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MISES ON THE NATION AND THE STATE

This article discusses the distinction Mises (1919) draws between the nation and the state as well as the relation of this distinction with the role of the state in the free society.

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Introduction

There are certain topics of special interest and significance for economics in particular and the social sciences in general. One of these topics is the relationship between state and society. For the advocates of freedom, it is quite challenging to justify a lawful role for the state. The question as to whether there can exist an institution that does not violate individual rights in a free society is not an easy one to answer, especially given the issue of financing such an entity.¹

The debate between *anarcho-capitalists* and *classical liberals* may have become more visible in the last years, but it is certainly not new.² As the title of Boettke's paper "Anarchism as a Progressive Research Proposal in Political Economy" suggests, this

¹ The fact that it is not easy to find a clear proposal regarding optimal taxation among libertarians may contribute to lack of clarity regarding how a state can exist without violating the property of others, especially those who help to finance the state. Perhaps this issue has not been addressed because economists always seem to have topics of greater importance on which to focus. Given that states tend to frequently transgress liberty and property, optimal taxation remains an ideal, as does, apparently, any discussion thereof.

² Cf. Boettke, P. J. (2005). Anarchism as a Progressive Research Program in Political Economy. In E. Stringham, *Anarchy, State and Public Choice* (pp. 206-219). Cheltenham, United Kingdom: Edward Elgar Publishing. In this paper, Boettke argued that anarchic societies have always existed, if few in number (p. 207): "In histories of political and economic thought we often pass over the anarchist writers too quickly. There are, however, some good reasons for this. Anarchist writers have always been minority figures, and anarchist writers have often waxed lyrical about worlds of post-scarcity and populated by transformed human spirits. But not every anarchist thinker in the history of political economy should be so easily dismissed."

debate is not between opposing trends, but rather it has produced a deep study on how to imagine a justifiable state and its role in a free society.

Although anarcho-capitalism is not the main topic in *Nation, State, and Economy*, Mises presented an interesting analysis regarding the issue of a rightful state in a section of his book entitled “Nation and State.” While we cannot completely address this theme in a single essay, we will focus on three aspects presented by Mises that appear to be highly relevant: 1) the difference between nation and state, 2) the significance of institutions and basic rights, and 3) the role of the state in a free society.

The Difference between Nation and State

In order to understand the state’s role in a free society, we must first divorce the concepts of nation and state. Empirically, we almost always see these concepts together, but this does not mean that they are similar concepts, nor does this indicate that they are interchangeable. The concept of nation is more related to that of a community or society. As Mises discussed in the first part of *Nation, State, and Economy*, it is not easy to find a singular definition that captures the meaning of the *nation* as a concept. That is, there is no single aspect of nationhood that would allow us to include all individuals that appear to be self-evidently part of a given nation and also exclude those who do not appear to belong to such a nation. Mises suggested that a proxy for this elusive concept of nation might be found in language. In his own words (*italic is added*):

Community of language is at first the consequence of an ethnic or social community; independently of its origin, however, it itself now becomes a new bond that creates definite social relations. *In learning the language, the child*

*absorbs a way of thinking and of expressing his thoughts that is predetermined by the language and so he receives a stamp that he can scarcely remove from his life. The language opens up the way for a person of exchanging thoughts with all those who use it; he can influence them and receive influence from them. Community of language binds and difference of language separates persons and peoples. If someone finds the explanation of the nation as a speech community perhaps too paltry, let him just consider what immense significance language has for thinking and for the expression of thought, for social relations, and for all activities of life.*³

There are two interest points contained in this passage. First, the relation to language is not because of language *per se*, but because language implies “a way of exchanging thoughts and mutual influence, [of] becoming a new social bond.” That is, language corresponds to a *way of thinking*. Second, language is not static like race or geographic location but rather changes every day; thus, there is an implicit understanding of spontaneous processes contained in Mises’s approach to the nation. Mises continued (italic is added):

If, despite recognition of these connections people often resist seeing the essence of the nation in the speech community, this hinges on certain difficulties that the demarcation of individual nations by this criterion entails. *Nations and languages are not unchangeable categories but, rather, provisional results of a process in constant flux; they change from day to day, and so we see before us a wealth of intermediate forms whose classification requires some pondering.*⁴

³ von Mises, L. (1919). *Nation, State, and Economy* (2006 ed.). Indianapolis: Liberty Fund. p. 10. (Italic is added)

⁴ von Mises, L. (1919). *Nation, State, and Economy* (2006 ed.). Indianapolis: Liberty Fund. p. 10. (Italic is added)

This passage highlights an important difference between *state* and *nation*. While nation implies a soft “process of constant flux” that requires some “pondering,” the concept of the state is more static or hard. The limits of different states are very clear, but the limits of nations often do not enjoy the same level of clarity. However, this lack of clarity is a theoretical characteristic of the concept rather than a definitional defect; the fact that different degrees of grey are neither black nor white does not make the grey color imperfect. Rather, it just makes grey more difficult to precisely define.

