Journal of Liberty and Society

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Letter from the Editor-in-Chief

May 12, 2009

Dear Reader,

As you are well aware, what you are reading is the first edition of the *Journal of Liberty and Society*. This is a very personal and monumental moment for me. For years I have discussed the idea of this journal with our faculty advisor, Professor Hobbs, other students, and outside organizations. Like the founding of Students For Liberty itself, the organization that publishes this journal, the founding of the *Journal of Liberty and Society* had many obstacles to overcome. Would students understand the purpose? Would we get enough submissions to publish? Would we get *any* submissions? These doubts plagued my mind for months. To see this journal published with such tremendous papers is the greatest accomplishment I can imagine.

After its publication, what I consider the most impressive feature of this journal is the diversity of topics represented by its articles. When we sent out the Call for Papers, one of the Associate Editors expressed a concern that every paper would come back talking about the same thing. Since this was such a new venture and we were unsure of just how we wanted the journal to look in the end, I couldn’t help but share the feeling. Yet the final product is a collection of works on issues that normally would never be associated with one another. I did not expect to have an analysis of *Buffy the Vampire Slayer*’s biases next to an examination of the underlying politics within American Gothic literature next to a comparison of libertarianism and identity politics, but that is what we ended up with. The success of this first edition is a testament to the ability of undergraduates to contribute to academia and advance the body of scholarship on liberty. The intricacies of liberty and its relationship to society are incredibly important issues that have not been fully explored. If they had been, then there would be no need for scholars and we should expect to see widespread acceptance of a single idea of liberty. There is much work to be done in the understanding of liberty and students need to be involved in producing that work. This journal is a forum for debate and disagreement to explore the many facets of liberty across academic disciplines, between theory and practice, and within academia and society. While this should be obvious, I will point out that the opinions and ideas expressed in these papers are solely the work of the authors. We have taken every step available to ensure that these papers remain the work of their author rather than be written or rewritten by someone else. More importantly, though, we did not consider submissions to this journal based on the conclusions that they draw. We selected papers that provided keen and original insight into the issue of liberty and presented well-reasoned arguments in defense of their positions. From this inaugural edition, I have the highest hopes that future editions of the journal will build upon and challenge the ideas presented here in the spirit of intellectual inquiry.

Three students have received Prometheus Institute Awards and invitations to join the Prometheus Institute in the fall. However, every author in who submitted a paper to the journal has advanced the scholarship behind liberty and should be proud of their work. With that said, I give you the inaugural edition of the *Journal of Liberty and Society*.

Yours In Liberty,

Alexander McCobin
Editor-in-Chief, *Journal of Liberty and Society*
Co-Founder & Executive Director, Students For Liberty
May 12, 2009

Dear Reader,

Founding Editor-in-Chief Alexander McCobin and I met in September of 2007 at an Advanced Topics in Liberty seminar co-sponsored by the Institute for Humane Studies and The Liberty Fund, Inc. Alexander’s enthusiasm for, interest in, and knowledge of, the works we discussed that weekend impressed me. We subsequently met again at the Koch Associate Program where we had a lively conversation about starting an undergraduate journal focusing on libertarian thought. As the Co-Founder and Executive Director of Students for Liberty, Alexander was already actively working with undergraduates and developing just the kinds of organizational skills we would need to establish a new journal. I suggested we stress a multidisciplinary inquiry into the ideas, history and current status of classical liberal or libertarian thought. Alexander, and I, both “took the bait.”

I had started another undergraduate research journal earlier in my career so I offered any help or guidance that he might need. Over the next year, Alexander and his team worked diligently to bring the work presented here to fruition. It represents the efforts of numerous people but especially the authors, Associate Editors and the Editor-in-Chief. My role has been solely one of guidance and as a sounding board: the reviews and organizational aspects of this journal were handled by the students with input from the professors who work with them.

The stated purpose of The Journal of Liberty and Society is “to encourage academic work surrounding the topic of liberty and its role in society for undergraduates everywhere.” I am very proud of this inaugural piece and I look forward to the journal becoming an important part of the scholarly lives of undergraduate students. Projects such as this one represent the pinnacle of undergraduate education. The participating students have taken it upon themselves to take seriously ideas and to engage in the research and writing processes required to produce fine work. Each one shows a maturity beyond their years and represents the future foundation of a society of “free and responsible individuals.”

These works have been directly and indirectly nurtured over many years by the people in organizations such as The Institute for Humane Studies, The Liberty Fund, Inc., and The Prometheus Institute. We would be deeply remiss to not acknowledge their substantial and ongoing support for the development and dissemination of the ideas promoting individual liberty, individual freedom, and individual responsibility.

To borrow from Alexander…

“Yours in Liberty”,

Professor Bradley K. Hobbs
BB&T Distinguished Professor of Free Enterprise
Florida Gulf Coast University
Prometheus Institute Prize Winners

The Prometheus Institute Prizes are given to the authors who demonstrate the most innovative approaches to promoting the ideas of liberty. The Prometheus Institute Prize is intended to discover and reward the most creative young thinkers and writers in the movement. The Top Paper in the Journal of Liberty and Society will each receive $350. The honorable mention will receive $100. All three winners are invited to join the Prometheus Institute staff for the Fall semester; positions are available in writing, blogging, outreach or development. Custom-designed positions are also available.

TOP PAPERS

*Those Capitalist Demons! Anti-Market Bias in Buffy The Vampire Slayer*
Heidi C. Lange

For its creative application of popular culture themes to political ideals, Heidi Lange’s paper on the literal demonization of capitalism in *Buffy the Vampire Slayer* receives top honors.

*Unlikely Parallels: Libertarianism and Identity Politics*
Francis Boyle

For its powerful synthesis of seemingly disparate political ideologies, Francis Boyle’s article on the similarities between libertarianism and identity politics receives top honors.

HONORABLE MENTION

*Mill and Hayek: Liberty, Morality, and Socialism*
Andrew Knauer

For its recognition of the importance of evolutionary concepts to freedom, Andrew Knauer’s paper on the different interpretations of socialism by Mill and Hayek receives our honorable mention.

*The Prometheus Institute congratulates the winners on their fantastic work, and we look forward to working with those talented young thinkers in the future.*
Abstract

Popular American culture displays an overwhelming anti-market bias. This bias represents a lack of historical knowledge of the marked improvements in living conditions which have occurred under capitalism. I maintain that this widely-held attitude is false and damaging; the tragedy lies in the fact that the anti-market bias in popular culture is seldom noticed or critically examined. The popular television show Buffy the Vampire Slayer (BtVS) provides a basis for an examination of culturally embedded anti-market bias. This paper examines scripts from all seven seasons of BtVS and identifies a pattern of anti-market biases through the dialogue and actions of the main characters.

I.

Capitalism has never been popular. Various societies over the course of history have explicitly criticized the free market, in many cases rendering capitalist activities (such as owning private property or charging interest) directly illegal. For the past few hundred years, capitalism has been vaguely tolerated, but capitalistic endeavors continue to be viewed in a negative light in modern society. In popular culture, capitalism and the free market are frequently portrayed as being despicable and immoral. Even Buffy the Vampire Slayer (BtVS), a modern television show which otherwise promotes some very libertarian ideas, demonstrates what economist Bryan Caplan refers to as the “anti-market bias” (30), and repeatedly depicts capitalism in an unfavorable light during the show’s seven season run.

Anti-market bias exists in many forms of media, and certainly in many television shows. BtVS is worth discussing, however, for two reasons. First, the show is actually good. It “turned into a surprise hit in its first three weeks” (Graham), and its popularity continued until the finale seven years later. Second, the show is in many ways explicitly libertarian: the scripts display a truly impressive blend of social liberalism (in particular the popular virtue of tolerance towards others different from oneself) with economic conservatism (especially the importance of the consequences of one’s actions). One might not expect to see anti-market bias in a show which is otherwise libertarian, and the existence of the bias in BtVS is an especially meaningful example of how pervasive this misconception has come to be in popular culture. Even a show with such a solid grounding in free market ideas has fallen prey to anti-market bias!

Finding a network television show that is worth watching (must less worth excogitating) is a rare thing. Popular opinion holds that Joss Whedon, creator of BtVS (and its spin-off show Angel), is responsible for this unusual phenomenon. “[BtVS] was created with real control by one person, which means the show has a vision, it as a clear beginning, middle and end and a lot of character development” (Saunders 2). Like Whedon’s previous show Firefly, the Buffy shows bear the marks of his clear direction and creative plot shaping. The success of BtVS proves that, after all, “Hollywood commercialism can produce great art” (Postrel 1). Yet, even in such an
excellent show, it is easy to find examples of cultural bias that neither make sense nor serve a literary purpose.

_BtVS_ is the story of a young girl, living in the fictional southern California town of Sunnydale, who inherits the inconvenient duty of saving the world on a daily basis as the world’s one and only vampire slayer. As viewers are reminded during the opening credits of the first season, “In every generation there is a Chosen One. She alone will stand against the vampires, the demons and the forces of darkness. She is the Slayer” (1.1 “Welcome to the Hellmouth”). In Buffy’s case, she rarely stands alone – she has a gang of loyal friends who help her fight the good fight. Her human companions include fellow students Willow and Xander, librarian Giles (a father figure and mentor for Buffy), as well as her sister Dawn. Non-human friends tend to come and go, but include several vampires and demons, despite Buffy’s destiny to “stand against” such creatures.

Overall the show exhibits many libertarian tendencies. The scripts demonstrate a healthy respect for individual rights and the characters exhibit open-minded acceptance towards many social and cultural choices. Buffy herself is a heroine who displays a healthy dose of female liberation, yet retains a strong sense of her femininity. “In Buffy’s character Whedon quite intentionally created a feminist icon…” (Riess xi). Buffy is a clear-cut example of the ultimate female protagonist.

Furthermore, it would be hard to find a network television show with more diversity and more unquestioning acceptance of human (and sometimes inhuman) differences in religion, race, gender and more. “Tolerance has been promoted on _BtVS_ … not only for lesbians and nerds but also for certain categories of demon …” (South 255). The main characters support Willow’s decision to date another female (after all, she’s exercising her individual rights without harming anyone else). Yet they adamantly oppose her desire to kill Warren, who is without question a cold-blooded murderer (by taking the law into her own hands, she is violating another person’s individual rights). Both attitudes (tolerance for her dating life, and intolerance of her desire to kill Warren) are attitudes one might expect to see embraced by the average libertarian.

However, looking beyond the obvious “girl power” and “tolerance” themes, it is easy to find elements of a kind of ethics similar to that which many libertarians hold – the ethics of individual rights and freedom. The scripts of _BtVS_ display a strong skepticism about government activities. The military is portrayed in a negative light (4.7 “The Initiative”); social workers unjustly try to relieve Buffy of the guardianship of her younger sister Dawn (6.11 “Gone”); and the most prominent elected official in the show has literally made a pact with hell (3.17 “Enemies”). As Virginia Postrel elaborates:

_Buffy assumes and enacts the consensus moral understanding of contemporary American culture … [which] is informed not by revelation but by experience. It is inclusive and humane, without denying distinctions or the tough facts of life … here are some of the show’s precepts … Evil exists … Redemption is possible … We don’t get to choose our reality … [however.] We do get to choose what we do. (Postrel 3)

The characters in _BtVS_ learn very quickly that life is about making difficult choices under circumstances of limited information. As they discover, no one (neither parents nor government) can relieve each of them of the responsibility for his or her own life. _BtVS_ promotes the importance of personal responsibility and the reality of the consequences of one’s actions – a libertarian theme if there ever was one.
Yet despite its socially liberal and pro-freedom tendencies, a centuries-old bias against capitalism shows up in the plot consistently. As Jeffrey Pasley points out,

In *BtVS* and *Angel* there is a persistent association of capitalist values … with literal inhumanity. Following a long left-wing tradition of depicting economic exploiters as “bloodsuckers” and vampires and privileged figures exploiting a defenseless populace… the association of demonism and capitalist values is often made quite explicitly and directly. (South 258)

Over and over, the anti-market theme plays out. The hero is a victim of those pesky economic forces – and the demon skillfully wields the market as a weapon for evil.

For centuries, the intellectual mainstream has viewed capitalism with a skeptical eye. The best defenders of capitalism (including Adam Smith) have seen it as a “necessary evil” rather than as a natural and appropriate vehicle for human interaction. This negative view of capitalism was not challenged outright until the twentieth century, when author-philosopher Ayn Rand became capitalism’s most vocal defendant. Rand directly questioned the popular view of capitalism and advocated a moral defense of the market system as the most appropriate, natural and just social order:

The *moral* justification of capitalism does not lie in the altruist claim that it represents the best way to achieve ‘the common good.’ It is true that capitalism does … but this is merely a secondary consequence. The moral justification of capitalism lies in the fact that it is the only system consonant with man’s rational nature, that it protects man’s survival *qua* man, and that its ruling principle is: *justice.* (20)

Although Rand’s work made a small splash in the intellectual and philosophical world, the ideas she promoted had little showing in popular culture, other than through her own fiction.

Some fifty years later, Bryan Caplan coined a new name for the attitude Rand fought against, calling it the “Anti-Market Bias, a tendency to underestimate the economic benefits of the market mechanism” (30). It would be reasonable to find his definition to be a little too mild; many popular writers today not only underestimate the benefits the market provides, but actually refuse to acknowledge the existence of such benefits, and depict capitalism as a necessary evil at best. The scripts of *BtVS* are one such example, explicitly demonizing capitalism, and providing a clear example of the anti-market bias in popular culture.

Anti-market bias is by no means a new phenomenon. The ancient Romans, for example, only approved of the pursuit of wealth “as long as it did not involve participation in industry or commerce” (Baumol 899). In medieval China, “Enterprise was not only frowned upon but may have been subjected to impediments deliberately imposed by [government] officials…” (Baumol 902). Later, during the industrial revolution, anti-market sentiment gave rise to the philosophies of Marx and others like him. Joseph Schumpeter believed that capitalism harbored a “tendency toward self-destruction” (62). This tendency, according to Schumpeter, was rooted in the fact that capitalists themselves failed to defend capitalism: “they never put up a fight under the flag of their own ideals and interests” (161). This viewpoint is neatly aligned with Rand’s: she wrote in 1966 that it is the capitalists themselves who “are responsible … for capitalism’s destruction … No politico-economic system in history has ever … been attacked so savagely, viciously, and blindly” (viii). Capitalism has always been the underdog of social systems.

It is only in recent centuries that free market ideas have come to be respected and championed, and that capitalism has been partially accepted into intellectual society: “…the
industrial revolution that began in the eighteenth century and continues today has brought to the
industrialist a degree of … respect probably unprecedented in human history” (Baumol 914).
However, popular culture and academic intellectualism have yet to catch up with the grudging
respect the business world has begun to grant to the free market. The overwhelming attitude
among academics remains that of anti-market bias: “intellectuals … have a strong bias against
regarding this [economic] aspect of freedom as important” (Friedman 7). Free market ideas have
made leaps and bounds in the past century, but popular culture has yet to drop its anti-market
bias. The mainstream opinion remains similar to that of the French poet Charles Baudelaire,
who wrote: “Le commerce est, son par essence, satanique … parce qu’il est une des formes de
l’egoisme, et la plus basse, et la plus vile” (Baudelaire 262).¹

II.

Throughout the scripts of BtVS there are several examples of anti-market bias which
stand out from the others. A closer examination of The Master, Spike, Anya, Buffy, Giles, and
Xander reveals an interesting theme. In BtVS bad guys engage in capitalism with a reasonable
amount of success, and good guys tend to fail in their free market endeavors. The viewer is
ultimately left with the impression that capitalism is a demonic activity, and that the heroes don’t
succeed in the market because they are somehow above such low, materialistic requirements as
having a job or being prudent with their finances. The show demonstrates an implicit anti-market
bias by demonizing capitalism.

The Master, a big scary-looking vampire and the show’s first Big Bad (as BtVS viewers
refer to the more memorable villains), expounds the most blatant anti-market sentiment in the
show, setting up the “demon capitalist” image very clearly. During an episode which depicts an
alternate universe sans Buffy, the Master has taken over the world and turned Sunnydale into a
breeding ground for vampires. In order to obtain enough humans (and blood) to feed his frightful
flock, he introduces what he calls “a truly demonic concept: mass production.” (3.9 “The Wish”)
Though the retro horror scenes shot in the “blood factory” are chilling in a Hallowe’en kind of
way, the Master’s statement is far more disturbing than the blood and gore. Is capitalism,
according to BtVS, demonic? Unfortunately, the question is never answered in the show, and
readers are left to assume that in the world of BtVS, capitalism is not an admirable institution.

Not all of the capitalists in BtVS are as thoroughly evil as the Master. Spike the vampire
(a reformed Big Bad, grudgingly fighting on the side of the good) is another example of the anti-
market bias. His demonic forays into the market system are scattered throughout the show, with
perhaps the most memorable occurring in Season Six (6.15 “As You Were”). Spike gets involved
in a black market demon egg deal (unaware that the eggs are those of a rare demon species
which, if allowed to hatch, will destroy the world), and hides the soon-to-be baby demons in the
crypt where he lives. Ultimately, his foolish choice of profit over safety results in the total
destruction of his crypt, and the partial destruction of Buffy’s already delicate trust in him.
Again, Whedon has given us a stereotypical example of the capitalist: in this episode Spike is
evil, greedy, short-sighted, and doesn’t give a hoot about the lives and well-being of his friends.

Anya Jenkins is another character with mixed motives and a tormented soul. Bitter and
angry at being jerked out of her life as a vengeance demon and forced back into this mortal coil,

¹ “Commerce is, in its essence, Satanic … because it is one of the forms of egoism, and the
lowest, the vilest.”

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Anya struggles with adapting to social norms and developing her relationships with the other members of Buffy’s gang. She discovers capitalism in the midst of Season Five, and making money becomes her primary entertainment and source of joy in life. However, her character tends to depict an unfortunately familiar stereotype of capitalism, and the other characters frequently mock her for being greedy and self-centered. “The only really avid capitalist among the main cast members is the once and future vengeance demon Anya, whose greed and failure to master human behavior become running jokes” (South 258). In Anya’s case, capitalism is analogous with rudeness and lack of social graces – not to mention the fact that once again, BtVS presents us with a character who is both a demon and a capitalist. Coincidence? Perhaps not.

