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# Privatize the Public Sector

## *Murray Rothbard's Stateless Libertarian Society*

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**M**urray Rothbard's *For a New Liberty*, originally published in 1973, remains one of the most significant books on libertarianism, in large part because he explains how market institutions can replace everything government does, and do it better. After discussing a long series of economic and social problems, Rothbard says, "If we look around, then, at the crucial problem areas of our society—the areas of crisis and failure—we find in each and every case a 'red thread' marking and uniting them all: the thread of government. In every one of these cases, government either has totally run or heavily influenced the activity" (2006, 95). Rothbard explains how private arrangements made through voluntary agreement can replace everything that government does, and make everyone better off in the process.

*For a New Liberty* can easily be viewed as a companion volume to Rothbard's *The Ethics of Liberty* (1998), which argues that the only ethical way to interact with others is through voluntary cooperative behavior. Government activity is unethical because standing behind all government activity is the threat of force. *The Ethics of Liberty* explains why government is unethical. *For a New Liberty* explains how an ethical stateless society would operate for the benefit of everyone.

Rothbard notes up front that he is offering some possible ways that market activity could replace what government currently does, but that the creative thinking

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of millions of people is likely to come up with other ideas—perhaps better ideas—for the market provision of goods and services currently produced by government. He notes the continual efficiency gains and the continual flow of new and improved products generated by private market activity, and says:

The libertarian economist can try to offer a few guidelines on how markets *might* develop where they are now prevented or restricted from developing; but he can do little more than point the way toward freedom, to call for government to get out of the way of the productive and ever-inventive energies of the public as expressed in voluntary market activity. No one can predict the number of firms, the size of each firm, the pricing policies, etc., of any future market in any service of commodity. We just know—by economic theory and by historical insight—that such a free market will do the job infinitely better than the compulsory monopoly of bureaucratic government. (2006, 242–43)

Although Rothbard tells readers the market will come up with creative ways to provide all the goods and services government now provides, he does offer conjectures about how the private sector might fill this role. He submits one possible vision of a stateless libertarian society—a vision that would improve the well-being of the members of that society.

## Replacing the State

Visualizing how private activity could replace much of what government produces is easy, because the private sector already produces those same goods and services. There are already private schools, private parks, private museums, private garbage collectors, and private roads. Rothbard goes into detail about the way that private voluntary arrangements might work to provide these and other goods and services now produced by government. Underlying the specific institutional arrangements that Rothbard describes is what Adam Smith ([1776] 1937, 13) referred to as “the propensity to truck, barter, and exchange one thing for another,” which is innate in humans. People want things like clean water, education, and roads, and a market economy offers a profit opportunity to those who can provide them. Rothbard explains how this can happen.

Rothbard (2006, 258–65) gives a detailed discussion of the private provision of streets and roads. He offers many alternatives for private provision and pricing, but Rothbard’s detailed conjectures may make the issue appear more complicated than it actually is. The demand for roads originates from two sources. First, some people have a demand for roads so they can go somewhere. Second, some have a demand for roads so others can get to them. How can these goals be accomplished?

For long trips, it is easy to envision private companies operating toll roads, because government toll roads (and a few private toll roads) already exist. A private company could own the right-of-way and charge a toll for those who want to use the road. This seems likely for longer trips from one city to another, or even within a city. This is more than just speculation. Toll roads already work this way.

Critics will point to holdouts that could prevent the assembling of rights-of-way, but there are contractual ways around this. For example, an entrepreneur could offer contracts to buy the necessary property contingent on the agreement of all property owners to sell.<sup>1</sup> The ability to complete the road is facilitated because there will be multiple possible routes that could connect two distant points, and property owners have an incentive to be close to the chosen route.<sup>2</sup>

The situation is different for local roads, and Rothbard offers many alternatives for their provision. In most cases, the answer is simpler than Rothbard makes it out to be. Property owners want to have access to their property for themselves and others, so will provide that access in most cases at no charge. When residential subdivisions are built, the developer constructs roads to access the subdivision. In most cases, the roads are then deeded over to the local government, because the local government will pay to maintain them. Still, many subdivisions retain ownership of their roads and undertake their own maintenance. People want access to their residences for themselves, their guests, and Amazon delivery trucks.

