion, and the Nature of Society*. University of Chicago Press.