In contrast to the Big Bads’ roles as evil, exploiting capitalists, the heroes of BtVS engage in market activities with one of two results. Either, the character is corrupted by the influences of the market and becomes a “demonic” capitalist, or, if the character attempts to conduct honest business transactions, he or she suffers miserable failure at the hands of the rest of the evil and greedy participants in the market. Throughout the show, Buffy herself “doesn’t look as though she’s going to be upwardly mobile in a social or economic sense.” (Saunders 6) Buffy not only fails to get anywhere in the labor market, she apparently views gainful employment as beneath her, and refuses to allow her Slayer abilities to be sullied by the touch of profits. In the second season, Giles suggests a practical application of her talents: “Well, now there's a thought, have you ever considered law enforcement?” (2.10, “What's My Line, Part Two”) Buffy off-handedly dismisses this idea, despite the fact that she usually takes Giles’ advice seriously. Later, Anya makes a similar recommendation (6.4, “Flooded”), but [Buffy] and Dawn angrily reject Anya’s suggestion that they ‘start charging’ for killing monsters… Buffy thinks of Slaying as anything but a service to be exchanged for money: it is her calling, her destiny and she will not have it ‘stripped of its halo’ and converted to a form of wage labor… (South 262)

The special powers and abilities of a hero like the Slayer, apparently, are above honest labor. On numerous occasions throughout the show, Buffy displays this same aversion towards capitalizing on her abilities to support herself. Having chosen to live apart from the guiding hand of the Council (a government-like body of bureaucrats who oversee the Slayer line), she is responsible for her own financial well-being. Unfortunately, her decision to refrain from using her powers for materialistic gain leaves her very close to being poverty-stricken. The irony of Buffy’s attitude towards work is that her reluctance to put her skill set to a logical use dooms her to work at one of the most degrading and menial of jobs available to the American teenager: flipping burgers.

Sadly, we find that when Giles breaks into capitalism he decides to get ahead by cheating his customers. In Season Five he takes over running the magic store, (5.5 “No Place Like Home”) and achieves a reasonable amount of economic success through selling phony items, keeping the real stuff behind the counter or hidden upstairs where it will be “safe” from the average consumer’s ignorant meddling. The scripts seem to indicate acceptance and approval of Giles’ unethical business practices, and “he and the other characters were rather genial about the fact that the magic supply business involves a good deal of mystification, turning miscellaneous junk into valuable commodities and deriving inflated profits from the ignorance of the clientele…”(South 264). In BtVS, even when a character who is essentially good, such as Giles, gets involved with the market, it apparently brings out his dark side. Yet again, anti-market bias rears its ugly head.
In contrast to Giles’ underhanded market successes, Xander tends to fail pretty spectacularly in the economic realm. He has quite a few faults, but his good intentions never waver; he never succumbs to the temptation to cheat or steal, and thus never gets anywhere. Xander is a catalogue of petty weaknesses … yet, despite all this, Xander comes through in the end as a decent, loving and loyal friend … he regularly chooses to be on the frontlines of the battle against dark forces … No matter how often we despise Xander for his petty evils, we also always respect him for his virtues. (Yeffeth 59)

Yet Xander’s virtues only shine through when things are really getting difficult. When he’s not helping the gang fend off another apocalypse, Xander is essentially a stereotype of the average Joe. His personal life is a mess; after spending a good portion of Season Four living in his parents’ basement, he manages to get shakily on his feet, and ekes out a subsistence-level existence as a contractor. His amazing strength of character apparently applies only to metaphysical emergencies and vampire slaying, and is of little use in his mundane daily life.

Still, one could argue that each of these examples is not a direct attack on capitalism, but rather an instance of human weakness and frailty. After all, Whedon is well known for torturing his characters with immense burdens and unexpected circumstances. He frequently finds ways to convey the idea that “the line between good and evil is more of a smudge” (Yeffeth 89). Perhaps the characters’ bad decisions are really nothing more than mistakes. Giles’ decision to take advantage of his customers could be a serious lapse in judgment; Xander’s failures could be lousy luck; Anya’s over exuberance for capitalism could be bad manners; and Spike is certainly a flawed, tempestuous character. However, BtVS has moments of outright, explicit anti-market bias, apart from the actions of the characters. The scripts include more than one instance where a clear-cut, anti-market statement is made.

In addition to the Master’s snide comments about industrialization, there is a recurring analogy between typical market structures and a hell-on-earth vampire takeover of the world. Mr. Trick, a lackey vampire of no great importance to the show overall, stated it best when he said, “We stay local – but we live global” (3.3, “Faith, Hope and Trick”). In her book Why Buffy Matters, Rhonda Wilcox makes a strong case for the BtVS parallel between vampirism and globalization. She points out that while the series can be interpreted as having a number of meanings, the “globalization equals vampirism” (92) meaning is hard to miss: “… the series shows a consciousness of the negative ramifications of globalization and the … attitudes that can be associated with it.” (97) Nor is Wilcox the only critic to have noticed this theme. Jeffrey Pasley shares her interpretation of BtVS vampirism: “Allegorically, the Big Bads’ schemes can be seen as nightmarish replications of the rise and globalization of capitalism” (South 260). The villains in BtVS repeatedly exploit the free market system to achieve their demonic goals, and through association, leave the viewers with the distinct impression that globalization and capitalism are the tools of evil.

III.

There is a distinct anti-market slant in BtVS, one which is evident when we consider the fact that the only really successful, unapologetic capitalists in this show are demons. In the world of BtVS, demons make a buck by taking advantage of the innocent, or risking the destruction of the universe; global trade is literally a blood-sucking endeavor; an intelligent scholar sees no problem with fleecing naïve customers; the good guy lives the life of the average
loser; and the savior of the world flips burgers. It’s safe to say that anti-capitalist stereotypes are alive and well in *BtVS*.

Mainstream opinion has been anti-capitalist for many years, and it is hardly shocking to see anti-market bias crop up in a network television show. However, it is unfortunate that *BtVS* displays the bias, since the show appears to be free market in most other aspects. The fact that *BtVS* has succumbed to such a common misconception is a true weakness in an otherwise excellent piece of art.
Bibliography


Unlikely Parallels: Libertarianism and Identity Politics

By Francis Boyle

Temple University, Class of 2009

Abstract

In modern politics, liberalism has become the dominant political ideology throughout the world. Both libertarianism and identity politics represent radical breaks from the tradition of liberalism, yet both theories have not been brought together into a larger discussion. By looking at how libertarianism differentiates itself from liberalism, many conceptual similarities between the two ideologies are brought to light. Libertarian positions on equality, pluralism and toleration, redistribution, and class theory each present a stance that theorists of identity politics should find amenable. On further analysis, the parallels between libertarianism and identity politics are unusually striking, suggesting that proponents of both philosophies could look towards each other for cooperation and inspiration.

In modern political theory, few issues have been as controversial as identity politics. Although most forms of identity politics have emerged from liberal democracies, theorists of identity have consistently critiqued liberalism, framing identity politics as a radical alternative to the paradigms of liberalism and capitalism. Given that liberalism in its various forms has become the dominant ideology of the times, this debate is one that has potentially large reverberations for political theory. The main critique of identity theorists is that modern liberalism fails to address the concerns of marginalized groups, leading to patterns of oppression and exploitation. However, largely forgotten in this debate is libertarianism, which itself is a radical derivation from modern liberalism. Despite its intellectual origins in liberal theory, libertarianism has the potential to offer a different perspective that is more amenable to those in favor of identity politics. In this paper, I will discuss libertarianism as a political theory, and how libertarianism can possibly be reconciled with the goals and methods of identity politics. Libertarianism and identity politics have several unrecognized similarities, and some of the goals of identity politics can be achieved through libertarian means.

Section I of this paper will provide a definition of libertarianism, including descriptions of the different forms of libertarian thought that will be used throughout the paper. The different forms of libertarianism each have their own unique characteristics, and the relationships and differences between the various forms are an important consideration. Section II will discuss how libertarianism has derived itself from classical liberalism, and the important differences between the two ideologies will be discussed. The libertarian perspective on equality will be discussed in Section III, where it will be argued that the libertarian basis for equality is stronger than is popularly considered. Libertarianism also contains a more pluralist strand, and Section IV will discuss the libertarian position on toleration and how it is superior to that of liberalism.

Section V will present an alternative method of redistribution that could possibly prove acceptable to both libertarians and to proponents of identity politics. Lastly, Section VI will discuss libertarian class theory, and how it offers a more nuanced understanding of exploitation that could include both libertarians and those concerned with the oppression identity politics seeks to amend. The similarities between the two fields of study present a remarkable way in which seemingly different ideologies can converge on similar positions.
Section I: Libertarianism Defined

Before any discussion of what libertarianism has to offer for proponents of identity politics, a coherent definition of libertarianism is required. Unfortunately, libertarianism is often deeply misunderstood and misinterpreted, which has always affected its popular recognition. Also further complicating the issue is the fact that the umbrella of libertarianism covers a wide variety of ideologies, some of which have very different philosophical bases. As Norman Barry notes, the “monolithic unity in libertarian social thought that is frequently presented in serious books on social and political theory is in fact illusory” (3). The differences in these various forms of libertarianism are highly important, as what may seem to be superficial differences to those not familiar with libertarianism can result in drastically different conclusions, especially in terms of policy recommendations.

Broadly defined, libertarianism is the “doctrine that the only relevant consideration in political matters is individual liberty” (Narveson, 7). This individualistic orientation is typically derived from the principle of self-ownership, which holds that individual agents own themselves and control their own lives and bodies (Vallentyne 2008). This emphasis on individuals and their self-ownership leads to far-reaching concerns over the proper use of coercion in society, grounded in the belief that individuals are free to do whatever they want as long they refrain from coercing anyone else (Sciabarra, 191). Some libertarians take this emphasis on coercion to its logical conclusion and support anarchism, while others do not go as far and support a state that is limited to only protecting the rights of individuals, and possibly providing some basic services.

Although libertarianism is typically seen as a right-wing political doctrine, this assumption is mistaken. As Peter Vallentyne notes, libertarianism tends towards “left-wing” positions on social issues, supporting all consensual activities, even if they violate social norms (2008). Even though libertarians often find common ground with conservatives on economic issues, the socially liberal streak of libertarianism has historically created tensions between the two movements (Sciabarra 194). Although it is historically framed as a form of conservatism, libertarianism is in actuality a highly radical ideology. As Brian Doherty notes, libertarianism “is a radical doctrine; one that would upset any existing concentrations of state or market power” (16). Doherty uses the phrase “radicals for capitalism” to describe the libertarian movement, feeling that this captures both the inherent radicalism of the ideology while also recognizing its dedication to free-market principles (15).

As previously mentioned, there are in fact different forms of libertarianism. The popular version of libertarianism is occasionally referred to as right-libertarianism, which is unsurprisingly contrasted with left-libertarianism. Both right and left-libertarians believe in individual rights and self-ownership, but they differ with respect to the use of private property and the use of natural resources. Right-libertarians hold the familiar classical liberal notion that natural resources may be appropriated by the first person who mixes their labor with them (Vallentyne 2008). On the other hand, left-libertarians hold that natural resources should be held in some egalitarian manner, and that natural resources may only be used if they benefit all of society (Vallentyne 2000, 1). The egalitarian positions of left-libertarians often place them in opposition to right-libertarians, but the two groups still have a great deal of ideological common ground. The broader libertarian movement also contains many other ideologies, including various individualist anarchists, mutualists, libertarian socialists, and classical liberals. Roderick Long favors including a broad variety of ideologies under the banner of libertarianism, and redefines libertarian as “any position that advocates a radical redistribution of power from the
coercive state to voluntary associations of free individuals” (Long 1998, 304). This definition is intentionally broad, as Long is attempting to bring a consideration of other radical ideologies into libertarianism. For the purposes of this paper, I will primarily look at left-libertarianism, as its egalitarian leanings make it more amenable to the generally left-wing goals of identity politics. Right-libertarianism will also be included in the analysis, particularly some radical derivations that offer a more complex understanding of coercion and oppression.

Section II: The Differences between Liberalism & Libertarianism

One of the most important aspects of identity politics is its radical critique of liberalism. Despite the fact that identity politics emerged from modern liberal democracy, theorists of identity politics have been consistent critics of liberalism. Liberalism is seen as being complicit in the oppression and marginalization of certain groups, and liberal institutions are accused of allowing or reinforcing existing patterns of oppression. Additionally, critics have also alleged that liberalism has assimilationist tendencies, and that liberal perceptions of equality force the marginalized to identify with their oppressors (Heyes 2008). Since this essay is intended to highlight how libertarianism is more amenable to identity politics than liberalism, it is necessary to elaborate on the differences between the two ideologies. Properly understood, libertarianism is itself a radical derivation from liberal theory, and these differences create the possibility of some rapprochement for identity politics in a libertarian framework.

Despite the fact that libertarianism is definitionally separate from liberalism, the two ideologies do have a great deal in common. Libertarianism is generally considered to be a version of liberalism, and the two ideologies share philosophical roots in liberal theorists such as John Locke and John Stuart Mill (Freeman, 107). Murray Rothbard saw both the English and American Revolutions, both heavily influenced by classical liberalism, as libertarian movements fighting for moral and political rights against a central state (2002, 3). Some libertarians see libertarianism as simply another species of classical liberalism, because both ideologies share a basis in “advocacy of individual liberty, free markets, limited government . . . and the moral autonomy of the individual” (Boaz, xiv). Because liberalism is a highly popular doctrine with a familiar name, many libertarians prefer to call themselves liberals and see libertarianism as simply a modern name for classical liberalism. However, libertarianism is correctly seen as a more radical version of classical liberalism (Conway, 296). While it cannot be denied that the two ideologies are closely related, there are important differences that create a powerful separation.

One of the most crucial factors separating liberalism from libertarianism is the understanding of public goods and distribution. Liberalism, like most ideologies, views the productive output of society as a given, which is then distributed to the populace. For non-libertarians, production and distribution are entirely separate processes, but libertarians reject this dichotomy and tend to see redistribution as an immoral seizure of property. Norman Barry argues that this understanding is highly important in that it can be used as a principle to distinguish between libertarians and non-libertarians (5). This concern with redistribution can cause libertarians to entirely reject the idea of public goods, which is an essential component of liberalism (Freeman, 138). Freeman sees libertarians as disregarding the idea that political power should be impartially used to provide for the common good, making libertarianism an illiberal view (107). This liberal insistence on a single common good is anathema to identity politics, as it assumes a harmony of interests among the populace, which often ignores the plight of the oppressed.
As mentioned above, theorists of identity politics often criticize liberalism for stressing assimilation. Liberal attempts at enforcing equality are seen as marginalizing identities, for example some identity theorists see gay marriage as an attempt to assimilate gay relationships towards a heterosexual norm (Heyes 2008). Rather than emphasizing assimilation, libertarianism instead relies on voluntaryism, and only defends submission or assimilation when it is entirely voluntary (Long 1995, 28). This stressing of purely voluntary consent is part of the libertarian focus on spontaneous orders, which are important as they are seen to be able to prevent problems believed to require state intervention. Libertarian philosopher Anthony de Jasay also argues that liberalism has historically been too accepting of influences from outside ideologies, causing state policies that tend towards assimilationist measures (431). From this perspective, the liberal state will abuse rules of consent and submission, which will be used to exploit some groups to buy support for others (de Jasay, 432).

The elaborated differences discussed above show some ways that liberalism and libertarianism differ. These differences highlight the fact that both libertarianism and identity politics both have made some substantial critiques of the direction of contemporary liberalism. The libertarian derivations of liberalism provide a drastically different framework that has more potential areas of compatibility with identity politics. The sections below will elaborate on some of these areas, and how they present a more open system with the potential for some harmony with the broader goals of identity politics.

**Section III: Liberty and Equality**

One of the more widely recognized philosophical dilemmas is the dichotomy between liberty and equality. Unsurprisingly, libertarians have favored liberty over equality, preferring to focus on allowing individuals to pursue their own interest without interference. This fact is apparent even in the etymological sense, given that the word libertarianism has the word liberty in its root. Since libertarianism is seen as only being concerned with liberty, many see libertarianism as being indifferent to inequality. Considering that identity politics largely arose because of inequalities between groups, it does not initially appear that libertarianism has much to offer in that regard. While some libertarians tolerate or even defend socioeconomic inequality, other libertarians see equality as necessarily tied in with liberty, and thus an important consideration for libertarian theory.

Historically, libertarians have not had much patience for egalitarianism, viewing the compulsory nature of egalitarian proposals as inherently destructive of a free society (Barry, 4). One of the most popular libertarian works on equality is Murray Rothbard’s *Egalitarianism as a Revolt Against Nature*, the title of which is self-explanatory. Rothbard argues that egalitarians make an *a priori* case for the total equality of all mankind, which then causes all social inequalities to be viewed as the result of some form of oppression or discrimination (2000, 10). However, Rothbard’s knee-jerk argument against equality is not a requirement of libertarianism, and other libertarian writers have made a case for equality being an important consideration for libertarianism.

Contrary to Rothbard, Charles Johnson sees an understanding of social equality as essential for a proper understanding of libertarianism. When the topic of equality is brought up at all by libertarians, they often refer to a formal equality of rights or equality before the law. Johnson regards this as an “awfully thin glove over a heavy fist”, arguing that formal equality in an inherently unjust system is not worth defending (2008a, 170). Instead of equality of outcome, a radical libertarian like Johnson instead prefers to frame equality in terms of political authority.
From this perspective, any coercion undertaken by the state is a reflection of inequality, since the state “becomes entitled to dictate terms over another’s person and property, and the other is forced to obey” (Johnson 2008a, 170). Because any government necessarily consists of certain individuals with a great deal of power, Johnson’s position requires that those in government have no more special authority than any other person. Johnson also supports what he calls thick libertarianism, which argues that libertarians should concern themselves with practices that may lie outside of normal libertarian theory (Johnson 2008b, 35). Based on his thick interpretation, Johnson argues that libertarians should be concerned with inequality because there is a significant causal relationship between the overall wealth of a society and how free it is.

This theme is echoed by Long, who notes that enforcing “socioeconomic equality…does no more to challenge the existing power structure than does legal equality” leading to the ironic conclusion of egalitarians becoming defenders of the ruling class (2001). The radical nature of Long and Johnson’s view of equality in essence makes the libertarian support for liberty even more radical than is broadly considered. From this radical position liberty and equality are necessarily tied together, and the context of how equality is applied becomes a highly important consideration.