Rothbard speculates about different possible ownership structures for local roads, but the most likely one is collective ownership by those whose properties adjoin the roads. Residents of a subdivision would have the incentive to form a homeowners' association to own and maintain the roads that provide access to their property. Again, this is easy to imagine, because homeowners' associations are already widespread, and in many cases already own the roads, along with parks and other amenities. Drivers are not charged for using the roads; they are paid for by homeowners' association dues.

The same holds true for commercial establishments. Businesses want people to be able to access their locations. Shopping centers today provide access roads and free parking to make their locations easy to access. Meanwhile, government-owned parking routinely charges those who use it. Foldvary (1994) discusses in much greater detail the way that people have an incentive to form voluntary organizations (such as homeowners' associations) to provide public goods, including roads. The arguments apply to business organizations as much as to residences. In a previous article, I note the possibility of common property arrangements in a stateless society. Roads, parks,

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1. If the value of a property in its current use is greater than the value it would have as a road, the road developer will not be able to buy the property, but in that case, the road should not be built. Under the current regime in which government uses eminent domain to forcibly acquire rights-of-way, there is no guarantee that the value of a road is greater than its opportunity cost.

2. This is apparent in the current Interstate Highway System. Property near highways increases in value, giving property owners an incentive to negotiate to have roads pass by their property.

lakes, rivers and other property might be owned and used in common, preventing private owners from excluding their use by others (Holcombe 2005).

Rothbard's point, and my point, is not to say that one or another type of ownership structure would prevail in a stateless libertarian society. Rather, it is to show that there are a variety of private voluntary institutional arrangements that could perform the same functions now undertaken by the state, and undertake them more effectively.

Rothbard (2006, 249–58) discusses police protection in detail, using the same types of arguments. People have an incentive to hire security guards for their own protection. People do not need to hire their own personal security guards (although some do so now). A homeowners' association, business association—or, really, any group in close geographical proximity—has an incentive to join together to contract for police protection. Market competition should keep costs down so that the money people would save by not paying taxes would more than cover the cost of private provision. Private security guards outnumber government police today, as Benson (2011) notes. Businesses and neighborhoods have an incentive to maintain a safe environment. If government dropped out of the policing business, the already-existing market for security services would expand to fill any voids.

## The Problem of Market Failure

*Market failure* is a term invented by economists to describe any situation in which markets do not allocate resources in an ideally efficient manner. Welfare is maximized in an economy characterized by a competitive general equilibrium,<sup>3</sup> and economists have offered numerous reasons why the existence of public goods, externalities, monopoly, informational asymmetries, and more prevent this ideal outcome from occurring.<sup>4</sup> Economists often make the unwarranted leap to say that if the market is not perfect, government should intervene to improve resource allocation. Buchanan (1975) points out the obvious response: Government is not perfect either. Showing that markets fall short of some theoretical ideal does not mean that government intervention could improve things.

Market failures, as economists have defined them, are profit opportunities. When resources are allocated less than efficiently, entrepreneurial individuals will want to find ways to overcome those inefficiencies. Private arrangements can internalize externalities (Coase 1960) and produce public goods (Fordvay 1994). When people want goods and services, regardless of their characteristics, private sector

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3. This approach to government goes back at least to Pigou (1920) and was more rigorously developed throughout the twentieth century. Bator (1957) and Graaf (1957) present rigorous conditions for the maximization of welfare.

4. Bator (1958) labels any outcome that falls short of this theoretical ideal of welfare maximization as a market failure and shows, in theory, several sources of market failure.

entrepreneurs have an incentive to provide them, because there is profit in doing so. One of the valuable contributions *For a New Liberty* makes is that it offers convincing arguments and compelling examples to show how private arrangements could produce what typically are considered to be public goods (Holcombe 1988).