The flexibility that is characteristic of nation helps to distinguish the concept of the nation from the concept of state, further indicating that nation and state do not necessarily have a one-to-one relationship. There may be cases in which there is more than one nation corresponding to a single state; alternatively, one nation may correspond to more than one state. Mises continued as follows (*italic is added*):

The English language, it is asserted, is used by two nations, the English and the Americans; and this alone shows that it is inadmissible to seek the criterion of nationality in language alone. In truth, the English and Americans are a single nation. *The inclination to count them as two nations stems from the fact that people have become accustomed to interpret the nationality principle as necessarily including the demand for unifying all parts of a nation into a single state.*⁵

⁵ von Mises, L. (1919). *Nation, State, and Economy* (2006 ed.). Indianapolis: Liberty Fund. p. 15. (*Italic is added*)

If there is no one-to-one relation between nations and states, namely, if nation and state are concepts independent of each other, what is the relationship or the duty of the state towards the nation?

The Significance of Institutions and Basic Rights

The concept of *basic rights* (or *basic institutions*) is very important in defining the limits of the state within a free society; all human interactions that lead to growth, as well as all spontaneous market developments depend on the existence of these *basic institutions*.

There are three elements to consider when two individuals decide to engage in an exchange or cooperate with each other. The first is the direct result of the exchange. That is, each actor involved receives something from the other; the acquisition of a good or service in exchange for money or in kind is the reason these actors approached one another in the first place.

The second element is the indirect effects derived from this trade. Without intentions to do so, the transaction generates a reference price for other similar exchanges; a transaction may also result in agreed-upon commercial rules that later become common practice among other individuals. These are unintended and spontaneous market developments.

The third element is the institutional background required to perform an exchange. When these individuals approach each other, they somehow decide when, where, and what to trade. At this point, they are to some extent free to define the specifications and content of their private contract. But there is also something fixed: an institutional

framework. Private property and freedom as institutions are not part of exchanges, but rather they are the functional prerequisites of exchange; individuals exchange goods of their property, not property in an abstract sense. Overall, these basic rights or basic institutions are the tools required for cooperative relationships to take place. That is, thanks to them, cooperation is possible. As Mises articulated (*italic is added*):

Society is not merely interaction. There is interaction—reciprocal influence—between all parts of the universe: between the wolf and the sheep he devours; between the germ and the man it kills; between the falling stone and the thing upon which it falls. *Society, on the other hand, always involves men acting in cooperation with other men in order to let all participants attain their own ends.*⁶

These *basic rights* or *basic institutions* are a prerequisite *sine qua non* for social and economic development. Without freedom and private property, there are no rules for *how* to interact or *what* the purpose of this interaction should be. Without this institutional foundation, society is into a state of nature in which social interactions occur only in sporadic situations. This state of nature is not a paradise; but it is neither a hell in which every individual is under constant threat or danger. Rather, it is a situation that lacks the institutional tools to evolve toward a steady society. In a state of nature, it is very difficult to go beyond self-subsistence, as the weakness or absence of the institution of private property hampers the emergence of the division of labor. The role of a government state,

⁶ von Mises, L. (1949). *Human Action. A Treatise on Economics* (1996 ed.). New York: The Foundation for Economic Education. p. 170. (*Italic is added*)

which is not present in the state of nature, relates to these basic rights. As Mises pointed out in *Liberalism*, the role of the government consists in (italic is added):

Solely and exclusively in guaranteeing the protection of life, health, liberty, and private property against violent attacks. Everything that goes beyond this is an evil. A government that, instead of fulfilling its task, sought to go so far as actually to infringe on personal security of life and health, freedom, and property would, of course, be altogether bad.⁷

The life, health, liberty, and private property to which Mises refers comprise the *basic rights* we mentioned a few lines above. Every action the state tries to perform beyond these limits will result in a violation of one of these rights.

A conceptual distinction between *basic rights* and *created rights* helps us to clearly delineate state actions; it is now clearer that opposing the state *per se* is not the same as opposing the state's policies that go beyond the protection of the *basic institutions*. Strictly speaking, the classical tradition of *liberalism* opposes unsound policies that infringe on *basic rights* rather than the entity of the state *per se*. Furthermore, the state has a very important role in a free society, which involves the protection of *basic rights*. Thus, a lawful state is the difference between the *state of nature* and the *free society*.