Section IV: Pluralism and Toleration

One of the most persistent criticisms identity theorists make of modern liberalism is how liberalism requires groups to assimilate into the pre-existing conceptions of society (Heyes 2008). Identity theorists are strongly opposed to these types of rationalism, which seek to create a common cultural basis for society. At times, identity politics offer solutions that are not compatible with liberalism, and these illiberal proposals face a great deal of opposition liberal theorists. Jacob Levy argues that liberalism has traditionally consisted of two competing divisions – one pluralist and one rationalist (279). The rationalist branch of liberalism “is committed to intellectual progress, universalism…and opposed to arbitrary and irrational distinctions” whereas the pluralist division is “friendly towards local, customary, voluntary, or intermediate bodies, communities and associations” (Levy, 279). Although Levy sees the division as also applying to libertarianism, most libertarians identify more strongly with the pluralist vision. As Brian Doherty notes, libertarianism is “a cosmopolitan philosophy, celebrating a world united in spirit, ideas, and trade, while reveling in the wide panorama of freely chosen local peculiarity that only relatively free polities can provide” (31).

Both of the branches of liberalism that Levy describes have problems dealing with questions of autonomy and toleration. Despite the fact that many liberal theorists will defend the rights of minorities to form separate societies, this is only tolerated as long as these societies maintain being governed by liberal principles (Kymlicka, 153). In a strange twist, liberalism which prides itself on tolerance ends up requiring an intolerance of illiberal societies. The primary fear of tolerating illiberal group rights is that this could “undermine the sense of shared civic identity that holds a liberal society together” (Kymlicka, 173). Because liberalism focuses on treating individuals as if they're were morally equal, this makes it highly difficult for a liberal society to participate in allowing or tolerating any form of illiberalism. From this perspective, a liberal society can never allow someone to alienate themselves because it would necessarily require that some people would be politically recognized as having less than the basic rights available to other parts of the populace (Freeman, 113). A liberal society then cannot allow for the separatist or collectivist ideas that are closely tied in with identity politics.
Libertarian theory offers a drastically different perspective concerning pluralism and toleration. The libertarian theories regarding individual rights and decrying government coercion are backed up by a deeply anti-rationalist vision that is highly skeptical of attempts to create or provide for the common good and enforce identities (Barry, 98). In direct opposition to Kymlicka and Freeman's views, Michael Otsuka offers a theory of voluntary association that would allow people to form virtually any type of political society, as long as the individuals involved properly consent (2003, 100). Otsuka's position is directly inspired by left-libertarianism, and sees all voluntary forms of association as acceptable as long as they occurred under some egalitarian circumstances (2003, 115). Under these conditions, if a group decided to form an illiberal or inegalitarian system of governance, a libertarian would have to accept this conclusion as it was arrived at purely voluntarily. The libertarian emphasis of self-ownership implies a strong right of free association, allowing for people to govern themselves under any terms they choose (Otsuka 2003, 119).

However, simply because libertarianism accepts such illiberal or inegalitarian systems as legitimate does not mean that libertarians must tolerate or defend those in such arrangements. Those outside of a freely chosen political society are bound to refrain from coercively interfering with illiberal arrangements, but also have no duty to assist these societies in their potential oppression of its members (Otsuka 2003, 119). To make sure that these voluntary societies remain voluntary, Otsuka attaches several conditions to the creation of these societies to ensure that any transfer of rights is consensual. These conditions require that children are raised in a manner that they are able to make rational and informed decisions, that they be educated in a manner that would allow them to excel in other societies, and that these children be allowed to leave the society upon reaching a certain age (Otsuka 2003, 119). These conditions are created to ensure that these societies remain purely voluntary, with the added effect of making the transmission of illiberal ideas through generations highly unlikely.

Unsurprisingly, a liberal society would be entirely unable to tolerate any societies that arose in Otsuka's fashion. Despite the fact that illiberal societies could arise from the voluntary decisions of individuals, without violating anyone's rights, modern liberals are skeptical of any system that allows for people to be governed in such an unequal manner. For example, John Rawls argued that given the hypothetical consent of all of society, illiberal principles would be universally rejected in favor of liberal-egalitarianism (Otsuka 2003, 127). Of course, proponents of identity politics have at times advocated what are considered illiberal policies, and liberals such as Rawls have obscured how diverse political opinion in a given society can be. Even in a purely liberal system, there would likely still be a considerable number of individuals who held illiberal political views. A libertarian framework would allow these people to create their own societies, with the underlying condition that the whole process remains voluntary. Liberalism maintains an unusual position where it relies on the use of tacit consent, and has no definable way for consent to be withdrawn (Long 1995, 14). As Long notes, any reliance on actual rather than implied consent would in effect de-legitimatize virtually all liberal societies, opening up the prospect of a newer and more voluntaryist system (1995, 18). For both libertarians and theorists of identity politics, any new system would almost certainly be much more amenable to both groups than the current hegemony of liberalism.
Section V: Redistribution and Taxation

Distributive justice for marginalized or exploited groups has always been an important consideration of identity politics (Fraser, 19). Redistribution of income is seen as an ameliorative measure that could account for past injustices and ensure that the effects of oppressive systems are not felt as strongly. Unsurprisingly the standard libertarian position on the redistribution of income is predictable – it is simply viewed as a form of coercion that forcibly redistributes income towards the undeserving. Given the anti-egalitarian perspective of some libertarians discussed above, this perspective is simply a logical deduction from the libertarian view of coercion. However, not all versions of libertarians are so strongly opposed to the redistribution of income, and left-libertarian theorists have provided their own theories that offer measures that could be satisfactory to both sides.

One of the more prominent left-libertarians is Michael Otsuka, who offers an intriguing method of taxation and redistribution that is aimed at finding a common ground between liberal egalitarians and left-libertarians (1998, 247). In place of a system of universal taxation, he proposes that the unjust be taxed to provide a basic income to the least well off. Otsuka argues that egalitarians should accept this system of taxation precisely because it limits the inherent coercion involved in the process of taxation (1998, 254). In a sense, Otsuka’s system of taxation is more voluntary than universal taxation, in that only those guilty of crimes will be taxed, with the taxation being the price of the crime committed. Otsuka also feels that this system should be more amenable to libertarians, precisely because it limits the coercive nature of taxation (1998, 255). As a matter of course, libertarians are likely to be highly skeptical of any redistributive scheme, but Otsuka argues that the fact that the unjust or those who violate the rights of others are the ones coerced and taxed should make his system acceptable to libertarians.

However, both of the sides that Otsuka seeks to appease would have obvious objections to his system. By definition, any egalitarian would have to oppose such an inequality of taxation, and would obviously prefer a more universal system. His system would not be any less controversial for libertarians, who have an obvious ideological aversion to coercion. However, Otsuka’s system does provide a potential middle ground where more libertarian means could be used to provide for the ends of identity politics. The idea that those responsible for the oppression of marginalized groups would be the only ones whose income was redistributed does have a certain justice to it. Given that libertarians are also fond of legal systems that rely on compensation rather than punishment, this system has further appeal (Vallentyne, 2008). Those who were not responsible for oppression are then free of coercive attempts to redistribute their income, and the least well off are still provided for. While Otsuka’s system clearly exists only in the form of theory, it still provides an intriguing example of how redistributive goals could be brought about by more libertarian means.

Section VI: Libertarian Class Theory

Given that identity politics at times represents a radical break away from liberalism, it is not surprising that identity theorists have often been influenced by other radical ideologies. While orthodox Marxism has typically remained hostile to identity politics, many theorists have used Marxist class analysis as an additional consideration when discussing how specific groups are oppressed. The Marxist theory of classes provides a powerful and easily adaptable tool for analyzing how marginalized groups are economically exploited by the ruling class, and it is not surprising that identities such as race and gender often are often highly intertwined with class. However, Marxism does not have a monopoly on the use of class theory, and libertarianism also
has a theory of class. While obviously different from Marxist class theory, the libertarian theory of class is itself a powerful tool for examining how oppression manifests itself in society.

Despite the fact that class theory is most closely identified with Marxism, class analysis has philosophical roots that go back to classical liberalism. Several 19th century French liberals used class analysis as part of their critique of the French monarchy and aristocracy (Raico 1977, 179). Marx himself credited these “bourgeois” economists and historians for discovering the historical development of class struggle and for finding how economics was a major determinant of class (Raico 2008, 192). Rather than the Marxist emphasis on class relationship to the means of production, liberal class analysis was focused on state power and those who had disproportionate access to it (Long 1998, 313). As mentioned above, libertarianism is a derivation from liberalism, so it is unsurprising that it too has a theory of class.

Libertarian class theory is highly similar to the classical liberal theory, but expectedly has several important differences. Libertarian theorist Wendy McElroy identifies libertarian class theory as follows:

While Marxist class analysis uses the relationship to the mode of production as its point of reference, libertarian class analysis uses the political means as its standard. Society is divided into two classes: those who use the political means, which is force, and those who use the economic means, which require voluntary interaction. The former is the ruling class which lives off of the labor and wealth of the latter. (23)

This analysis is largely based around two ideas key to libertarianism – the proper use of force and the emphasis on voluntary actions. Libertarian class theory is not incredibly far removed from the Marxist version, as both identify those with the most access to state power as the ruling class. Where the two ideologies differ is in who is exploited. Marxist theory identifies those with no access to means of production as the exploited, whereas libertarian theory has a more inclusive understanding of exploitation. Those who rely on economic means, and lack access to state power, are seen as being unable to protect themselves from the state, and thus face severe disadvantages from those who are able to influence the government. This also ties in very closely with libertarian support for public choice economics, which views the state, interest groups, and lobbyists as mostly predatory figures that benefit at the expense of the public.

Instead of the libertarian class theory formulated above by McElroy, other libertarians use a different interpretation of libertarian class theory. One prominent example is Murray Rothbard, who saw the ruling class as consisting of two subclasses – those who hold political power inside the state and those in the private sector who influence the state (52). In a reformulation of Rothbard’s position, Roderick Long argues for the ruling class as consisting of both statocratic and plutocratic classes. Long notes that there is no consensus in libertarianism as to which of the two subclasses is dominant, with libertarian capitalists favoring the statocratic explanation and libertarian socialists favoring the plutocratic position (Long 1998, 318). In an extension of this position, Long notes that libertarians tend to favor a mix of both explanations, although one of two classes is almost always considered dominant (1998, 321).

Most libertarians favor the statocratic explanation, and take the unfortunate position that business interests are always benign in intent and influence. The culmination of the perspective came from the highly popular Ayn Rand, who considered big business to be a “persecuted minority” and considered the military industrial complex to be a myth (Long 1998, 322). It is this view of the state that causes some libertarians to spend great amounts of time arguing against things like welfare or food stamps, while virtually ignoring many of the ways that big business
benefits from state power. Rather than focusing on the statocratic view, Long favors a combination of views that regards the statocrats as the more powerful class, while still placing importance on the plutocratic class. In his final analysis, Long argues that plutocratic power is largely dependent on state power, but still views the plutocrats influence on the state as a large problem (1998, 340).

Although libertarian class theory may seem very different from Marxism, it still has many ways in which it can apply to identity politics. Theorists of identity politics are heavily concerned with marginalization and oppression, and libertarian class theory is heavily based around the power of the state. More importantly, libertarian class theory places a great deal of importance on the unequal access to state power. Any oppressed group that turns towards identity politics should see the obvious advantages in this mode of analysis, as oppression is largely the result of state action. Rather than using the standard Marxist idea of classes, using libertarian class theory creates a strong recognition of how groups come to be marginalized in the first place. This version of class theory maintains an emphasis on economic exploitation, while not ignoring how the state only reinforces how groups are oppressed.

Long’s own formulation of class theory also offers some additional benefits for proponents of identity politics. His view is that inequality, both in economic and political terms, is the result of state actions taken by the ruling class. The fact that Long is highly considerate of how business interests contribute towards economic subjugation is also a large benefit, as it avoids the libertarian miscue of defending capitalism as if corporations and other large influences were simply benevolent and self-interested actors. Long’s combination of recognizing the power of both statocracy and plutocracy presents an intriguing tool for identity theorists. This theory provides a way to argue for large-scale exploitation of certain groups, without invoking some of the historical embarrassments related to Marxist theory. While not all theorists of identity politics are open to using the idea of classes to analyze how a constituency can be marginalized in a larger context, libertarian class theory does offer a highly different method with some of the tools needed to properly understand how oppression occurs.

Conclusion

Reviewing all the similarities above, libertarianism and identity politics certainly appear to have several conceptual parallels. Even disregarding the fact that both ideologies represent radical breaks away from the liberal consensus of modern politics, at times both ideologies have strange resemblances. Both philosophies present an almost overwhelming emphasis on how state power is used to hurt unrecognized members in the sometimes forgotten parts of society. Libertarians present this concern with an almost overwhelming emphasis on coercion, whereas theorists of identity politics frame their work with the emphasis on oppression. Looking closely at the foci of the two groups, the concerns with coercion and oppression are virtually the same, only the terminology is different. The likeness between the two ideologies suggests that theorists on both sides could have a great deal to learn from each other. Unfortunately, there appears to have been insufficient work done in looking at how these two fields could be brought into a greater dialogue.

Proponents of identity politics are fond of citing the work of Michel Foucault, who spent a great deal of his career noting the various ways in which modern institutions oppress the most unfortunate members of society. Towards the end of his career, Foucault became very interested in libertarianism, and even required his students to read works by libertarians such as Friedrich Hayek and Ludwig Von Mises. For Foucault, libertarianism served as an excellent study of how
certain individuals refused to be intimidated by state power, and libertarianism’s general emphasis on the proper use of coercion also likely intrigued him (Kuznicki, 180). However, situations like Foucault’s seem very unlikely. Libertarianism is typically framed as a right-wing view, whereas identity politics is almost universally considered a radical left-wing doctrine. While this certainly speaks as to how simple labels can greatly confuse the complexities of political ideologies, it will likely prevent any conversation between the two fields of study. However, the similarities between the two fields are too startlingly similar to be ignored, as both represent an intriguing break from more mainstream political theories. Whether or not a dialogue between libertarians and identity theorists ever happens, the congruence between both political theories still represents how similar ideologies can become when they both are dissenting from the same political tradition.
References


Mill and Hayek: Liberty, Morality, and Socialism

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Abstract

This paper seeks to reconcile the fact that John Stuart Mill and Friedrich Hayek were able to have opposing views on socialism while adhering to classical liberal beliefs. It is my conclusion that Darwinian evolutionary theory played a large part in Hayek's divergence from Mill's views on socialism, and that Mill could have benefited from such theories. Darwinian evolutionary theory allowed Hayek to examine social institutions and the creation of morality as an evolutionary process, whereas Mill thought morality and social institutions were rationally constructed. Mill's utopianism, expressed through utilitarianism, may have been a hindrance in his conception of socialism and its effect on liberty.

Introduction

When John Stuart Mill published On Liberty in 1859, he predicted it would become his most pertinent and enduring work. Exactly one hundred years later, Friedrich Hayek completed The Constitution of Liberty, of which the first line reads, “If old truths are to retain their hold on men's minds, they must be restated in the language and concepts of successive generations” (Constitution 1). Both authors are considered classical liberals, advocating the necessity of a private sphere protected from government intervention in order to promote human diversity and progression. So, then, is The Constitution of Liberty to be read simply as a restatement of the “old truths” put forward in On Liberty? It is my conclusion that this is not the case, as it ignores the philosophers’ differing views of socialism. In this paper, I will examine specifically how Mill was able to entertain the idea of socialism, declaring himself a socialist in his Autobiography, while Hayek vehemently opposed socialism. How is it that each arrived at different conclusions regarding socialism while maintaining the same premises of liberty and a free society? To examine this question, I will look not only at On Liberty and The Constitution of Liberty, but also Mill's Autobiography, Chapters on Socialism, and Principles of Political Economy, and Hayek's Road to Serfdom, The Fatal Conceit, and Law, Legislation and Liberty.

Socialism Defined

It is necessary to begin with how each philosopher defined socialism so as to better understand their arguments. In understanding Mill’s conception of socialism, we must remember his utilitarian standards, that his ideal society must further the greatest good of the greatest number. The debate of private property versus socialism, then, is a matter of which promotes the most good in society. It is also necessary to emphasize that Mill is only arguing for a thought experiment concerning the validity of socialism. He believes empirical tests are ultimately necessary to determine whether socialism is a better system than capitalism.

The difficulty in understanding Mill’s arguments for socialism is whether he desired a practical, immediate form of socialism, or an ideal, distant type. He acknowledges the ideal form of socialism, in which workers exert themselves entirely for the public good, as requiring rigorous education to deter aspects of self interest. On the other hand, the more immediate, practical forms of socialism employ man’s self interest to the general good of the community.
Mill speaks highly of Fourierism for its ability to retain individual incentives to work while at the same time promoting the general welfare (Principles 272).

Furthermore, as Robbins points out in The Theory of Economic Policy in English Classical Political Economy, “The ‘Socialism’ Mill had in mind in the Autobiography as possibly ultimately desirable, was not a centralized organisation with an all-powerful state owning and running the means of production, distribution and exchange, but rather a congeries of co-operative body of workers practising the virtues of association among themselves but independent, in the same sense in which any part of a social organism can be independent vis-à-vis other members of society (Economic Policy 159).” Mill believed workers’ cooperatives would foster a more equitable distribution of profits as well as increase total production, since the workers’ interests would be more closely aligned with profit. Workers could vote within their own cooperatives on who to hire and promote, and competition between cooperatives would be preserved.

In Chapters on Socialism, Mill admits that the attempt to manage the whole production of a nation by one central organization is a difficult task, so he instead considers an association of two thousand to four thousand. The concern is whether this joint management is as efficient and successful as private industry and private capital. To answer this question, we must know the efficiency of the directing minds and of the workpeople. However, Mill maintained that “We are too ignorant either of what individual agency in its best form can accomplish, or Socialism in its best form, can accomplish, to be qualified to decide which of the two will be the ultimate form of human society (Principles 205).” There would have to be empirical tests of socialism to determine whether it had merit in replacing a system of private property.