## Police, Law, and the Courts

Rothbard (2006, 267) begins chapter 12 by saying, “The market and private enterprise do exist, and so most people can readily envision a free market in most goods and services. Probably the most difficult single area to grasp, however, is the abolition of government operations in the service of protection: police, the courts, etc.” Rothbard goes on to explain how these protection services could all be provided through private voluntary agreements in a chapter well worth reading.

As a brief outline, Rothbard envisions private protection firms that would contract with individuals, businesses, homeowners’ associations—anyone who has a demand for protection services. These firms would agree to protect the rights of those who contracted with them. But while they would protect the rights of clients and seek restitution in cases where their clients’ rights were violated, they would not agree to protect their clients if they violated the rights of others. Rothbard explains why, and explains what rights people could expect to have protected by these protection firms. Rothbard envisions a market with many protection firms that would compete for customers’ business.

Protection firms would seek restitution for their clients whose rights were violated. If property was stolen, their primary objective would be to get it back. If someone was injured, their primary objective would be to obtain restitution for the victim. This contrasts with the current criminal justice system that seeks to punish the criminal but does little to help the victim. The victim of an assault, for example, benefits little from the imprisonment of the assailant. The state wants to produce order, not justice, and does so by punishing those who violate the state’s mandated order. Private protection firms would protect the rights of their clients, and seek justice should they be violated.

What if someone who contracted with one firm claimed that his rights were violated by someone who contracted with another firm—someone who claimed the rights violation did not occur? Rothbard observes that competing protection firms have little incentive to eat into their profits by using their resources to fight each other. They would agree to use private arbitration to settle disputes between their clients. They would protect the rights of their clients, but would not protect their clients when they violated the rights of others.

When disputes arise in Rothbard’s stateless society, individuals could settle them through private arbitration as an alternative to government courts. Rothbard explains why private arbitration is less costly than government courts, and tends to lead to better decisions. Private arbitration is already widely used because of those

advantages, and Benson (2011) goes into more detail than Rothbard about the operation of private courts and private law. Although there is some degree of speculation about the way these institutions would work, Rothbard's ideas are not completely speculative because private security companies and private arbitrators already exist. Rothbard is only suggesting that those private institutions could completely replace their government counterparts, if government would step out of the way.

I have argued that this is the weakest part of Rothbard's case for a stateless libertarian society (Holcombe 2004). Protection firms, which must have a comparative advantage in the use of force to do their jobs, would have an incentive to use that force for their own advantage. They might solicit customers, much as the Mafia does, by demanding protection money, pointing out that something bad could happen to them if they decided to forgo the Mafia's—or the protection firm's—offer.

Nozick (1974) argues that larger protection firms would have a market advantage over smaller ones, because larger size would enable them to back their services with more force, and at a lower cost per customer. This makes the provision of protection services a natural monopoly in which larger firms take customers away from smaller firms until only one firm is left to provide protection. Extending Nozick's idea, protection firms that have a comparative advantage in the use of force would turn into little Mafias, which would grow into potentially oppressive governments. If a stateless society did exist, it would be overrun by power-hungry individuals with a comparative advantage in the use of force.

In contrast to Rothbard, many classical liberal scholars, from Mises (1998) to Hayek (1960) to Buchanan (1975) see a limited government as necessary to protect individual rights. Regardless of the ultimate feasibility of Rothbard's envisioned stateless society, the value in Rothbard's arguments is that he lays out a logically consistent explanation for the way that private voluntary arrangements can replace everything that government—including the police and courts—presently does.

There are counterarguments to Rothbard's claims about the feasibility of a stateless society, to be sure, but Rothbard makes a good case. In response to any arguments that “markets cannot produce X because there is some market failure,” Rothbard describes how markets can, in fact, produce X. Rothbard pulls the rug out from under the market failure justification for government intervention, saying: “We have shown, I believe, that a libertarian system, once instituted, could work, be viable, and be at once far more efficient, prosperous, moral, and free than any other social system” (2006, 296).