⁷ von Mises, L. (1927). *Liberalism*. (2002 ed.). New York: The Foundation for Economic Education. p. 52. (Italic are ours)

The Concept of the State in a Free Society

Economists have suggested that certain terms, such as democracy and capitalism, have experienced a distortion in their original meaning; the term state might be said to suffer a similar problem.

If we have anarcho-capitalism on one extreme and a dictatorial government on the other, then a lawful state should be located somewhere between these two extremes. However, the problem is that there are different grades of dictatorship, though there are not gradations of anarcho-capitalism or of a rightful state. The difference between a state and a dictatorial entity does not reside only in how much power and oppression the dictatorial state uses, but it also relates also to how these states are situated with respect to the law.

A situation in which the government is above the law and yet retains the capacity to issue decrees that affect liberties and private property is not a situation in which the law rules. Instead, the state rules through its regulations. The extent to which this state is benevolent and regulates against private property is another issue; the defining characteristic is that this entity has the power to do so, even if this power is not exercised.

Alternatively, a society with a state situated under the law is not characterized by the *rule of state* but rather by the *rule of law*. There is a common law process rather than norms being issued and created by the state.⁸

It does not matter if a state with the capacity to issue laws, that is, a *rule of state*, modestly uses that power; this state is still conceptually different from a rightful state that is under the *rule of law*. A benevolent dictatorial government is not the same as a free society's lawful state. Yet the same term, the *state*, is used for two different concepts, leading to confused analysis of liberalism and state. An example of Mises' referral on how language affects our way of thinking.

The role of the rightful state *merely* consists of protecting the *basic rights* that serve as the foundation for cooperation, which is in fact an extremely important purpose. The role of a free society's state is not to correct *market failures* or provide *social services* but to protect *basic rights* from any threat. The state role does not consist in building societies or markets by enacting laws but to protect them; *making happen* and *letting happen* are two very different concepts regarding the actions of markets and society. It is because there are *basic rights* (i.e., freedom and private property) that law exists, rather than the other way around.

⁸ In a case like this, the state will still be able to issue internal norms; like any firm in the free market can issue internal codes or regulations but cannot issue laws affecting other individuals. One of the more interesting characteristic of the spontaneous process of the *common law* is that no individual has the influence to define the *law's* content by himself.

It is also important to remember that the state's protective services are not equal to the private security services that any individual can acquire in a free market. Private police work directly for the specific individuals who hire such services; the state's security service, on the contrary, does not work for any individual in particular but for the society as a whole. Private security and public (or state) security are not the same type of service, although they provide similar services in many aspects. Nevertheless, their natures remain different.

In the relationship between society and state, the historical appearance of democratic practice has implied a decisive change. It has allowed the possibility for peaceful changes in the government or administration of the state, as rebellion no longer was the only means available to change a government. Given the nature of the state, more than one state cannot exist within a single region, and so there is no competition among states themselves in the same geographic area. Interestingly, democratic practice has incorporated a certain kind of competition that involves government candidates instead of government entities. So, strictly speaking, it is not accurate to assert that there is no competition at all regarding states, as different candidates can compete with one another to gain individual votes in order to become state officials for a predefined period of time. Their future as state officials depends on how well individual voters value their performance.⁹

⁹ Of course, other complications appear with the democratic practice. For more details on these topics cf. von Mises, L. (1927). *Liberalism*. (2002 ed.). Chapter 1.8. New York: The Foundation for Economic

Despite the presence of democratic practice, both types of states (i.e., democratic and dictatorial) have similarities when we look beneath their structures.¹⁰ Presidents, Prime Ministers, and Parliaments can issue laws that transgress liberties and private property as well as can any king or dictator. The process to issue these laws might be more or less difficult, but the potential to do so is still there; thus, such states are still not a free society's state in the strict sense of the word. Thus, democratic practice is not a type of government; rather, it is a method for choosing among different alternatives that implies an important step toward liberty. However, as already argued, the discussion on the rightful role of the state in a free society will be an endlessly until a distinction is made between a controlled *small Leviathan* state and a state that is truly under the *rule of law*. The use of the term *state* for two different scenarios, *rule of law* and *rule of state*, misleads analyses on the rightful state in a free society, as it mixes two different concepts into one single word.