Whereas Mill's conception of socialism began with worker's cooperatives and ended in a more ideal state of socialism with all workers motivated to contribute to the public good, Hayek's conception was that of a state planned economy. The attempted ends of socialism, according to Hayek, were social justice, equality, and security. But socialism’s means to achieve these ends include the abolition of private enterprise and implementation of a state controlled economy. The dispute over socialism, then, is not about its ends, but about the means of achieving these ends. The question is whether it is “better that the holder of coercive power should confine himself in general to creating conditions under which the knowledge and initiative of individuals are given the best scope so that they can plan most successfully, or whether a rational utilization of our resources requires central direction and organization of all our activities according to some consciously constructed “blueprint” ” (Road to Serfdom 35).

The time periods in which each philosopher lived contributed heavily to their views on socialism. Mill was writing in the middle of the nineteenth century, during the peak of the industrial revolution. He saw the negative effects of capitalism, including child labor and extremely long working days. He saw individuals as being bound to their employer, incapable of mobility or selling their labor properly. This gave him a view of the capitalist-worker relationship as one of exploitation and cutthroat competition. In Chapters on Socialism, he describes the condition of workers: “No longer enslaved or made dependent by force of law, the great majority are so by force of poverty; they are still chained to a place, to an occupation, and to conformity with the will of an employer, and debarred by accident of birth both from the enjoyments, and from the mental and moral advantages, which others inherit without exertion and independently of desert (Chapters 227).” For these reasons, we can better understand why Mill entertained the idea of a worker-cooperative model of socialism. He saw the capitalist-worker relationship as the greatest impediment to liberty, and therefore advocated for a system
that would provide workers with a direct stake in the means of production. At the same time, he wished to preserve aspects of private property and a free market, which the worker-cooperative scheme was able to do.

Hayek published *The Road to Serfdom* in 1944, at the culmination of WWII. He begins the book with the premise that the classical liberalism of the nineteenth century has been utterly lost in the present order. As nations have entertained the idea of socialism, they have gradually progressed away from the ideals that define classical liberalism. Freedom in economic affairs has been progressively abandoned, and we have ignored the warnings of some of the greatest nineteenth century political thinkers that socialism is ultimately slavery. The ideals of individualism and liberalism that go back not only to Locke and Smith but to classical Greece and Rome have all but been abandoned. It is with their abandonment that socialism has gained prominence and redefined the term liberalism, transforming it from its original definition incorporating individualism and free markets into one supporting increased government control over the lives of individuals. By accepting socialism, Hayek believes, we set ourselves on a path that ends ultimately in totalitarian control. With a greater understanding of how both Hayek and Mill understood and defined socialism, it is now appropriate to turn to the twin ideas of individuality and human progression, and their possibilities under socialism.

**Liberty and Individualism**

Both Mill and Hayek had classical liberal conceptions of liberty and individuality. They both argue for a private, individual sphere free from the harm of others. Mill claims “that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others (On Liberty 11).” This conception of liberty has since gained the term “negative liberty,” a freedom from the undue harm of others. Hayek agrees with the concept of negative liberty as enforced by the state, and explicitly states in the first chapter of *The Constitution of Liberty*, “We are concerned in this book with that condition of men in which coercion of some by others is reduced as much as is possible in society. This state we shall describe throughout as a state of liberty or freedom (Constitution 11).” Conversely, socialists desire a freedom from necessity, a freedom to have open all possible choices which are necessarily limited under a classical liberal society. For man to be truly free, he must be free of physical want and the restraints of the economic system. The socialist desire for freedom was a desire to eliminate the disparities in the range of choice, a desire that ultimately necessitates the redistribution of wealth.

This new form of liberty advocated by socialists is called positive liberty. Positive liberty refers to having the resources and ability necessary to fulfill one's own potential, free from restraints. Hayek is completely opposed to this form of liberty, as it is more equivalent to power and wealth and would necessarily require a redistribution of resources. As noted above, Mill explicitly advocates for negative liberty at the beginning of *On Liberty*. However, this endorsement comes into conflict with his ideal of utilitarianism. If liberty is simply meant to prevent harm to others, it does not necessarily provide the greatest good for the greatest many. Mill describes his ideal state of affairs in his *Autobiography*:

> While we repudiated with the greatest energy that tyranny of society over the individual which most Socialistic systems are supposed to involve, we yet looked forward to a time when society will no longer be divided into the idle and the industrious; when the rule that
they who do not work shall not eat, will be applied not to paupers only, but impartially to all; when the division of the produce of labour, instead of depending, as in so great a degree it now does, on the accident of birth, will be made by concert on an acknowledged principle of justice. (Autobiography)

The principle of justice Mill speaks of seems to be an argument for a positive rather than a negative conception of liberty, or at the very least an argument for a more equitable distribution of resources. Mill finds fault with the injustice and inequality that is a result of mere birth right. Hayek, on the other hand, justifies the existence of inequality for its ability to foster human advancement. If material equality were promoted, it would impede the process of material growth and progression. Hayek explains: "What today may seem extravagance or even waste, because it is enjoyed by the few and even undreamed of by the masses, is payment for the experimentation with a style of living that will eventually be available to many. The range of what will be tried and later developed, the fund of experience that will become available to all, is greatly extended by the unequal distribution of present benefits; and the rate of advance will be greatly increased if the first steps are taken long before the majority can profit from them (Constitution 44)." Inequality allows us to progress and increase our material wealth. Those in the higher classes of society push innovation through participation and investment in new forms of technology and living. All classes eventually benefit from the progress advanced by those with more wealth. If wealth were more equally distributed, it may have strong immediate effects of bringing those in the lower classes to a higher standard of living, but would eliminate the technology and innovation pushed by the wealthiest and result in a static society. However, Hayek acknowledges that gross inequalities often offend human sensibilities, and argues that when there is a legitimate need for government action, the method that reduces inequality may well be preferable (Constitution 88). He praises the level of social equality the United States has reached at the time of his writing The Constitution of Liberty.

Mill believes the debate between socialism and market capitalism will be decided by which system maintains the greatest amount of human liberty and spontaneity. The human desire for liberty, Mill claims, is the first desire to arise after that of subsistence, and only grows as the intelligent and moral faculties are developed. Mill acknowledges, “It remains to be discovered how far the preservation of this characteristic would be found compatible with the Communistic organizations of society (Principles 210).” But the objection that liberty must be sacrificed for equality in a socialist or communist society has been greatly exaggerated. Mill heeds: “Individuals need not be chained to an occupation, or to a particular locality. The restraints of Communism would be freedom in comparison with the present condition of the majority of the human race (Principles 210).” Mill believed that many workers have so little a choice of occupation, and are so practically dependent on the will and rules of others, they are barely short of a system of slavery. Socialism, then, would be an improvement in terms of protecting individualism.

Mill pleads ignorance in relation to whether socialism would facilitate human progress through a diversity of “tastes and talents, and a variety of intellectual points of view,” which are necessary for mental and moral progress. Hayek, however, is adamant that socialism would destroy these characteristics and the concept of liberty and individualism. In determining whether a person can be considered free, Hayek states: “Whether he is free or not does not depend on the range of choice but on whether he can expect to shape his course of action in accordance with his present intentions, or whether somebody else has power so to manipulate the
conditions as to make him act according to that person's will rather than his own” (*Constitution* 13). State planned socialism would necessarily dictate a central planner responsible for directing the wills of individuals, so that each contributed a share to the public good. Mill agrees with the problems inherent in a central dictator controlling individuals actions and the economy, arguing that the only time government can assert its power over individuals is to prevent harm to others, that “His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right (*On Liberty* 12).” Is Mill able to reconcile his arguments against outside coercion of the individual with the fact that a full socialist system necessitates a central planner? In resolving this contradiction, we must acknowledge Mill’s immediate and ideal forms of socialism. In his workers’ cooperatives scheme, workers would simply form their own cooperatives and companies without coercion. For Mill’s conception of ideal socialism to exist without coercion, it must be the case that education and the progress of human morals will have created an atmosphere in which people naturally work for the good of others. However, it is necessarily impossible for humanity to progress in this fashion. The problem is not one of morality, but one of knowledge.

Hayek points out in *The Road to Serfdom* that it would be impossible to determine the varying needs of different people and attach a weight to each. The philosophy of individualism is based on this fact. It does not assume that individuals are selfish or egoistic, but that the limits of our imagination make it impossible to arrange a scale of values and needs for an entire society. Hayek states, “To direct all our activities according to a single plan presupposed that every one of our needs is given its rank in an order of values which must be complete enough to make it possible to decide among all the different courses which the planner has to choose. It presupposes, in short, the existence of a complete ethical code in which all the different human values are allotted their due place (*Road* 57).” Scales of value themselves can exist only in the minds of individuals. Therefore, the individualist concludes, people should be allowed to follow their own preferences and should not be subject to other's plans.

Furthermore, Mill does not seem to recognize the necessity of dispersed knowledge in contributing to the progress of society. In *On Liberty*, he does acknowledge that individuals are better equipped than others in relation to knowledge of their circumstances. He states: “With respect to his own feelings and circumstances, the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by any one else (*On Liberty* 79).” For Mill’s socialist thought experiment, how would individual knowledge be combined to the same effect that it is under a capitalist system? It seems that individual knowledge would be impossible to incorporate if not guided by free market principles.

It is my belief that Mill did not understand the total economic effects of individual knowledge, and its effects on human progression. He respected individual knowledge, but I do not believe he understood that “knowledge exists only as the knowledge of individuals” (*Constitution* 24). As Hayek states, “it is largely because civilization enables us constantly to profit from knowledge which we individually do not possess and because each individual's use of his particular knowledge may serve to assist others unknown to him in achieving their ends that men as members of civilized society can pursue their individual ends so much more successfully than they could alone (*Constitution* 25).” Mill's thought experiment concerning his ideal socialism seems to include a belief that knowledge is so widespread that individual knowledge has lost importance, and that individuals could simply organize themselves and direct themselves to the proper employment and use of resources. However, with this system there
would necessarily be a clumsy adaptation to new technologies and very slow advancement. It is through the combined knowledge of individuals that the free market is superior and better able to adapt to changing circumstances.

Individualism has its greatest gains not in the freedom it provides for the self, but for the knowledge we gain from others who are free. In a society where all are free, all are able to benefit from the ideas and progress of others, creating a community of intellectual and material progress. As Hayek points out, "The benefits I derive from freedom are thus largely the result of the uses of freedom by others, and mostly of those uses of freedom that I could never avail myself of (Constitution 32)." Also entirely important is the fact that individual liberty fosters genius: "Persons of genius, it is true, are, and are always likely to be, a small minority, but in order to have them, it is necessary to preserve the soil in which they grow. Genius can only breathe freely in an atmosphere or freedom...I insist thus emphatically on the importance of genius, and the necessity of allowing it to unfold itself freely both in thought and in practice (On Liberty 67)." It is for these very reasons that individualism is so closely connected with the advance of civilization. We are all certainly not geniuses, but in an environment of freedom, we are able to benefit from the theories and ideas that genius puts forward. As Hayek concludes, "The freedom that will be used by only one man in a million may be more important to society and more beneficial to the majority than any freedom that we all use (Constitution 31)."

Morality and Socialism

In Mill's Autobiography, he states that his ideal goal for a socialist community is to unite the “greatest individual liberty of action, with a common ownership in the raw material of the globe, and an equal participation of all in the benefits of combined labour.” For this to occur, the laboring masses and their employers must have a transformation of character. Individuals must learn to labor not for themselves, but for the public good. Mill acknowledges that this capacity has always existed in mankind, but must be developed through “education, habit, and the cultivation of the sentiments.” This transformation would be very slow, Mill admits, but not impossible: “Interest in the common good is at present so weak a motive in the generality not because it can never be otherwise, but because the mind is not accustomed to dwell on it as it dwells from morning till night on things which tend only to personal advantage (Autobiography 231).” This selfishness has been fostered by social institutions and human nature for centuries, and there have been limited occasions when individuals are called to work for the public good. Socialistic experiments, such as cooperative societies, have been a useful education as to whether individuals can eliminate selfish desires and work for the public good.

That Mill wants to weaken the motive of self-interest makes it seem that he does not fully appreciate the "invisible hand" theory of Adam Smith. In Smith's seminal work, The Wealth of Nations, he posits that "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages" (14). Mill seems to believe this self-interest is inimical to his ideal society, in which men work towards the public good rather than simply their own interests. Mill fails to realize that it is this self-interest that fosters the creation of wealth. We benefit not from the altruism of the baker, but from the fact that he seeks profit from the sale of his bread. Mill explains that under a capitalist system, "These conditions lead to envy, hatred, and uncharitableness, where everyone is seen as an enemy. Ultimately, our greatest gains come from the worst source of all, from death, the death of those who are nearest and should be dearest to us" (Autobiography 233).
However, this seems entirely false. When others die we actually suffer because we can no longer benefit from their contribution to society. Additionally, Hayek points out that self-interest can accommodate altruism:

There is much confusion of the ideal that a person ought to be allowed to pursue his own aims with the belief that, if left free, he will or ought to pursue solely his selfish aims. The freedom to pursue one's own aims is, however, as important for the most altruistic person, in whose scale of values the needs of other people occupy a very high place, as for the egoist. It is part of the ordinary nature of men (and perhaps still more of women) and one of the main conditions of their happiness that they make the welfare of other people their chief aim (Constitution 78).

Self-interest is not necessarily a completely selfish interest, as many times self-interest incorporates the welfare of others. When our actions make others better off, our own self interest is often benefited.

Hayek would disagree entirely with Mill's sentiments regarding morality. Firstly, he would point out Mill's failure in recognizing custom and tradition as responsible for developing our morality. As Hayek states in *Law, Legislation and Liberty*:

What are chiefly responsible for having generated this extraordinary order, and the existence of mankind in its present size and structure, are the rules of human conduct that gradually evolved (especially those dealing with several property, honesty, contract, exchange, trade, competition, gain, and privacy). These rules are handed on by tradition, teaching and imitation, rather than by instinct, and largely consist of prohibitions ('shalt not's') that designate adjustable domains for individual decisions. (*Law, Legislation and Liberty* 12)

Hayek does not believe that we can simply design humans (through education or other means) to pursue the social good instead of their private interests. It is through thousands of years of custom and tradition that we have arrived at the morality that we now maintain.

In *On Liberty*, Mill acknowledges the derivation of the rules of society as being created through custom. He points out what he considers the illusion of custom: “The rules which obtain among themselves appear to them self-evident and self-justifying. This all but universal illusion is one of the examples of the magical influence of custom…”(*On Liberty* 47). Although Mill acknowledged the importance of custom in creating the rules and morality in which our society operate, he thought it an impediment to happiness and progress. That Mill wholeheartedly disagreed with custom and tradition can be seen further in *On Liberty*: “The despotism of custom is everywhere the standing hindrance to human advancement, being in unceasing antagonism to that disposition to aim at something better than customary” (*On Liberty* 72). Custom, as he observed, repudiates itself because no one questions or discusses the rules for its existence. Custom hinders human advancement and happiness because the individual is unable to express his character fully.

**Darwinian Influence**

Mill could have benefited from Darwinian evolutionary theories in his understanding of human nature and morality. As Hayek points out, “I do not wish to dispute that the working out of Darwin's theory of biological evolution, in all its ramifications, is one of the great intellectual achievements of modern times – one that gives us a completely new view of our world (Constitution 26).” Darwin's theories provided a whole new paradigm through which Hayek was
able to view the world, and allowed him to improve on the ideas developed by Mill. Rather than an evolutionary theory of morality, Mill claimed a more rationally planned idea of morality, that morals should promote the utilitarian calculus of the greatest good for the greatest many. In this sense, it would be necessary for morality to be a planned concept, not necessarily susceptible to evolution or adaptation over time. Hayek comments on this sense of positivism or constructivism: “Jeremy Bentham had developed the most consistent foundations of what we now call legal and moral positivism: that is, the constructive interpretation of systems of law and morals according to which their validity and meaning are supposed to depend wholly on the will and intention of their designers…This constructivism includes not only the Benthamite tradition, represented and continued by John Stuart Mill and the later English Liberal Party... (Fatal Conceit 52).” This rational constructive approach, of which Hayek puts in great disdain, claims that morals can be created or that they have a strictly rational design in response to human energies. It places human control above the power of evolution.

Mill thought the best society to be one with the “greatest happiness for the greatest many”. Through rule utilitarianism, individuals would pursue the actions most appropriate to this goal. The best action is then the one that creates the greatest good in society. However, Hayek explains the evolution of morality quite differently:
The morals which maintain the open society do not serve to gratify human emotions – which was never an aim of evolution – but they served only as the signals that told the individual what he ought to do in the kind of society in which he had lived in the dim past. What is still only imperfectly appreciated is that the cultural selection of new learnt rules become necessary chiefly in order to repress some of the innate rules which were adapted to the hunting and gathering life of the small bands of fifteen to forty persons, led by a headman and defending a territory from outsiders. From that stage practically all advance had to be achieved by infringing or repressing some of the innate rules and replacing them by new ones which made the co-ordination of activities of larger groups possible. Most of these steps in the evolution of culture were made possible by some individuals breaking some traditional rules and practising new forms of conduct – not because they understood them to be better, but because the groups which acted on them prospered more than others and grew. (Law Legislation and Liberty 160)

Morality and civilization have progressed not through rational planning, as Mill argues, but through a process over thousands of years in which the system most conducive to human advancement was allowed to flourish. Morality is not instinctual but seeks rather to overcome instincts. The instincts specific to small cooperative societies began to transform when individuals saw the benefits of a larger society and labor specialization. The morality that developed was then the one most conducive to survival and human advancement, being chosen in an evolutionary pattern similar to the evolution of species.

Hayek thought the system arrived at through evolution was the best one possible. He states: “...if we discard these traditions, we shall doom a large part of mankind to poverty and death (Fatal Conceit 27).” It is not that the system we have is necessarily perfect, but that it is the one most conducive to human advancement. As Hayek makes clear, “There is in fact no reason to expect that the selection by evolution of habitual practices should produce happiness. The focus on happiness was introduced by rationalist philosophers who supposed that a conscious reason had to be discovered for the choice of men's morals, and that that reason might prove to be the deliberate pursuit of happiness. But to ask for the conscious reason why man
adopted his morals is as mistaken as to ask for what conscious reason man adopted his reason (Constitution 64).” Hayek believes that our evolution in morals has been most conducive not in a utilitarian perspective, but in the advancement of material progress. We are born into a society with readily established moral and traditional practices, and must exist and make decisions within these bounds. Civilization has come to depend on the stage that our morality has now reached.