## National Defense

Rothbard offers two reasons why a stateless libertarian society would be protected from invasion by foreign governments. First, wars between nations pit one government against another, and in the absence of government, foreign nations would have no reason to attack a stateless society. Second, wars are won when one government

ultimately surrenders to another, but in a stateless society, there is nobody—no president, no king, no national leader—who can surrender on behalf of the rest of the population. Even if the leaders of a hostile government wanted to invade and take over a stateless society, it would be extremely difficult to do so. Rothbard wrote well before the U.S. invasions of Iraq and Afghanistan, but those invasions seem to support his conjecture. The large and powerful United States was unable to subdue and take over those much smaller and poorer nations. Rothbard says that “no occupying force can long keep down a native population determined to resist” (298).

## Implementation

Rothbard offers a blueprint for a stateless society in which voluntary private arrangements replace everything government now does. How can Rothbard’s vision come to fruition? The first step, Rothbard says, is education. This includes educating the general public about the merits of a stateless society, but also educating the libertarian community. Addressing the criticism that libertarians are just talking among themselves, Rothbard says: “It is not only necessary to educate *others*; continual self-education is also (and equally) necessary . . . to keep their own ranks vibrant and healthy.” He emphasizes the importance not only of academic work but also of “the need for publicity, slogans, student activism, lectures, radio and TV spots, etc.” to reach a broader audience (374).

Rothbard argues against gradualism in achieving his end goal of a stateless society. He quotes Hayek, who says: “We need intellectual leaders who are prepared to resist the blandishments of power and influence and who are willing to work for an ideal, however small may be the prospects of its early realization” (quoted on 377). The most effective libertarian position, Rothbard says, is not to advocate a reduction in government but to abolish it altogether. Rather than call for tax cuts, call for eliminating all taxes.

Rothbard continues, “There is another vital tactical reason for cleaving to pure principle. It is true that day-to-day social and political events are the resultants of many pressures, the often unsatisfactory outcome of the push-and-pull of conflicting ideologies and interests. But if only for that reason, it is all the more important for the libertarian to keep upping the ante” (378). He adds: “Cleaving to principle means something more than holding high and not contradicting the ultimate libertarian ideal. It *also* means striving to achieve that ultimate goal as rapidly as is physically possible” (379). If there were a button to push that would immediately eliminate all government, Rothbard says, then push it! But he continues, “Such an ‘abolitionist’ perspective does not mean, again, that the libertarian has an unrealistic assessment of how rapidly his goal will, in fact, be achieved” (379).

Extending this idea, Rothbard says, “Gradualism in theory indeed undercuts the goal itself by conceding that it must take second or third place to other non- or antilibertarian considerations” (380). He makes it clear that he is not advocating

shrinking government, cutting taxes, or reducing government programs. He is advocating the elimination of the state.

There is an ambiguity in his recognition that his ultimate goal will not be accomplished instantaneously. This might be taken to mean that he would eliminate the state immediately if it were in his power, but that he will take the fastest route there because it is not. Or, it may suggest that an immediate elimination of the state would not be feasible because it would take time to build the market alternative. Still, arguing for the immediate elimination of the state is the best rhetorical strategy for improvement. I had the privilege of knowing Rothbard, and I am sure, that if asked, he would make the first argument. Push the button and eliminate the state.

This raises the hypothetical question of how the transition to statelessness would occur. Suppose the button Rothbard envisioned were pushed and the state vanished overnight. What would the next day bring? How long would it take for protection firms to scale up and contract with clients? Who would own the roads? Perhaps they would become common property (Holcombe 2005). Who would own and operate waterworks, wastewater treatment facilities, and airports?

*For a New Liberty* offers a good blueprint for how a stateless libertarian society could operate. It does not offer a blueprint for making the transition from current institutional arrangements. How long would it take to create those alternative market institutions? One can make arguments about how the transition should occur—who should own the airports, who should own the waterworks, and so forth—but how things should operate is likely to be different from how they actually would operate (Holcombe 2004).