Education; Hayek, F. A. (1960). *The Constitution of Liberty* (1972 ed.). Chapter 7. Chicago: Gateway Edition; Hayek, F. A. (1973). *Derecho, Legislación y Libertad* (2006 ed.). Chapter XII. Madrid: Unión Editorial; and Leoni, B. (1961). *Freedom and the Law* (1972 ed.). Chapters 5 and 7. Los Angeles: Nash Publishing.

¹⁰ We are fully aware of the differences between dictatorial and democratic governments; we are referring to them as *similar kinds* of government to emphasize the idea of the paragraph. Under democratic practice the dictatorial government will lose his office in the next election if he is not supported by individuals; nevertheless, a democratic government can still issue transgressing laws (or can forbid the democratic practice and remain in office). The fact that dictators tend to be more oppressing than democratic government does not eliminate the fact that both are *rules of state*.

Conclusion: State and Liberty

Coercion is a part of reality and is present in both a state of nature and a free society; however, in the latter case, there is an entity that protects the foundations of the free society. Since “there is no such thing as a free lunch,” the protection of *basic rights* is the cost of living in a free society; freedom is not free.

In an ideal situation, any individual would be free to join the free society “club” by enrolling into the corresponding protective entity. Those individuals who do not wish to do so are neither more nor less free than those who do. But those enrolled in it will benefit from protection from both enrolled and non-enrolled individuals, while those who do not enroll will not receive any protection against anybody.¹¹ In the same way that the conceptualization of government as the *rule of state* is not accurate to refer to a rightful state, the usual understanding of the term “tax” might not be accurate to refer to the financing of the rightful state.¹² There are no redistributions of income or wealth, but there is a direct relationship between payments to the state and the protection and administration of justice offered to the payer.

¹¹ Cf. Nozick, R. (1968). *Anarchy, State, and Utopia* (1974 ed.). New York: Basic Books.

¹² As the lawful state will only perform protective services, the need for resources would be considerably lower. For example, a quick estimation using data from the Historical Tables of the *Budget of the United States Government, Fiscal Year 2005* shows that every individual should pay around USD 1,900 annually if the cost is to cover only defense and justice, while the *per capita* annual expense with the actual structure is of USD 9,041USD. Regardless a more accurate calculation can be performed, the difference is more than evident.

It is true that past and present governments have proven to be far from ideal situations. Governments did not arise smoothly and softly through the benefit of a benevolent invisible hand;¹³ but this fact does not mean that we should confuse what could have happened and what really happened. That is, we should not mix the concepts of a benevolent *rule of state* government with a true *rule of law* government.

State and liberty are not opposing terms; rather, free society and rightful state are two sides of the same coin. This is the reason why discussions on the positive role of government in a free society comprise a key theme for libertarians.

The distinction between nation and state made by Mises in *Nation, State, and Economy* might be an unintended but important contribution to analyzing the relationship between these concepts. The fact that one nation may have more than one state and one state more than one nation is key, and so if it is true that a nation is *defined* by language, then nations may grow beyond state limits. If growing countries are those that embrace the principles of freedom and private property, then the future of liberty appears brighter. That is, as long as they grow, they will transmit through language (and, consequently, culture) the institutions and spirit needed for private property and freedom to arise, thereby expanding a certain cultural way of thinking.¹⁴

¹³ See Smith, A. (1762). *Lectures on Jurisprudence* (1982 ed., Vol. V). Indianapolis: Liberty Fund; and Hume, D. (1777). *Essays. Moral, Political, Literary* (1987 ed.). Indianapolis: Liberty Classics.

¹⁴ To be more precise, two things should happen with a language to spread over other regions; it should be attached to a culture of freedom and it should represent a society big enough to influence its neighbors.

Coercion was not an invention of states; it was already present in the state of nature or anarchism. In a truly free society, the state protects from threat. Although this can evolve to an undesired situation, the state *per se* is not a necessary evil. The difference between anarchism and a free society is that in the former, there are no guarantees regarding the *basic institutions* of a free society. However, Mises understood that there is no such thing as a perfect state:

Not the state is an evil, but the shortcomings of the human mind and character that imperatively require the operation of a police power. Government and state can never be perfect because they owe their *raison d'être* to the imperfection of man and can attain their end, the elimination of man's innate impulse to violence, only by recourse to violence, the very thing they are called upon to prevent.¹⁵

Thus, we consider that the distinction Mises made in *Nation, State, and Economy* is an interesting contribution to the discussion of the role of state in society, particularly the free society.

The English-speaking Western world might not be regarded today as a *freedom panacea* by many, but its past achievements and present size contributes to its expansion.

¹⁵ von Mises, L. (1962). *The Ultimate Foundation of Economic Science. An Essay on Method*. Princeton: D. van Nostrand Company, Inc. p. 98.

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