Conclusion

Mill prefaced On Liberty with a quote from Willhelm von Humboldt: "The grand, leading principle, towards which every argument unfolded in these pages directly converges, is the absolute and essential importance of human development." Hayek used this same quote as the conclusion to The Constitution of Liberty. Both authors praised human development, fostered through liberty and individualism in the classical liberal tradition, but arrived at differing views on socialism. Mill examined socialism through a though experiment, and ultimately claimed the need for empirical evidence to see if it would be a better system than the free market. Hayek, on the other hand, explicitly denounced socialism as an evil that would lead people to poverty and misery. It is my conclusion that Darwinian evolutionary theory played a large part in Hayek's divergence from Mill's views on socialism, and that Mill would have benefited from such theories. However, it is not the case that we should disregard Mill's thoughts or ideas, or view him as a contradictory thinker in terms of the classical liberal tradition. As Ebenstein points out, "Mill's greatness stemmed from the capaciousness of his view. While this is sometimes interpreted as inconsistency, it is, rather, exemplary of Mill's perspective that truth, in the great political matters of life especially, is the reconciling and combining of opposites (Hayek's Journey 158)."

Mill can be considered a great idealist in the sense of human progress and the development of morality. Mill's utilitarian calculus is itself extremely idealistic, presupposing that every action be done with recognition of the greatest good. That Mill thought morals and human nature could be rationally planned is evident in his desire to diminish the selfish elements in humanity. The inferiority of selfishness is ultimately not a certain condition of human nature, Mill thought: “Mankind are capable of a far greater amount of public spirit than the present age is accustomed to suppose possible (Principles 206).” Mill believed that man could naturally progress to a time of equitable labor and distribution by working exclusively for the public good. As he declared in his Autobiography, "The social problem of the future we considered to be, how to unite the greatest individual liberty of action, with a common ownership in the raw material of the globe, and an equal participation of all in the benefits of combined labour (Autobiography 196).” It is not the case the Mill desired a socialist society with a central planner and state control, but a society where all owned the means of production and benefited justly from the fruits of their labor. This would be Mill's ideal. To reach such a society, Mill thought it necessary to improve education and call on individuals to work towards the public good. His immediate form of socialism was one that preserved aspects of self-interest, in the form of workers-cooperatives. Eventually he hoped to reach his ideal socialism, where individuals labored solely for the public good without material incentives.

Hayek incorporated elements of Darwinian evolutionary theory into his explanation of custom and morality. According to Hayek, morality is a resultant effect of thousands of years of custom and tradition. Whereas we started in small cooperative bands, we have now progressed
to a time when people follow their own pursuits, with individual knowledge organized through a free market system. As Hayek points out:

Cooperation, like solidarity, presupposes a large measure of agreement on ends as well as on methods employed in their pursuit. It makes sense in a small group whose members share particular habits, knowledge and beliefs about possibilities. It makes hardly any sense when the problem is to adapt to unknown circumstances; yet it is this adaptation to the unknown on which the coordination of efforts in the extended order rests. Competition is a procedure of discovery, a procedure involved in all evolution, that led man unwittingly to respond to novel situations; and through further competition, not through agreement, we gradually increase our efficiency. (Fatal Conceit 19)

Competition has allowed the progression of humanity and ideas, and to think that we can form a cooperative socialist community is to be ignorant of the evolutionary process that has arrived at a free-market system.

That Hayek and Mill argued differently concerning the merits of socialism is crucial to their conclusions. Hayek wished to make the debate about scientific concerns, and not about values: “The demonstration that the differences between socialists and non-socialists ultimately rest on purely intellectual issues capable of scientific resolution and not on different judgments of value appears to me one of the most important outcomes of the train of thought pursued in this book (Law Legislation and Liberty 6).” Mill addresses these scientific issues, specifically whether the same material progress can be made under socialism, but also includes social justice and equality as part of the debate. As Mill states, the material benefits from cooperation would be "as nothing compared to the moral revolution in society which would accompany it: the healing of the standing feud between capital and labor; the transformation of human life, from a conflict of classes struggling for opposite interests, to a friendly rivalry in the pursuit of good common to all, the elevation of the dignity of labor; and the conversion of each human being's daily occupation into a school of the social sympathies and the practical intelligence (Principles 295).” Mill's ability to entertain socialism stems not only from material concerns, but from a desire to reconcile the differences between classes and to increase the individual’s sense of dignity. He saw the worker-employer relationship in many instances as exploitative, and hoped to eliminate such conflict through the worker-cooperatives system.

Mill and Hayek had different conceptions of human nature and morality, with Mill more idealistic in his conception especially in relation to socialism. As a result, Mill was more able to entertain the idea of socialism, specifically his ideal socialism. Hayek, on the other hand, incorporated evolutionary theory in his analysis of morality and understood the importance of custom. It was with this knowledge that Hayek judged the tenets of socialism, and thus arrived at a different conclusion than Mill.
Works Cited

A society’s literature has always been one of the most effective ways of gauging its values. The stories a society chooses to tell will enshrine the values it treasures while emphasizing those it finds problematic. Gothic literature is particularly valuable in this regard; it is almost always intended to be a form of social critique, and as such highlights where a society has deviated from those values it treasures in order to generate a horrifying effect. Gothic literature can be divided into many strains, the most notable division being between the European Gothic and the American Gothic. This study will examine the American Gothic and endeavor to prove 1) it is rooted in the idea of the Rule of Law and 2) American Gothic stories serve to critique society for abandoning or perverting the Rule of Law while making clear the dangers in doing so. This will be done by examining three novels: The House of the Seven Gables by Nathaniel Hawthorne, Sanctuary by William Faulkner, and To Kill a Mockingbird by Harper Lee. These novels were written over a wide stretch of American history, from the nation’s early years to the near-present day, and as such offer clear evidence of long-running appreciation for the Rule of Law and equally long-running awareness of the danger of its abuse.

Societies are defined by their cultures, by the basic commonalities that weave people together. For example, the ancient Greeks had moderation as their prime virtue. Many Asian cultures place an emphasis on decorum and discretion. The English are renowned worldwide for their “stiff-upper lip” mentality. And Americans have liberty and the Rule of Law.

Liberty and the Rule of Law are both essential parts of the American psyche; their presence dates as far back as the writings of Thomas Paine and perhaps even beyond. They have become imprinted in the political language of our society – examine any speech by a major U.S. politician from the nation’s inception up through today. In the great majority, if not all cases, the speeches will be plentifully littered with the language of rights and equality, justice and freedom.

For the purposes of this paper, however, the focus will be exclusively on the Rule of Law, and, more specifically, how it manifests itself in American Gothic literature. To that end, the exact nature and meaning of the Rule of Law in American society will be examined. This will be followed by an explanation of why the Rule of Law is vital to understanding the American Gothic tradition. In order to demonstrate that the Rule of Law does in fact appear across the continuum of the American Gothic, three works will be examined: Nathaniel Hawthorne’s The House of the Seven Gables, William Faulkner’s Sanctuary, and Harper Lee’s To Kill a Mockingbird.

The Rule of Law and American society

As noted above, the Rule of Law is a fundamental part of American political thought and culture. But just what in fact is the Rule of Law? The concept of the Rule of Law is relatively basic. The premise is that the law is the governing force of society, and that it governs in a way that is both equal and unbiased. It is both an absolute and an equalizer. Or, as expressed more colloquially, “Even the little man gets his day in court.” While the average
American probably takes this as a given, the fact is that the creation of the Rule of Law was an idea both incredibly inspired and incredibly revolutionary. It constituted a near total break from the precedents established by millennia of tradition in governance the world over.

Prior to this, Western society functioned on a very different premise. The Rule of Law was not absolute. It did not provide equal protection to all. The reason, of course, is that the Rule of Law was nothing more than the fickle will of whatever monarch held power. It could be applied to some and not to others, however the ruler saw fit. Likewise it could be applied with whatever severity was deemed appropriate at the time.

When the American nation was founded, it constituted a radical shift, a clear and sharp break from the traditional patterns of and forms of governance. The Founding Fathers were all learned men, ones who had studied both law and philosophy, particularly the ideas of thinkers such as John Locke, J.S. Mill, and the Baron de Montesquieu. As a result, these ideas were incorporated as the very framework of society. They created America to be a nation that treated every individual equally, not giving deferential treatment to any person or any class of persons. Every person, from the president to the meanest pauper is offered the same rights and obliged to obey the same strictures. And almost every American knows this on some level.

Thomas Paine was likely the first to impress it upon the American populace. On January 10, 1776, when he wrote “the world may know, that so far as we approve of monarchy, that in America the law is king” in his seminal pamphlet *Common Sense*, Paine set the American public on fire (99). The pamphlet sold upwards of 120,000 copies in the first three months of its release – a figure proportionately equivalent to approximately ten million today (Jordan 296). The country was never the same after that.

Since that pamphlet captured the American psyche, numerous figures have invoked the Rule of Law in their works: politicians, philosophers, musicians, and many more. The great philosopher-politician Thomas Jefferson invoked it in the Declaration of Independence, listing the great many ways in which the king had subverted the Rule of Law in order to expand his own personal power over the colonies. Henry David Thoreau’s seminal essay, “Civil Disobedience,” is nothing less than an appeal for true justice under the Rule of Law and a cry to resist any mandate not in accord with it. Listening to any modern politician will render even more examples, especially in debates over security and civil liberties.

The Rule of Law and the American Gothic

The Rule of Law is clearly important, perhaps even essential, to the American psychology. But why is it also a vital part of the American Gothic? The answer is a simple one – the psyche of the individual is the root and source of all his fear. This idea has been explored by many psychoanalysts, but seems best explained by theorist Julie Kristeva’s concept of “abjection.” In her book *Powers of Horror* she describes abjection as follows: “The corpse, seen without God and outside of science, is the utmost of abjection. It is death infecting life…it beckons to us and ends up engulfing us. It is thus not lack of cleanliness or health that causes abjection, but what disturbs identity, system, order” (4). While Kristeva is discussing items like feces and corpses, the analysis also applies to the Rule of Law for Americans. Since it has become such a pivotal facet of the American character, a reader with that background automatically views its absence or perversion and becomes intensely aware of his or her abject nature. Society, without the Rule of Law, becomes like the corpse; the reader immediately recognizes that it is a mere husk, a seething mass that impersonates
viable possibility. The reader is drawn to such depictions and is indeed engulfed by them, but at the same time is filled with a deep sense of loathing and repulsion of what he sees. Kristeva’s is not the only theory that helps to explain this phenomenon. It is also related to the idea of the uncanny, in particular the role of the double. As Freud notes in his essay “The Uncanny,” the double, once “an assurance of immortality [amongst children and ancient cultures], it becomes the uncanny harbinger of death” (part II). This too is what the reader experiences when exposed to the perversions and abuses of the Rule of Law found in the American Gothic. As reader, she peers into the world of the book and finds her own world staring back at her, her world familiar but distinctly other. This uncanny realization terrifies the reader because it is exactly what Freud indicates, a “harbinger of death.” It warns of the brutal possibilities of the society separated from the Rule of Law. Terror is felt because the reader is made to be acutely aware that the situation of the book could be made into his own reality – or that it already has before.

This epiphany establishes the Rule of Law, and its perversion and abuse, as a key element of American Gothic literature. It is not simply enough that a story terrorize the reader; after all, a scary story does not a Gothic tale make. True Gothicism demands social critique. It lays out the problems embedded within a society, and portrays them with such force of fear that change and correction is absolutely demanded. In Europe, frequent targets included the degeneracy and parasitism of the aristocratic class (Dracula) and the looming specter of science beyond human control (Frankenstein). But in America, with no aristocratic class and science less new, these concerns became minor as those peculiar to the American character came to the fore. Thus the American Gothic fixates on the distinctly American obsession with the Rule of Law. As the Gothic movement developed so did the portrayals, with each one demonstrating more understanding of the Rule of Law, as well as the serious implications and terrible wrong of what happens when it gets perverted.

**The House of the Seven Gables**

Nathaniel Hawthorne’s *The House of the Seven Gables* constitutes the first example in this study. Published in 1851, it tells the story of the Pyncheons, an old New England family, once of wealth and prestige, now reduced to a shadow of its former glory. Being a Hawthorne story, it is particularly concerned with the dark side to humanity, the sins committed by the fathers and the repercussions for their descendents. *The House of the Seven Gables* is particularly interesting because the offenses are directly related to the Rule of Law. However, the trespasses are not against the law, they are offenses of the law. The great crimes of the novel are all cases of the mighty subverting the power of the law, power meant to be equally applied to all persons, in order to further their own ends.

*The House of the Seven Gables* is really a story about the role of the Rule of Law in society. The story’s main events and conflicts are built around an old injustice resulting from one powerful man’s subversion of the Rule of Law to suit his own ends. This perversion becomes a curse that plagues the family all the way through the events of the novel. Yet there are many more subversions that have an impact on the story as great or greater than this obvious one; in fact, the story exists as a complex web of legal interactions, and all of these interactions constitute abuses or perversions of the Rule of Law. This range of perversions effectively defines society in the book; the injustices cast a looming shadow over the entirety of the tale’s reality, a shadow so expansive that it demands a reaction, but it is often ignored for the lack of light by which to see it.
The plight of the Native Americans is perhaps the least obvious of these injustices, even though it is the first, at least in the chronology of the story. The case in question is the Pyncheon claim to lands in Maine. As the text notes, the claim originated through an “Indian deed, confirmed by a subsequent grant of the general court” (12). In fact, it is never explicitly stated that the Rule of Law was ever abused in the case of the Native Americans, but textual and historical evidence strongly supports the possibility. To begin with, it is made explicit that a great deal of the claim rested in the personal and political power of Colonel Pyncheon; as Hawthorne puts it “[h]ad the Colonel survived only a few weeks longer, it is probable that his great political influence, and powerful connections at home and abroad, would have consummated all that was necessary to render the claim available” and his son was unable to pursue the claim as he lacked his father’s “eminence position” and “talent and force of character” (12). Adding further doubts as to the legitimacy of their claim, what was once considered a given under the father was a matter of not clearly apparent “justice or legality” for his children (12).

History also supports the possibility of the Pyncheon claim having been gained through less than scrupulous means. The House of the Seven Gables was published in 1851. Hawthorne was most definitely aware of the rampant discrimination Native Americans faced at the hands of the government in his own day and in years prior. For example, in 1830 Congress passed the Indian Removal Act, a seemingly benign law “authorizing the president to grant unsettled lands west of the Mississippi in exchange for Indian lands within existing state borders” (Library of Congress). In actuality the law proved to be a tool for President Jackson to take action against Native Americans by forcefully expelling multiple tribes from their ancestral homes, leading to atrocities such as the Trail of Tears. Looking farther back in history there are numerous cases of Europeans and Americans forcing the Native Americans into treaties where they gave up their ancestral lands for mere pittances; sometimes this was accomplished by the use of arms and other times by taking advantage of their ignorance of English-based property law.

Since there is ample historical precedent for powerful men twisting the machinery of the law and government to further their own ends against the interests of Native Americans, and since Colonel Pyncheon had a strong reputation for getting his way by means of force, either the government's or his own, it seems probable that he obtained the Indian deed in similar fashion. Therefore, the Pyncheons’ aspirations to nobility, the primary motivation that drives the conflict in the story, is predicated on an abuse of the Rule of Law.

The limitations placed upon women likewise constitute part of the mosaic of Rule of Law perversions that are the backdrop against which The House of the Seven Gables is set. Just as Native Americans suffered under the yoke of oppression during the time of the story, women too knew what it was to be unjustly made lesser through illegitimate application of the Rule of Law. For example, Hepzibah and Phoebe end up together due to the fact that “circumstances (resulting from the second marriage of the girl’s [Phoebe] mother)...made it desirable for Phoebe to establish herself in another home” (61). This is, of course, a thinly veiled reference to the fact that women in the early 19th century occupied a precarious position in regards to property rights.

It was a common assumption in the early nineteenth century that while “men became independent at age twenty-one” the same was not true for women since they “lacked the capacity for independence because they were domestic creatures who relied on men for protection” (114-115). It was this mentality that led to the many restrictions upon women.
For example, while a single woman was able to hold property, this right vanished upon marriage, with anything she owned becoming the property of her husband. As historian Timothy Crumrin describes it, “He [the husband] could sell them, give them away, or simply destroy them as was his wont. Married women were also forbidden to convey (sell, give, or will) any property” (par. 3). And while a single woman of age could theoretically hold property and support herself, in practice a woman was relegated to industries where there was little true hope of self-sufficiency, such as running small-item shops like the one Hepzibah opens in the novel. As a result, women were ultimately trapped by the law; they had little or no access to means of true support on their own, but once married, they lost all claim to any property, making her an effective slave to her husband’s will. Thus, the plight of women is yet one more perversion of the Rule of Law that composes part of the backdrop the story is set against.

While the novel is filled with broad cases of the Rule of Law being abused, it is the specific examples that are much more important. Interestingly enough, these examples manifest themselves through the persons of the first and last scions of the Pyncheon clan: Colonel Pyncheon and Judge Pyncheon. These two men, alike in both appearance and character, were exceedingly adroit at amassing political power and using it to further their own ends by turning the teeth of the law onto those who had not done anything to justify such punishment. Of these two wretches, Colonel Pyncheon is without question the greater transgressor. A man possessing both great personal power (through his force of presence) and great political power (through his position), he repeatedly exercises both to the fullest extent possible. There is already the aforementioned issue of the Indian deed and its questionable legality. This sin is very mild in comparison to his others, however.

Maine was not the only place where the eldest Pyncheon lusted after land; at home he also desired tracts belonging to other men, namely a plot of land belonging to one Matthew Maule. As Hawthorne reveals, in his rather roundabout way, Pyncheon struggled unsuccessfully to acquire the land by means of his connections in the legislature, but his claim was so dubious that during a time “when personal influence had far more weight than now – [the claim] remained for years undecided” and was only determined when Maule finally died (3). And it was here that Colonel Pyncheon truly proved how depraved men become when they can hold the power of the Rule of Law in their own hands and twist it to serve their own ends.