Those questions about transition are hypothetical, as noted earlier, because the transition would surely be gradual, shrinking the state over time until it eventually disappeared. Rothbard says that “the libertarian must never advocate or *prefer* a gradual, as opposed to an immediate and rapid, approach to his goal” (2006, 379). Setting advocacy aside, Rothbard recognizes that the establishment of a stateless society is unlikely to be instantaneous. Thus, from an advocacy perspective, the Rothbardian libertarian should stand firm in calling for the abolition of the state. But realistically, the route to a stateless society will come piecemeal as taxes are cut, regulations eliminated, government programs reduced, until at last they shrink to zero.

A gradual shrinking of the state is an appealing route from an economic perspective. Most readers of *The Independent Review* likely believe that the state is too big, taxes are too high, regulations are too constraining, and government programs are excessive. What is the optimal size of the state? Rothbard says zero, while other libertarians, ranging from Mises (1998) to Hayek (1960) to Nozick (1974) to Buchanan (1975) see some role for government to play in a free society. Economists are used to thinking in terms of marginal changes. If the state is too big, cut it back a bit and see if things are better. If so, cut it back some more, and keep cutting as long as individual freedom and welfare improve. If the next cut makes things worse, go back to the previous state of the state.



How much can be cut before welfare starts deteriorating? Rothbard would say all of it. But that debate can wait. Supporters of a freer society can all agree that welfare would be improved by marginal reductions in taxes, regulations, and spending, even if, following Rothbard, they advocate for the complete abolition of the state. Libertarians often argue among themselves about this issue, but stepping back, they must keep in mind that the issue is not limited to how much the size of government should be reduced. A substantial share of the population advocates for more government intervention, so those with libertarian or classical liberal views on the subject should keep in mind that they have the same agenda and differ only on the details.

## Conclusion

*For a New Liberty* makes important contributions to libertarian scholarship in at least two ways. First, Rothbard explains how private voluntary arrangements can replace everything government does, and do those things better. Second, by staking out the most extreme position on limited government—which is no government at all—Rothbard places advocates of limited government closer to the middle of the ideological spectrum.

On the first point, Rothbard provides concrete answers to the economic doctrine of market failure. In response to arguments about why, in theory, markets cannot produce particular goods or services, Rothbard offers realistic scenarios to explain how markets can replace everything government does. He cuts the legs out from under the theoretical arguments that markets “fail.”

Rothbard emphasizes the importance of education to the furtherance of the libertarian agenda. The obvious targets for his educational mission are those unfamiliar with the ideas of libertarianism. But Rothbard continues, “just as the theory needs to be carried to the attention of the public, so does the theory need people to hold the banner, discuss, agitate, and carry the message forward and outward to the public” (2006, 374). That means the continual education of those who already hold libertarian and classical liberal views. When someone questions the viability of limiting the role of government in one area or another—or eliminating government altogether—Rothbard offers the defender of those ideas a solid blueprint for how that can happen—why it is both feasible and desirable.

On the second point, Rothbard’s vision of stateless libertarianism demonstrates that advocates of limited government such as Mises, Hayek, and Ayn Rand are not promoting extreme views on government’s role. They stand somewhere in the middle between Rothbard’s advocacy of a stateless society and the socialist advocates of government economic and social planning. Government has grown substantially in the past century. Advocating a more limited government is a moderate appeal to return to the scope of government that has led to the remarkable increases in prosperity that have been produced since the beginning of the Industrial Revolution. That “limited government” perspective sits between the extremes of a socialist centrally planned society and the stateless society advocated by Rothbard.

There is no need to compromise in promoting Rothbard's conception of a stateless society. *For a New Liberty* makes a very good case for the feasibility of a prosperous and productive stateless society. The state is not going to vanish this year, or this decade. But the more widespread Rothbard's ideas become, the greater the possibility for shrinking the Leviathan state and increasing freedom and prosperity.

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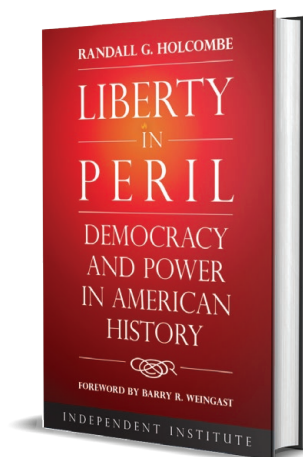
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