When Pyncheon failed to mobilize the power of eminent domain against Maule, he accused him of being a witch. Of course, Maule was not alone; Hawthorne notes that “not merely the poor and aged…but people of all ranks” were made into martyrs (3). In fact, Maule should not have been particularly noteworthy as a witchcraft case, yet “in after days, when the frenzy of that hideous epoch had subsided, it was remembered how loudly Colonel Pyncheon had joined in the general cry, to purge the land from witchcraft; nor did it fail to be whispered that there was an invidious acrimony in the zeal with which he had sought the condemnation of Matthew Maule” (3-4). The evidence here is somewhat inconclusive, but it is worth noting that after Maule was marched to the gallows, the Colonel had no trouble securing the land and immediately proceeded to build the titular house of the seven gables on the spot where Maule’s house had once stood.

Colonel Pyncheon’s descendent, Judge Pyncheon, did nothing to prove himself a more exemplary specimen of man’s finer points. Like the elder Pyncheon, he excelled at presenting a noble exterior to society while nursing his inner sins. As is perhaps fitting for
his status as a lesser version of his ancestor in so many regards, his particular sin, although
egregious and similar, was not quite as horrid as the Colonel’s. Where the Colonel may have
actively condemned an innocent man to death, it was suspected that the Judge unintentionally
frightened his uncle to death and then condemned his cousin Clifford to a life in prison for
the deed, albeit simply by tampering with evidence and omitting testimony rather than the
actively false claims of the Pyncheon scion (266). All such considerations of degree aside,
these two members of the Pyncheon clan are without question the antagonists of the tale.
They are the perpetrators of the most horrific acts of the book, and their actions always
involve perverting the Rule of Law to suit their own purposes.

These perversions might seem like isolated incidents in the text. After all, not a single
one occurs in the story proper. In spite of this, though, the story simply cannot be viewed
without taking them into account. This is a story about injustice. But if that is the case, then
how can it be considered without assessing every form of injustice to be found therein. The
House of the Seven Gables is not just a tale of one man’s injustice to another man. It is not a
tale of one family’s injustice to another. It is both of these, as well as society’s injustice
towards parts of itself. All of the novel’s perversions of the Rule of Law combine to form an
almost visible miasma of wrongdoing; it creeps into the lives of all the characters and drives
all the action of the story. Simply put, without the perversions of the Rule of Law there
would be no novel.

Sanctuary

William Faulkner’s Sanctuary is the second example in this study of the perversion of
the Rule of Law in American Gothic literature. Originally published in 1931, the novel
makes distinct advances in the treatment of the Rule of Law in American Gothic literature.
Faulkner’s novel is the story of a young woman’s kidnapping and subsequent immersion into
the dark underbelly of the Prohibition South. Much like The House of the Seven Gables,
Faulkner’s story delves into man’s capacity for evil and has a special concern for the ways
the Rule of Law is perverted. However, unlike Hawthorne’s book, Sanctuary is not defined
by a world where the Rule of Law has been perverted; it is defined by a world where the
Rule of Law is almost completely absent, and perverted almost beyond recognition when it
does manifest itself.

The first point that demands attention when examining Sanctuary is that of offenses
left unpunished. The novel is replete with crimes committed against individuals for which
there is never any punishment, at least not in the legitimate court of law. Interestingly, each
of these cases revolves around Temple Drake. There is her town boy, who her father murders
and for which he faces no repercussions. Tommy is murdered by Popeye while trying to
protect Temple, and his death is never truly avenged. Red is murdered after Temple tries to
flee to his, but there is no reckoning for his demise. Worst of all, Lee is condemned to death
by Temple’s false testimony. She is never held accountable for her perjury and the blood on
her hands. Every one of these is a blatant offense against the Rule of Law; individuals are
never held responsible for their actions, escaping their due punishment either because the
victim is deemed not worth society’s consideration or because the offender is above it.

Lee Goodwin’s is most definitely a case of the Rule of Law being subverted to serve
purposes apart from justice, and it demands a more detailed examination. A trial is meant to
be a sober, objective process, one where evidence is sifted through in a search for facts in
order that the guilty can be punished and the innocent redeemed. It is to be decided by an
objective jury, and its decision handed down based on truth and the law. This trial was none of these things; instead, it was a sham that was effectively determined before it began and sealed by perjurious testimony. As Narcissa states prior to the start of the trial, “Anybody but you would realise it’s a case of cold-blooded murder” and by the time the trial begins that is exactly what the jury has decided, even before hearing or seeing any evidence (184).

That prejudice is only aided by the testimony of Temple Drake. Called by Horace as a witness, she proceeds to claim that it was Lee, not Popeye, who not only killed Tommy but raped her with the corncob. Her claim, which even the least astute of observers would recognize to be false, puts the final nail in Goodwin’s coffin. The jury was out a mere “eight minutes” (291), and when Horace leaves he “[gets] into the car stiffly, like an old man, with a drawn face,” mildly acquiescing to whatever his sister proposes, and frequently repeating himself (291). Clearly, Temple’s false testimony guarantees a death sentence for Lee, and the travesty of justice completely breaks Horace’s spirit and his faith in the possibilities of the law.

There is another important element of the trial that should be examined – its structure. The way this trial was conducted reinforces the argument that it was a gross travesty. Once again, the primary issue is that of Temple’s testimony. When Temple is sworn in, it is clearly as Horace’s witness. In fact, she is in a daze and as a result the judge is forced to ask, “Is this your witness, Mr. Benbow?”, a question answered in the affirmative. A seemingly trivial detail, this is actually quite significant. During a criminal trial such as this one, there are two opposing sides, the defense and the prosecution. Each side calls its own witnesses and asks questions, and then the opposing side is allowed to cross-examine those witnesses immediately after direct examination. However, there are limits to the types of questions and when they can be asked. A leading question, a question that supplies an answer and simply seeks a yes or no, can only be asked during a cross-examination. Why does this matter? It matters because Horace raises a leading question objection during the prosecution’s questioning of Temple, an objection which is sustained by the judge.

This means one of four things. The first is simply that the rules concerning leading questions were different in this time and place – an unlikely possibility considering the basic nature of the issue. The second possibility is that Faulkner simply made a mistake – once again unlikely. Faulkner’s writing displays such a fine degree of mastery and eye for detail that it seems highly improbable that he would slip on such an obvious fact. The third possibility is that the Horace questioned Temple and then the prosecution later summoned her as a witness of its own. This too makes no sense; it means that there is a huge block of testimony that Horace got from Temple that is never accounted for but would have been of massive significance. Furthermore, since the prosecution almost exclusively asks leading questions, there is no practical reason to summon the witness in that fashion. This leaves one final possibility: Faulkner deliberately constructed the questions and objections in this way to highlight the farcical nature of the trial; the lack of complaints about it emphasizes that everyone involved is aware, at some level, that the result of the trial is pre-determined and it is just a formality.

This is reinforced by Temple’s exit from the trial. After the prosecution completes its questioning, a man who is quite clearly Temple’s father, who is also a judge, rises and walks up the aisle, asking the presiding judge if “the Court is done with this witness” (288). The judge assents, only asking as an afterthought, “Defendant, do you waive–” (288). This is most probably whether he waives his right to do a re-direct examination, an opportunity for a
second round of questions to clean up damage done during cross-examination, or a re-cross to challenge assertions made in a re-direct. Either way, the defense never gets to answer the question because Temple is led out as the question is asked. The fact that this violation of court procedure is never challenged simply reinforces the impression that Faulkner intended it to be clear to the reader that the trial was never meant to be taken seriously.

As if the trial were not enough of an example of the Rule of Law being so casually twisted and warped, Faulkner follows it with an even more obvious example of the same theme: the lynching of Lee Goodwin. It is a particularly hellish scene, and Faulkner describes it in great detail:

He [Horace] could see the blaze, in the center of a vacant lot where on market days wagons were tethered. Against the flames black figures showed, antic; he could hear panting shouts; through a fleeting gap he saw a man turn and run, a mass of flames, still carrying a five-gallon coal oil can which exploded with a rocket-like glare while he carried it, running. (296)

This could be a scene straight out of Dante’s *Inferno*. The horror and terror that Faulkner evokes in his description reaches its crescendo when Horace runs up to the jail. It is immediately made clear that the mob has decided there is no reason to wait for the legal execution, but gathers together, hauls Godwin out of the jail, and burns him alive. Even worse, they are nearly about to do the same to Horace, jeering that “Here’s the man that defended him, that tried to get him clear” and “Put him in, too. There’s enough left to burn a lawyer” (296). Worst of all, they reveal that not only did they murder Lee but they tortured him first, doing “[w]hat he did to her. Only we never used a cob. We made him wish we had used a cob” (296). This scene of absolute and total depravity is brought about by men’s willingness to take the Rule of Law into their own hands in order to punish Godwin as they see fit, rather than waiting for the punishment that would be meted out for his conviction.

**To Kill a Mockingbird**

Harper Lee’s classic novel *To Kill a Mockingbird* is the final case to be looked at in this examination of the perversion of the Rule of Law. While published in 1960, it is actually set in Depression-era Alabama. Simply put, it is the story of three formative years in the life of a young girl, Jeanne Louise “Scout” Finch. But it is also much more; Lee’s story recounts the cruel legacy of racism and how it was enforced by perverting the Rule of Law. It stands in contrast to both *The House of the Seven Gables* and *Sanctuary* in that it is narrated by a young girl. As a result, her perception of events is simultaneously far more naïve than that found in the other novels, but it is also more brutal in its candidness about issues often considered taboo. This is compounded by Scout’s possession of what often seems to be a trait inherent to youth – an intuitive understanding of what is and is not justice, an understanding she is never hesitant to voice. Additionally, the novel reflects an evolution in concerns regarding the Rule of Law and its perversion that one does not find in Faulkner’s writing, particularly ones related to race, even though both are set in roughly the same time period.

The first major revelation of the results of men deciding that the Rule of Law does not matter comes after Atticus has taken the case of Tom Robinson. Knowing that a lynching is being planned, Atticus goes to the jail and waits for the men to arrive. Scout, Jem, and Dill follow in order to know what is happening; Scout misinterprets the situation and rushes into the middle of the crowd to say hello. She finds it far different from what she expected. The
crowd is of strangers, strangers that “smell of stale whiskey and pigpen,” and their presence frightens Atticus; at the sight of his children “a flash of plain fear” appears on his face, knowing what they might be witness to – or victims of (173). The horror of what might happen is plainly evident, but Scout in her innocence does not perceive the truth, at least not at the moment. This naïveté leads to her inadvertently defusing the situation, a fact she does not perceive until later that night.

In an interesting inverse of Sanctuary, the lynching proves to be the lesser of the two Rule of Law abuses in To Kill a Mockingbird. The trial of Tom Robinson is without question the most pivotally important part of the book, at least as regards the Rule of Law. The lynching attempt demonstrates that when men are ready to throw aside the Rule of Law they make monsters of themselves, but it also shows even monsters can be reined in by their higher natures. However, the trial reveals how low men can sink, and that when they get hold of the power to twist the Rule of Law to satisfy their own personal prejudices there is nothing that can sway them, not reason and not human compassion.

From the beginning of the trial until the end Atticus is clearly in the right. He establishes from the very beginning that there is no physical evidence to support the claim that Tom Robinson raped Mayella Ewell. While questioning Bob Ewell, not only does he extract from Ewell information that proves Tom never could have beaten Mayella the way she had been but by having him sign his name he demonstrates to the entire court that Ewell is left-handed, a vital fact considering that Mayella’s bruises are all on her right side.

When Mayella takes the stand Atticus firmly cements his case, or rather he would have had the jury followed the dictates the law demands. When asked about her father -- “is he good to you, is he easy to get along with?” --she admits he is except for when he drinks and then comes extremely close to admitting he beats her (209). Atticus stuns the court when he asks Tom to stand up so Mayella can be sure she is identifying the correct man, and has him show his withered left arm, which would have made it impossible for him to have beaten Mayella. He concludes with a series of questions Mayella refuses to answer: “why didn’t the other children hear [her screaming],” “You didn’t think to scream until you saw your father,” “Who beat you up? Tom Robinson or your father,” and finally “Why don’t you tell the truth child, didn’t Bob Ewell beat you up?” (214).

Finally, Tom Robinson takes the stand, and in his testimony paints a radically different picture. He tells how Mayella would regularly call him on him to do odd jobs for her. Finally, when asked about the day of the purported rape, Tom drops a bombshell on the court. According to his version of the events Mayella invited him inside, not just the yard but the house as well. She revealed to him that she had given all the children money to go and get ice cream, and then, once Tom reached to up to get a box she asked him to retrieve, she threw herself onto him and kissed him. She asked him to kiss her back since she’s never kissed a man – “what her papa do to her don’t count” – and it was while Tom tried to extricate himself from the situation that Bob Ewell appeared (222). As Tom recalls it, Ewell never said a word to him, but was completely focused on Mayella, shouting, “you goddamn whore, I’ll kill ya” (222).

This effectively constitutes the bulk of Atticus’ questioning. In his closing arguments, Atticus makes a simple, but powerful request to the jury: that they “review without passion the evidence you have heard, come to a decision, and restore this defendant to his family” (234). In spite of this plea, and in spite of the overwhelming evidence to the contrary, the jury ultimately delivers a guilty verdict and sentences Tom Robinson to death.
reason is a simple one. This trial, just like the trial of Lee Goodwin, was over before it ever began and all the proceedings were mere formalities. Before the court was ever called to order a decision had been made, and it was not one ordained by the Rule of Law; Tom Robinson had already been tried “in the secret courts of men’s hearts” and Atticus had no case because reason and the Rule of Law can hold no sway there.

The final horror of the novel and the trial is the reaction of the people of Maycomb. Mrs. Merriweather is perfectly content to bemoan the plight of the Mrunas, but carps incessantly about the inconveniences of “a sulky darky” mourning Tom’s fate (265). Miss Gates waxes elegiac over the sufferings of the Jews, but outside the courthouse after the trial Scout hears her celebrate that someone “finally taught ‘em [the blacks] a lesson” (284). This is the case throughout the town. Every single citizen knows that justice was not served, that Tom was innocent and Bob Ewell was guilty, but the barest few are concerned over this gross perversion of the Rule of Law.

Moreso than any of the other novels, the ending of To Kill … is intensely didactic. Where The House of the Seven Gables leaves off with a stereotypically neat resolution to the primary problems and Sanctuary concludes in despair and apathy, To Kill A Mockingbird demands the reader answer the question, “What now?” Lee has presented a perfect case study of man’s willingness to set aside the Rule of Law, manipulating public to protect private prejudice. But in seeing Scout’s, and even moreso Jem’s, passion to improve the world, the reader is forced to decide which side he or she will come down on. Seeing the injustice done to Tom Robinson, will the reader act as the other Maycomb citizens do and turn a blind eye? Or will they recognize it as wrong, and stand with the Finches and the others who refuse to tolerate it? This ending unifies the events of the novel, tying all the points together to a single moral point and purpose, one that advocates for upholding the Rule of Law.

Conclusion

While the Rule of Law has been a consistent element of American Gothic literature over time, the full scope of its function in such texts still needs to be established. The House of the Seven Gables is an excellent starting point for this discussion. The story serves as an expansive catalogue of the possible perversions of the Rule of Law. At the same time, however, it presents these in the mildest of manners. There is little of the horror and pure repugnancy that is to be found in the later texts. This however is not a failing of Hawthorne but simply a reflection of contemporary social values. A key function of the American Gothic is to challenge the hypocrisies of society. While the Rule of Law had clearly been established as a core value in the American psyche, most of the offenses, perversions, and subversions of it were still so commonplace that there was not a large outcry against them. As a result, Hawthorne was content to show the reader the error of these abuses, but not to portray them in their full monstrosity.

Sanctuary, however, does demand the reader to see that monstrosity without filters. It spares nothing in portraying the full horror and monstrosity of the effects of perverting the Rule of Law. It reveals that when men callously disregard it or twist it to their own ends it makes monsters of them, caricatures of the human. In doing so with such raw force, Faulkner demands change. His depictions force the reader to confront the injustice that occurs from suborning the Rule of Law and work to eliminate that evil.

To Kill a Mockingbird carries on that plea, but it also carries with it the promise of hope. In the two decades between Faulkner’s story and Lee’s there were distinct
improvements in American society; America still faced abuses through manipulations of the Rule of Law, but they were not quite as wanton as in Faulkner’s day. As a result, the novel forces the reader to confront the monstrosity of the Rule of Law perverted and demands change, but it also shows there are good people, people who know it is wrong and will fight to make things better. *To Kill a Mockingbird* adds one final element to this equation – it holds the reader far more accountable than either of the other texts. In showing the blind hypocrisy of the Mrs. Merriweatheres and Mrs. Gateses, it compels readers to examine their own lives and see where they have been content to ignore the subversion of the Rule of Law in order to serve a personal end.

This is the significance of the various examinations of the Rule of Law in American Gothic literature – the perversion of this basic concept is not simply shown in order to frighten. In portraying abuses of the Rule of Law these texts hold a dark mirror up to society. By putting the perversion of the Rule of Law on display with all the potential horror that entails, the writers of American Gothic literature refuse to allow readers to ignore these failures and force them to truly think about the implications. In these texts, the ideal is a country where indeed, “the law is king.”
Works Cited


The Venezuelan Student Movement
El movimiento estudiantil venezolano

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Abstract

The recent student movement in Venezuela was successful in bringing about the rejection of Hugo Chavez’s proposed constitutional reform of December 2007. I discuss how the social movement evolved and what makes it unique. There have been many student movements throughout Latin America in the last half-century but they have not always been successful. It is surprising that a peaceful movement like this could bring about such radical change under a regime like that of Hugo Chavez, which allows very little freedom. The movement was able to succeed because of its swift reaction to a violation of freedom of expression, allowing the movement to organize itself around a message with broad appeal using simple and engaging forms of protest. Especially important was the political opportunity structure. With a social and political climate lacking coherent opposition to Chavez’s regime, the movement was what many Venezuelans had been looking for and was essentially seen as a welcome and necessary addition to the national discourse.

I. Social Movements

Political movements and interest groups are the lifeblood of political systems everywhere. Yet many countries have a third form of activity that truly mixes the realms of the political and social – social movements.¹ Social movements can be short-lived while others produce relatively sustained campaigns that enact greater change, the former being social movement bases, and the latter social movement campaigns (Tilly and Tarrow 114). Some social movements have been more successful than others, while an even smaller number have enacted lasting change. In today’s world, social movements have taken on many new forms, using new methods to battle for the same freedoms their predecessors sought. Various political and social opportunities structures can make or break the success of movements and the strength of the impact they produce, which can in turn affect their legacy and ability to foster enduring rather than merely transient transformations. In Venezuela, El movimiento estudiantil venezolano was successful in defeating proposed constitutional reforms that would have allowed Hugo Chavez to erode many freedoms of the Venezuelan people in December 2007. This paper explores what made the movement thrive at that time within that particular political context. Through simple yet firm repertoires, a broad message, and their reaction to a clear catalyst, the student movement has been able to peacefully curb a populist leader who has used government power and oil money to his advantage.

¹ Social movements are “sustained campaigns of claim making using repeated performances that advertise the claim, based on organizations, networks, traditions, and solidarities that sustain these ideas” and are a relatively rare form of contentious politics. Charles Tilly and Sidney Tarrow, Contentious Politics (Boulder, CO: Paradigm Publishers, 2007), 8.
II. Venezuela: History and Political Context

Since Venezuela became an independent republic in 1830, its governments have hardly been representative of the people. While Simon Bolivar, the liberator of South America, espoused some values of liberal government, he was a leader who believed in strong and powerful government and wanted a continent united as one country. From the age of the caudillo throughout most of the nineteenth century, Venezuela moved through a series of oil-rich military dictators until 1958, when democracy was restored. This success was short-lived. When oil prices fell in the early 1980s after the 1970s boom, riots filled the streets by 1989. In 1992, a young general named Hugo Chavez attempted a coup. Chavez was jailed and subsequently pardoned two years later, having “attained folk-hero status while in prison” (Library of Congress).

Chavez is the first leader in Venezuela who even indicated that he wanted to run for office to work for the people. Since his election to the presidency in 1998, the first president to win who was not from one of the two traditional parties, Chavez has said he wants to reform the country to protect the poor from neoliberal and capitalist influences. He has aligned with other South American presidents, including Evo Morales, to fight what they see as the malevolent ‘Yankees to the North’, and achieve what Chavez calls a “Bolivarian revolution” for Venezuela (McNulty). Like Simon Bolivar, Chavez hopes to unite Venezuela against the capitalist American empire, bringing glory to Venezuelans who have been so marginalized for centuries. So far, Chavez has made and attempted to make various structural changes. While Chavez reaps billions of dollars in oil profits, only a few programs have been administered to change the situation of the poor including the construction of some schools and clinics in the most impoverished areas. Chavez has spent money building up the military strength of Venezuela and traveling around Latin America, strengthening his alliances with other leaders (“Using Oil to spread revolution, 2005). Perhaps most importantly, Chavez wrote a new constitution for Venezuela, establishing both his power and his ability to expand government, which was ratified with over 80% of the vote (“Americas: Timeline: Hugo Chavez, 2006).

Soon Chavez began to take further steps, which, for many, seemed to cross the line from social revolution for positive change to encroachment on basic rights. In 2007, Chavez closed down Radio Caracas Television (RCTV), a public news station that had been on the airwaves of Venezuela for over fifty years. The station, which had been famous for disagreeing with Chavez’s politics, critical of his government, and supportive of the opposition, featured programs beloved by many. By shutting it down, Chavez brought on one of the largest onslaughts of opposition of his presidency.

As with many of his policies, the shut down of RCTV was less undemocratic than one might imagine. Rather than shutting down the station outright, Chavez simply did not renew their license after over fifty years of broadcasting on national television. Yet, as most Venezuelans

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know (Chavez himself having provided no evidence to the contrary), RCTV was shut down because it is a channel in opposition to Chavez and his government. It was also the most vocal independent television station amidst a sea of government-run stations (the government-run VTV controls six television channels, eight radio stations and almost 200 community radio and television stations, and over 100 websites) (“An opposition gagged; Venezuela,” 2007). Even for most Chavistas, the closure was a step too far; over 70 percent of Venezuelans were opposed to the shutdown, with only 16 percent in favor of the decision (Sanchez). Along with a motley crew of reporters and soap opera stars, Venezuelan students took to the streets to protest the shutdown as a violation of freedom and of democratic values. The Venezuelan Student Movement began to take shape.

III. The Student Movement

The Venezuelan Student Movement was born in the universities of Venezuela in the years preceding the RCTV closure and is headed by Yon Goicoechea, a 23-year-old law student at the Universidad Católica Andrés Bello in Caracas (“Friedman Prize Winner”). While the movement started out as groups of students “just working together for three or four years, together between the universities…in academic activities and in some protests without the public relevance [of the protests for which they are famed today],” it established strong foundations: networking amongst students, sharing ideas, and engaging in some small-scale protests that would prepare them for larger-scale marches (Goicoechea, “Policy Forum”). During these years, the movement consisted of a significant number of students, working largely within university organizations, who supported democratic society and were against many of Hugo Chavez’s reforms. But these students were, after all, a group of intellectuals lacking a major issue with which to capture broader public appeal. The shutdown of RCTV provided precisely such an opportunity, and the students united with other students from across the political spectrum, many of whom were previously unengaged in politics and even some who were former supporters of Chavez. Even when students were “approached by opposition politicians, [Goicoechea said,] ‘we’ve asked them to stay on the sidelines’” in order to ensure that the movement remained focused on democratic issues and freedom rather than becoming political and sacrificing both its central message and its newfound, wide appeal (Nunez).

After over a week of protests starting on May 27, 2007, the day of RCTV’s departure from public television, Yon Goicoechea says students began looking for a common cause for which to unite in the future. “We wanted to send a new message to the media…we made this movement for six months from the RCTV closure to the elections of the constitutional reform: the constitution is nothing more than all the values about which we agree, therefore we decided to fight against the reform of the constitution which Hugo Chavez proposed to the people of Venezuela” (Goicoechea, “Policy Forum”).

Hugo Chavez’s proposed referendum included reforms to over 19% of the constitution. Thirty-three changes were originally proposed by Chavez and an additional thirty-six added by the National Assembly, totaling 69 potential changes out of 350 articles in the constitution (Wilpert). The reforms include both minor and major changes, including abolition of term limits, lengthening the presidential term from 6 to 7 years, giving the president direct power over the international reserves and the central bank as well as allowing him to personally name governors (“Q&A: Venezuela’s Referendum,” 2007). The issues were presented in blocks on which one could vote simply “Yes” or “No,” with both major and minor issues in each of the two blocks. This made a vote for changing the official name of Caracas or lowering the voting age, the same
as voting to give Chavez complete and direct power over international reserves of the state. The student movement adamantly opposed the nature of the referendum as well as many of the specific changes it proposed. Most importantly, they opposed the fact that, announced in early November 2007, the referendum was to be voted on December 2, 2007. Leading 80,000 students in a march to the Supreme Court on November 7, Goicoechea asked for the referendum to be suspended (Romero, “Students Emerge as a Leading Force Against Chavez”). He testified that it “is a violation of the rights to information of the Venezuelan people…an abuse on the citizenry to give them a month, one month, to know 69 articles that will change their lives and that will change the structure of government” (Cato Institute, “2008 Milton Friedman Prize Recipient Yon Goicoechea”).

The student movement has had little variation in the kids of protests they staged, but those that they have organized have been very powerful. Since the movement marched through the streets with others opposed to the RCTV shutdown, they have held increasingly large rallies, such as the one where Goicoechea led the students in a march to the Supreme Court. While some pro-Chavez groups and the government have clashed violently with the students, they have vowed to remain a peaceful movement (“An opposition gagged; Venezuela,” 2007). To make this message clear, students paint their hands white, many of them writing the word “PAZ” (peace) over the white paint, and showing their hands to police or other groups who try to stop them marching in the streets (Cato Institute, “2008 Milton Friedman Prize Recipient Yon Goicoechea”). In addition, when confronted with the guns of the army trying to restrain them, many students place flowers into their barrels, again representing their peaceful intentions and theme of reconciliation rather than vengeful confrontation (Forero, “Students Become Potent Adversary to Chavez Vision”). In other protests, “students prepared for a march by painting their faces yellow, blue and red, the colors of the Venezuelan flag” to show the love they share for their country and the values they cherish, which are slowly disappearing (Nunez). This approach is non-partisan, with students from the left and right participating in the march and finding common ground in the freedoms of the country they love and which, working together although other differences may divide them, they wish to protect.

The success of the movement in defeating the proposed constitutional referendum of December 2007 is perhaps striking, but the message of the movement and the values it embodies are very simple and central to the human experience. Goicoechea describes “democracy and liberty [as] concepts that, intellectually, are very difficult to define, but spiritually, emotionally, [we all think of them in the same way] because they are very linked to our humanity…our essence” (Goicoechea, “Policy Forum). Precisely because of its simplicity of message and vocal leaders, coupled with the political and social opportunity structures in present-day Venezuela, the movement has been able to garner widespread support around the country and make its voice heard. Its performances in the streets of Caracas and other cities, like Merida, have shown an impassioned youth, joining together from across the political spectrum to defend ideals in which they strongly believe.

In addition to the movement itself, the political climate in Venezuela under Chavez has left much to be desired. The absence of well-organized opposition to Chavez has given the movement the opportunity to fill a gaping hole in Venezuelan political life. The movement has gained support largely due to this lack of coherent resistance against Chavez. While there has been social discontent amongst many in Venezuela, “there is no political opposition worthy of this name – nor has there been for a generation” (Ransom, 3). While the movement is very powerful in its own right, much of its appeal lies in the fact that it provides an outlet for people
who want to oppose Chavez but simply have not had the opportunity to do so in an organized fashion. The fact that this opposition movement has emerged over such a resonating issue as freedom of expression and the fact that it does not associate with any political party can thus attract all forms of opposition. This opens up the opportunities for people who would not, perhaps, join an opposition that is institutionalized, like a political party, or who would otherwise even be apolitical. This characteristic, coupled with the relatively small commitment of giving a few days of one’s life to organize and march down the streets of one’s city, combine to create a powerful force and allow rallies of tens of thousands to take place.

Finally, in addition to its broad appeal across the political and apolitical spectrum, the movement unifies both rich and poor, a division upon which Chavez gains much of his support. While “Chavez and many of his closest allies in the government have spent hours on state television discrediting the students and accusing them of having ties to oligarchs who want to rule Venezuela for the rich,” many of the students come from public universities as well as private ones (Forero, “Students Become Potent Adversary to Chavez Vision”). Many are middle class, but a significant number come from poor neighborhoods in Venezuela. Stalin Gonzalez comes from Catia, a very poor district in Caracas, and his father was such a leftist, as is Stalin, that “that he named his children after the three towering figures of communism – Stalin, Lenin and Engels.” (Forero, “Students Become Potent Adversary to Chavez Vision). But even someone like Gonzalez, who would seem to be someone just like Chavez’s supporters, calls him not “a leftist – but…an autocrat whose administration is intent on accumulating power” and for this reason sees it as integral to fighting against the RCTV shutdown and the proposed constitutional changes that would give Chavez the fewer checks on power he wants. While much of Chavez’s base has come from his support for the poor, the limit on free speech is a class and money-blind step that has led to a significant loss of support that the student movement has been able to harness.

The movement’s success was proven on December 2, 2007, when, the Supreme Court, having ignored the testimony of Goicoechea, Venezuelans voted “NO” on Chavez’s constitutional reform by a narrow margin of 51 to 49%. Chavez claimed that this was not a defeat, but merely that many of his supporters had not come out to the polls to vote on the referendum (Forero, “Chavez Chastened in Venezuela Vote). Despite Chavez’s claims, this was seen by many as a huge success for Venezuela and came largely as a surprise to the global community. The movement’s success was fostered by its ability to provide an articulate opposition to Chavez with a powerful message disseminated through memorable public performances that incorporated Venezuelans from a variety of political ideologies. The students, having achieved their primary goal, must now come together to focus anew on a national issue of freedom for which they can garner support to keep Chavez at bay.

IV. Conclusions
While the movement’s initial success is inspiring and powerful, it is in conflict with what sociologists of social movements Charles Tilly and Sidney Tarrow would predict in a regime like that of Chavez. They claim that social movements occur in open regimes, usually liberal democracies. Does Chavez’s government fit this mold? While the proposed constitutional reforms and Chavez’s closure of the television station are very undemocratic, Chavez has accrued much of his power through democratic means such as voting and grassroots support. Although he initially attempted to come to power through a coup d’état, Chavez only successfully became the leader of Venezuela after being popularly elected to the presidency. The
ratification of the 1999 constitution was also achieved through democratic means. Chavez proposes referenda to the Venezuelan people who then vote on them. While the result is perhaps a system less free, the means of arriving at that system is a free election. Perhaps for this reason, the opposition movement has come in relatively democratic form despite Chavez’s decidedly undemocratic slant. It is this movement that has in many ways kept Venezuela a somewhat open and democratic regime and kept the country from moving completely in the direction of authoritarianism. This is not to say that Venezuela has changed course and is moving in the direction of more freedom for its citizens but rather that the student movement was able to help Venezuelans retain many of their freedoms in 2007. Likewise, this does not mean that the student movement is indefinitely successful, as was seen in February 2009 when Chavez successfully passed a referendum that eliminated both presidential and gubernatorial term limits (Romero, “Chavez Decisively Wins Bid to End Term Limits”). While the movement also ran a campaign against this referendum, they made important changes, including aligning themselves more closely with political parties, and were unsuccessful in defeating the referendum (Espinoza). This serves to further demonstrate the importance of the movement in the time and place where it was initially successful but also reflects the importance of movements adjusting to their social and political surroundings in order to continuously succeed.
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In Defense of Capitalism: The Great Abolitionist

By Jessica Johnson
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Abstract

This paper provides a defense of a free market capitalist economy as the only system under which slavery can truly be abolished. The defense includes a brief history of slavery, as well as its position as a black market. Further, the origins of the moral foundations of capitalism are reviewed showing the importance of human rights in capitalist thinking. Under capitalist theory, slavery is both immoral and inefficient. The work of Levy and Peart identifying the dismal science title of economics as a result of slavery is also presented. Opposing viewpoints, such as that of communist philosophy, are offered and rebutted. Finally, the modern impact of slavery is discussed.

Throughout history, success in production of any type has relied on the various resources available for use. In many cultures, those who are perceived as “lesser humans” have been used as resources in the form of slave labor. The term slavery in itself is subject to a wide spectrum of definitions, ranging from physical imprisonment to low wages, from ownership to serfdom (Simon 171). Each society applies its own meaning and connotations to the term, but nonetheless, some form of slavery is present in an abundance of cultures, past and present.

Ancient Rome was home to a large population of slave labor. In fact, slavery was occasionally seen as a method of advancement for the poverty stricken, as they may one day be given some small fortune by their owner (Baumol 900). It is estimated that slaves accounted for ten to fifteen percent of the population of Roman Italy by 225 BC and an incredible, one third of the population by 28 BC. By this time, the Greek states were also inhabited by about one third slave labor. Nearly all European countries as this time participated in some sort of slave labor, often in the form of serfdom (Simon 172-173). Asia has also seen a great deal of slavery throughout history. “It is probable that in ninth and tenth century Iraq- the site of the great Zanj slave rebellion- over fifty percent of the population was enslaved” (Simon 174). Furthermore, areas such as the Islamic empire and Thailand also bred a large proportion of slaves relative to freemen (Simon 175). This is not the limit of worldwide slavery, but rather just a beginning in an attempt to identify a worldwide violation of individual rights. The lifestyle of a slave would vary not only from country to country, but also from master to master (Fogel 13-14). As is characteristic with all forms of slavery, each slave was used to the best advantage of his or her owner, thus defining the role of a slave as a possession.

Slavery around the world has been varied, yet the form of slavery that comes to mind for most Americans is that which took place on American soil. The transatlantic slave trade involved the forced relocation of more than 9,500,000 Africans to areas throughout the western hemisphere. Many Americans acknowledge this as one of the most wide scale violations of human rights in history without realizing that the colonies comprising the United States only held about six percent of the slaves in the New World (Fogel 15). The enormity of the transatlantic slave trade is often far greater than what is assumed, thus emphasizing the extent of the violations.

Simply put, slavery has been prevalent around the world in a variety of forms, and it has made an impact. From a human rights perspective, the worst form of slavery is that in which a
person is involuntarily forced to work for another. Granted, it is evidently a bad situation when
one willing gives away property over themselves, but it is far worse when it is taken by force.
The existence of forced slavery has often been seen as the largest black mark on economic
systems of many types, but is regularly blamed on a pursuit of profit often associated with
capitalism. However, capitalism may be the best system under which to eliminate slavery, and
should be praised for initiating the abolitionist movement. Although there are conflicting views
among the ideals of various forms of capitalism, abolition of slavery would rest on the
combination of many of the best aspects of all areas of capitalism including classical liberal
support of individual rights and free market ideals of efficiency.

The primary influence of a classical liberal tendency toward human rights can most likely
be attributed to the philosophies of the Enlightenment era. The work of Enlightenment thinkers
was characterized by “…confidence in rationality [which] meant a commitment to man the
rational individual…” (Bernstein 264). In “The Second Treatise of Civil Government,” John
Locke straightforwardly proclaims that “the natural liberty of man is to be free from any superior
power on earth, and not to be under the will or legislative authority of man…” (Locke 1).
Meanwhile, “…Montesquieu argued that slavery was ‘evil by its very nature’…” (Bernstein
264). Also, Samuel Johnson “…insisted that ‘no man is by nature the property of another’…”
(Bernstein 265). It is unmistakable that the philosophers of the Enlightenment had a great
distaste for slavery, and were very strongly in favor of individual rights.

The United States strongly felt the effects of Enlightenment ideals, and thus, these ideals
set the standard for what would become American capitalism and economic practices. As the
economic system developed, it was established that the most basic right was the right to
property, including property over oneself. Individuals such as Thomas Paine “…condemned
slavery as no less vicious than ‘murder, robbery…and barbarity’…” (Bernstein 265). John
Adams and Alexander Hamilton also became very prominent abolitionists. The declaration of
anti-slavery feelings of known slave owners such as George Washington and Thomas Jefferson
also coincides with the arrival of Enlightenment ideals in the New World. It is important to
mention that slavery in the United States is often referred to as “the peculiar institution” as it was
quite inconsistent with the ideals under which America was founded. However, once the idea of
individual rights, the leading concept of the classical liberal perspective, took hold, the United
States began a long journey to eliminate this uncharacteristic behavior (Bernstein 265).

Generally speaking, slavery can be seen as one of the most blatant violations of
individual rights possible. Under slavery, a person is no longer granted the right to property over
themselves. Therefore, a classical liberal approach to economics would seem to be the most
logical system under which to abolish slavery, based on its fundamental principals of the rights
of man. However, if this is not enough, slavery can also be very inefficient according to free
market capitalist economic principals. Some have gone so far as to describe slavery as being “…an inefficient and wasteful economic system which degraded labor, led to misallocations of
investment, stifled technological progress, inhibited industrialization, and thwarted urbanization”
(Fogel 159).

The primary argument against the efficiency of slavery “…may be summed up under the
three following heads- [labor] is given reluctantly, it is unskillful; it is wanting in versatility”
(Bernstein 280). Many, including Adam Smith, have suggested that involuntary labor is much
less efficient as a laborer is only going to do the very minimum of what is required to survive.
The incentive to work hard and innovate is lost as there is little chance of upward mobility.
Furthermore, slavery invites many additional derived costs, such as the cost of containment.
Slaves are held against their will, therefore resources are allocated to slave control which may be better suited in other employments. Even more importantly, the slaves themselves are kept from participating in other activities at which they may be more productive and able to contribute more (Bernstein 280-282).

The argument for the inefficiency of slave labor is often fought with statistics regarding the profits of plantations in pre-civil war America (Bernstein 280-281). While it is true that slave plantations were often very profitable, the opportunity costs of all resources involved need to be considered. It is unclear as to why slavery persisted despite these inefficiencies, and as such the debate of slave efficiency may never be settled. However, from a capitalist perspective, it seems most logical to utilize resources in the setting in which they are most likely to be highly productive. Capitalism suggests that slavery leads to ineffective allocation of resources and is therefore unnecessary. Thus, capitalism should truly be commended for its abolitionist perspective.

Free market, capitalist economics has long been referred to as “the dismal science.” It has been commonly accepted that economics was given this moniker by Thomas Carlyle based on its fostering of apocalyptic theories such as that of T. R. Malthus. Malthus predicted that humanity was destined to starve to death as populations were growing at rates far beyond that of food production. However, humans still have plenty of food, and economics is still the dismal science. The truth behind the naming of the dismal science may actually have much more to do with Carlyle’s view of free market economics’ opinion toward slavery (Levy 1).

Classical economics utilizes a very methodical, analytical process when determining how markets should act. Inherent in this process is an ignorance of race in favor of incentives. This attitude can be traced to Adam Smith who “…put forward the hard rational choice doctrine that there are no natural differences among people” (Levy 4). Carlyle personified this view of the world with an economist, John Stuart Mill. Mill, contrary to the beliefs of Carlyle, “…argued that it was institutions, not race, that explained why some nations were rich and others poor” (Levy 1). The theory that Carlyle was upset about Mill’s view toward race relations is supported by the writings, and even the cartoons, of Carlyle and his peers. Carlyle “…argued that blacks were subhumans (‘two-legged cattle’), who needed the tutelage of whites wielding the ‘beneficent whip’ if they were to contribute to the good of society” (Levy 3). Carlyle’s contempt for those he believed to be lesser than himself extended not only to blacks, but also to the Irish. In a cartoon (Appendix 1) attacking John Bright, an anti-racist supporter of free markets, the Irish are depicted as very apelike and thus, inferior (Levy 3-4).

It is hard to dispute the conclusion that Carlyle was very critical of any theory that failed to account for what he perceived to be the differences among races. Carlyle was insistent that there were inferior people, and he was outraged that economics failed to account for these differences (Levy 1). Carlyle’s strong views about free market economics serve to further enhance the idea that capitalism and its pursuits provide a forum for an economic system under which race is not a factor, and all humans are truly considered to be equal. Under such a system, slavery would not have the ability to exist, as the complete disregard for the value of a human rests on the ability to undervalue that human in comparison to oneself. If a system makes each human equal, everyone has the same individual rights, and the opportunity for slavery disappears.

While it may seem apparent that free market capitalism and classical liberal ideals are the key to the abolition of slavery, there are many who would disagree. Communist theory dictates that capitalism leads to a schism between classes. Ultimately, a bourgeois class will control all
resources of production and a proletariat class will be forced to compete for low wages. According to this theory, the proletariat is then a slave to the system, which is suggested to be a fate worse than traditional slavery (Engels 1-4). This, however, fails to acknowledge that those identified as proletariat will be gainfully employed at a wage. Granted, this wage may be low, but it will cover a minimum living expense for the proletariat or the proletariat would not agree to work. Equating this to true, involuntary slavery is a bit of a stretch, given that many true slaves find themselves victim to no wages, physical abuse, and an inability to refuse to work. Ultimately, communism fails to recognize that the proletariat retains individual rights, and thus, is not enslaved, and is certainly not, as suggested, worse than enslaved.

Although the last legally sanctioned system of slavery was eliminated in 1962, slavery is still a world wide epidemic (Fogel 13). Slavery, in the form of human trafficking, affects more than 27 million people today, and is taking place within the United States (Florida Coalition Against Human Trafficking). It is feasible that an international move toward free market capitalism combined with a commitment to individual rights would eliminate this black market, as humans worldwide would embrace the ideas of equality, and opportunities for legitimate profits would be created. These profits could potentially exceed what is available through trafficking in humans, and would not be subject to constant legal concerns. For an entrepreneurial individual, when choosing between similarly profitable business ventures, it would be rational to choose the less risky option. The risk associated with human trafficking is very high as there are law enforcement concerns, as well as health concerns, given that competitors evidently lack respect for human life.

Free market capitalism and economic theory is often looked upon with disdain. It is considered an immoral, unethical pursuit of profits taken on by the heartless. However, when the root of capitalism is truly identified, these accusations are quickly disproven. Capitalism is simply a rational inquiry into profit that has the equality of individuals at its core. Capitalism is strongly influenced by Enlightenment and classical liberal ideals of individual rights. Certainly, some people have used capitalism in less than scrupulous manners, however, it is inadvisable to hastily judge the system based on a few unethical individuals. The greatest flaw in the capitalist system is that some have abused it, and have given it a bad name. It is possible, that if used in its true form, capitalism could be the answer to inequality, and could certainly be considered the greatest abolitionist of all time.
Appendix 1: (Punch, Nov. 10, 1866)

(Levy 4)
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Liberty Defined

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Abstract

This paper makes an attempt to define freedom and liberty. Freedom is defined initially as our individual ability to pursue our wants and desires, while liberty is defined as the social application of freedom. In the process of analyzing this definition, the ideas of thinkers such as Rousseau, Mill, Hegel, and Berlin are discussed, but none of them are fully endorsed. Counter ideas about freedom from these thinkers and more generally helpful opinions are discussed and, while found to be well-intentioned, they are shown to be distortions of freedom and liberty for other concepts. Among these are the ideas of collective liberties, positive liberty, and the freedom espoused by ascetics. Ultimately, a plea is made that to protect our freedom and liberty we need to fully understand them.

Freedom and liberty are concepts that have changed the course of history: that men and women around the world in nearly every era have fought passionately for, and some have even died for. The scholars and intellectuals who formed new ideas about freedom and liberty have become standard reading in nearly every university, while those who fought for our freedom and liberty have been enshrined as modern saints with monuments honoring them. Many of us have even gone so far as to conceive all of human history as the steady realization of freedom and liberty.

How is it then that while each of us individually may not have personally fought for our freedom or liberty, we seem to not only care so deeply about them, but seem to have so little agreement on an understanding of them? How is it that in nearly all modern conflicts both sides seem to be genuinely fighting for what they believe to be their freedom and liberty? How is it that we now have come closer than ever to a full realization of our freedoms and liberties; yet, the last hundred years has seen more violence than any century before it? How can such seemingly beneficial terms that so many of us seem genuinely to want have caused so much harm and destruction in human history?

The problem seems to be both a lack of universal agreement on how exactly to define these terms and what they encompass and, often, the mistake of one for the other. While the words “freedom” and “liberty” in common speech might be interchangeable, and most languages actually have only one word for both (Positive and Negative Liberty), there is a very important difference between the two. Freedom in the broadest sense means simply the ability to do anything I wish without impediment. Liberty however constricts this broad term freedom to those instances where another human being might be or cause that impediment – one might call this social freedom. This is an important difference, especially in politics, because the actions of other humans might be controlled or influenced by society but not by the physical world. We can convince or coerce another human being to do something or not do something, but we cannot convince or coerce the physical world to do or not do something. We might change the physical world, by building roads, dams, or mines or by combining different elements to form new substances we can never change the rules by which the physical world operates – we can only gain a better understanding of them.
It is necessary to understand though that while we have the freedom to do anything that does not violate the laws of the physical universe, we can only realize so many freedoms as we can comprehend. Because of the better knowledge we have of the physical world, humans today have been able to do things that previous humans would have thought impossible. It is not that we have actually gained any new freedoms; we have just discovered how to make use of freedoms we previously did not understand. This will be an important distinction to understand later in realizing the difference between actual freedom and the means by which to obtain freedom.

Liberty as opposed to freedom, however, is something that can and does often change. While I might always have the natural freedom to speak freely, other humans might prevent me from doing so by coercion and thus restrict my liberty or what might be thought of as social freedom. It is clear then that while we may obtain a better understanding of our natural freedoms and thus be better able to utilize them, we can never increase them. What we can increase, though, is the liberty or social freedom we have, and this seems to be the freedom that is most often imagined when people say they are free or fight for liberty or freedom.

With these terms better defined it is necessary to clarify some limitations: Freedom is simply the ability to act without impediment (not rationality, justice, equality or any other such concept).

1. Only individuals can have freedom, not groups.
2. Individuals’ freedoms do and will often interfere and conflict with one another.

To better understand the first limitation it is necessary to understand the arguments for broadening the definition of liberty. There are many people in this world and throughout history that have been unable to fully realize their freedoms or liberty because they did not have the proper education, resources, or political means to do so. And those who have seen or gained an understanding of such disenfranchised individuals often have reasoned that if they had only been given the proper means they would have been freer than before and, at least in terms of liberty or social freedom, such assumptions are usually correct.

If I was not given a proper education, and live only by my impulses, I might not be able to discover the freedoms I have or be able to convince or coerce others to give them to me. If I do not have the resources to build a house or feed my family, I am prevented from obtaining them, if others will not give them to me freely, and am thus less free. Also, if the political system in which I live prevents me from obtaining what I believe I justly deserve I am that much less free to obtain what I want. So while rationality, education, greater resources, or a political means to obtain what I want might make me freer, it is not freedom itself, but rather a means to it. General education, a greater distribution of wealth, and a more just political system might make the whole of a society more or less free, but they are not themselves freedom.

The second limitation, that only individuals can have freedoms not groups, is easier to understand because a group is always a collection of individuals. A group cannot have a collective will, only a sum of the wills of its members, just as it cannot have freedoms, only the sum of the freedoms of its members. To have liberty or freedom you must want or wish to have or to do something. A rock has no freedom because it has no will, just as a group has no freedom separate from its members because it has no will separate from them. Because of this, arguing that when people act collectively they have a collective will does not make any sense. The people in the group might be said to have an aggregate will, but the group itself does and cannot have a will of itself or independent from its members.
Finally, it seems clear that given such a definition and understanding of freedom it could not be otherwise that people's freedoms and liberties would necessarily interfere with each other. If more than one individual has a want and desire for some object that cannot be shared, the individual who obtains that object will necessarily interfere in the freedom of others to obtain that object. However, in areas where no division is necessary there are no conflicts of freedom. For example my ability to exercise my freedom of speech in no way interferes with another person’s right to voice their freedom of speech. However if I had the desire to speak freely for fifteen minutes on the nightly news that desire would necessarily interfere with the same desire of another person, simply because the supply of television time-slots is necessarily limited. By me speaking for those fifteen minutes, I would be preventing someone else who wanted to speak and would therefore limit their freedom to do so. To argue though that all freedoms or liberties never interfere is to ignore the complete extent of other people’s wants and desires.

There is another area in which the proper understanding of liberty has often been confused, and this is in the distinction between both ‘positive’ and ‘negative’ liberties first formulated by Isaiah Berlin. The idea of negative liberty follows well with the definition laid out above of liberty or social freedom, which is simply the area within which a person is able to be free from interference by others. Positive liberty, however, deals with the source of this interference and can best be defined as ability to act in a manner to obtain one’s ultimate goals. The best illustration of this difference is taken from thinking about the actions and desires of a drug addict. If we assume, for example, that a heroin addict had access to as much heroin as he or she could want, and that no one would interfere with that person using as much as he or she might want, that person could be said to have complete freedom to use as much as he or she might want. However under a positive conception of liberty that person is not free because it is the argued that the addiction of the drug is causing that person’s actions, not what might actually be that person’s true desires. To be truly free then under the concept of positive liberty a person needs to have the sufficient ability to recognize his or her own best interest and have the control to go after that interest. This is often called a “self-determined freedom.” (Harper) To be free under such a system you must not be coerced or enslaved by your passions, but must be free to follow your rational desires.

While such an understanding of freedom and liberty may spring from a genuinely well–motivated desire to enhance the lives and wellbeing of others, it not only distorts a proper understanding of freedom or liberty, but can and has been used to cause great harm. The first problem such an understanding of freedom or liberty has is that it rests on the idea that an absolute form of reason or rationality exists and that it is knowable. To say that a person is only free when they are rationally able to pursue his or her best interests implies that there is some absolute form of reason or rationality that such a person can consult to discover their best interests and further, that as human beings we can discover and comprehend this form of reason and rationality. Even if we accept such preconditions, those who have argued for a positive conception of liberty have often failed to define exactly what they mean by reason or rationality. Rousseau, for example, broadly states that humans gain greater freedom by entering into civil society, and in the process of giving up their irrational impulses and desires for reason and rationality, they become freer. However, Rousseau never defines exactly what he means by reason or rationality. Even Mill, one of the great champions of liberty, often requires us to accept his concept of utility for us to completely understand his concept of freedom. Hegel requires even more of us to accept his entire concept of the progression of human history and one world spirit directing its course for us to understand his definition of freedom.
If, however, we assume that reason and rationality are in fact absolute and knowable, we are forced inevitably to concede that there is no great consensus in the world on what reason or rationality really are, and therefore, just as some individuals are naturally better at different activities than others, it would seem that some individuals would necessarily have a better understanding of this perfect reason or rationality than others and would therefore be more free because if reason or rationality is the basis of freedom then those who better understood it would necessarily be freer. Even more so, if that person felt any need or desire to help society become freer, would that person not then feel obligated to give his or her understanding of reason and rationality to others so they could use it as well. What if people refused to accept such an understanding of reason? Surely the heroin addict in the example above would not be too eager to give up his or her addiction. If that person with the better understanding of this perfect reason and rationality were guided by a moral system that required them to help others, would that person not then be under a some sort of obligation to force others to accept his or her better understanding of reason and rationality? Would that person not, as Rousseau says, be under a duty to force them to be free?

It is easy to see with such an example how easy it has been for some of the worst tyrants and dictators of human history to argue that they are in fact proponents of freedom, especially when such an understanding of freedom is further manipulated to extend to entire groups or nations. It is not that helping people to better realize their freedoms is harmful, for Mill himself argued for widespread education believing that education would make all of us freer. The problem, however, is when the means to understanding our freedom or liberty is confused with freedom and liberty themselves.

Forcing someone to accept some form of reason or rationality takes away that person’s freedom to choose such reason or rationality for themselves. Children are given an education and raised by their parents so they might lead more successful lives, whether through a better understanding of the world or a better understanding of their own wants and desires. But to argue that such education is freedom itself is incorrect. Forcing someone to do something for their own benefit, may well indeed be good for them sometimes, but we need to understand that in doing so we are still interfering in their freedom. For example, forcing a child to attend school rather than to stay home and watch television or play video games is still to take away the freedom they would have had to stay home and watch television or play video games. While such an act may indeed be for the child’s benefit, it is still an act of coercion and understanding it as something that it is not is not only incorrect, but also dangerous. The moment we no longer understand things as they truly are, we are led to actions we would not otherwise do, content in the belief that we are doing such actions for reasons which they cannot be supported. Moreover, to argue that reason, rationality, or any other means by which a person attains freedom or liberty are freedom or liberty themselves, allows for the possibility that someone could conceive that no actual wish or desire is involved in freedom and that by simply limiting our desires we could become freer. If we feel ourselves less free because we cannot obtain what we wish or desire, would we not be freer by wishing or desiring less as that would allow us better to obtain the true freedom of reason or rationality? Berlin understood this as the freedom and liberty espoused by ascetics. If my lower desires, such as hunger, addiction, or sexuality among others prevent me from achieving the higher desires of reason or rationality, am I not freer then by suppressing my lower desires?

In the previous examples of positive freedom espoused by thinkers such Rousseau and Hegel among other, it could be argued that people should be forced or at least given an
understanding of reason and rationality in order to make them freer. The argument an ascetic might make, however, would be that by removing oneself from the world and limiting his or her wants or desires a person becomes freer. If, for example, I decide that the distractions of the world in which I am living are preventing me from gaining a better understanding of reason and rationality, would I not naturally assume, then, that leaving society and living a life in isolation, I would better position myself to attain my true freedom? While people might have the freedom to remove themselves from society, and it may often help them to better understand their wants and desires, the process of withdrawing is not freedom, nor are the benefits it might give someone. Freedom is the ability to pursue your wants and desires without inference, limiting them may make a person more successful in achieving a smaller number of freedoms simply because that person might be able to direct more time or resources to achieving a smaller number of freedoms or because that person may have a chance to give greater thought to what wants and desires he or she actually wants to pursue, but doing so does not increase a person's actual freedom.

Humans as social creatures naturally form polities and civil societies, and in the process, they greatly enhance their productivity and quality of life. The benefits we derive from the division of labor, education, technology and even the ability to socialize with one another are all due in some sense to the stable civil societies in which we live. However, we must understand that by living together, especially in highly organized societies, our freedoms and liberties will naturally interfere. To argue that we become freer in civil society is wrong and dangerous. However, with a better understanding of our freedom and liberty we can design these political systems and create better laws to protect our freedom and liberty while still accruing the benefits of living in modern organized societies.


