

Rand, Ayn, The Virtue of Selfishness  
Signet Books (New York), 1964

## 14. The Nature of Government

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A government is an institution that holds the exclusive power to *enforce* certain rules of social conduct in a given geographical area.

Do men need such an institution—and why?

Since man's mind is his basic tool of survival, his means of gaining knowledge to guide his actions—the basic condition he requires is the freedom to think and to act according to his rational judgment. This does not mean that a man must live alone and that a desert island is the environment best suited to his needs. Men can derive enormous benefits from dealing with one another. A social environment is most conducive to their successful survival—but *only on certain conditions*.

"The two great values to be gained from social existence are: knowledge and trade. Man is the only species that can transmit and expand his store of knowledge from generation to generation; the knowledge potentially available to man is greater than any one man could begin to acquire in his own lifespan; every man gains an incalculable benefit from the knowledge discovered by others. The second great benefit is the division of labor: it enables a man to devote his effort to a particular field of work and to trade with others who specialize in other fields. This form of cooperation allows all men who take part in it to achieve a greater knowledge, skill and productive return on their effort than they could achieve if each had to produce everything he needs, on a desert island or on a self-sustaining farm.

"But these very benefits indicate, delimit and define what kind of men can be of value to one another and in what kind of society: only rational, productive, independent men in a rational, productive, free society." ("The Objectivist Ethics.")

A society that robs an individual of the product of his effort, or enslaves him, or attempts to limit the freedom of his mind, or compels him to act against his own rational judgment,

ment—a society that sets up a conflict between its edicts and the requirements of man's nature—is not, strictly speaking, a society, but a mob held together by institutionalized gang-rule. Such a society destroys all the values of human co-existence, has no possible justification and represents, not a source of benefits, but the deadliest threat to man's survival. Life on a desert island is safer than and incomparably preferable to existence in Soviet Russia or Nazi Germany.

If men are to live together in a peaceful, productive, rational society and deal with one another to mutual benefit, they must accept the basic social principle without which no moral or civilized society is possible: the principle of individual rights. (See Chapters 12 and 13.)

To recognize individual rights means to recognize and accept the conditions required by man's nature for his proper survival.

Man's rights can be violated only by the use of physical force. It is only by means of physical force that one man can deprive another of his life, or enslave him, or rob him, or prevent him from pursuing his own goals, or compel him to act against his own rational judgment.

The precondition of a civilized society is the barring of physical force from social relationships—thus establishing the principle that if men wish to deal with one another, they may do so only by means of *reason*: by discussion, persuasion and voluntary, uncoerced agreement.

The necessary consequence of man's right to life is his right to self-defense. In a civilized society, force may be used only in retaliation and only against those who initiate its use. All the reasons which make the initiation of physical force an evil, make the retaliatory use of physical force a moral imperative.

If some "pacifist" society renounced the retaliatory use of force, it would be left helplessly at the mercy of the first thug who decided to be immoral. Such a society would achieve the opposite of its intention: instead of abolishing evil, it would encourage and reward it.

If a society provided no organized protection against force, it would compel every citizen to go about armed, to turn his home into a fortress, to shoot any strangers approaching his door—or to join a protective gang of citizens who would fight other gangs, formed for the same purpose, and thus bring about the degeneration of that society into the chaos of gang-rule, i.e., rule by brute force, into perpetual tribal warfare of prehistorical savages.

The use of physical force—even its retaliatory use—cannot be left at the discretion of individual citizens. Peaceful co-

existence is impossible if a man has to live under the constant threat of force to be unleashed against him by any of his neighbors at any moment. Whether his neighbors' intentions are good or bad, whether their judgment is rational or irrational, whether they are motivated by a sense of justice or by ignorance or by prejudice or by malice—the use of force against one man cannot be left to the arbitrary decision of another.

Visualize, for example, what would happen if a man missed his wallet, concluded that he had been robbed, broke into every house in the neighborhood to search it, and shot the first man who gave him a dirty look, taking the look to be a proof of guilt.

The retaliatory use of force requires *objective* rules of evidence to establish that a crime has been committed and to *prove* who committed it, as well as *objective* rules to define punishments and enforcement procedures. Men who attempt to prosecute crimes, without such rules, are a lynch mob. If a society left the retaliatory use of force in the hands of individual citizens, it would degenerate into mob rule, lynch law and an endless series of bloody private feuds or vendettas.

If physical force is to be barred from social relationships, men need an institution charged with the task of protecting their rights under an *objective* code of rules.

*This* is the task of a government—of a *proper* government—its basic task, is only moral justification and the reason why men do need a government.

*A government is the means of placing the retaliatory use of physical force under objective control*—i.e., under objectively defined laws.

The fundamental difference between private action and governmental action—a difference thoroughly ignored and evaded today—lies in the fact that a government holds a monopoly on the legal use of physical force. It has to hold such a monopoly, since it is the agent of restraining and combating the use of force; and for that very same reason, its actions have to be rigidly defined, delimited and circumscribed; no touch of whim or caprice should be permitted in its performance; it should be an impersonal robot, with the laws as its only motive power. If a society is to be free, its government has to be controlled.

Under a proper social system, a private individual is legally free to take any action he pleases (so long as he does not violate the rights of others), while a government official is bound by law in his every official act. A private individual may do anything except that which is legally *forbidden*; a

government official may do nothing except that which is legally permitted.

This is the means of subordinating "might" to "right." This is the American concept of "a government of laws and not of men."

The nature of the laws proper to a free society and the source of its government's authority are both to be derived from the nature and purpose of a proper government. The basic principle of both is indicated in The Declaration of Independence: "to secure these [individual] rights, governments are instituted among men, deriving their just powers from the consent of the governed . . ."

Since the protection of individual rights is the only proper purpose of a government, it is the only proper subject of legislation: all laws must be based on individual rights and aimed at their protection. All laws must be *objective* (and objectively justifiable): men must know clearly, and in advance of taking an action, what the law forbids them to do (and why), what constitutes a crime and what penalty they will incur if they commit it.

The source of the government's authority is "the consent of the governed." This means that the government is not the ruler, but the servant or *agent* of the citizens; it means that the government as such has no rights except the rights delegated to it by the citizens for a specific purpose.

There is only one basic principle to which an individual must consent if he wishes to live in a free, civilized society: the principle of renouncing the use of physical force and delegating to the government his right of physical self-defense, for the purpose of an orderly, objective, legally defined enforcement. Or, to put it another way, he must accept *the separation of force and whim* (any whim, including his own).

Now what happens in case of a disagreement between two men about an undertaking in which both are involved?

In a free society, men are not forced to deal with one another. They do so only by voluntary agreement and, when a time element is involved, by *contract*. If a contract is broken by the arbitrary decision of one man, it may cause a disastrous financial injury to the other—and the victim would have no recourse except to seize the offender's property as compensation. But here again, the use of force cannot be left to the decision of private individuals. And this leads to one of the most important and most complex functions of the government: to the function of an arbiter who settles disputes among men according to objective laws.

Criminals are a small minority in any semicivilized society. But the protection and enforcement of contracts through

courts of civil law is the most crucial need of a peaceful society; without such protection, no civilization could be developed or maintained.

Man cannot survive, as animals do, by acting on the range of the immediate moment. Man has to project his goals and achieve them across a span of time; he has to calculate his actions and plan his life long-range. The better a man's mind and the greater his knowledge, the longer the range of his planning. The higher or more complex a civilization, the longer the range of activity it requires—and, therefore, the longer the range of contractual agreements among men, and the more urgent their need of protection for the security of such agreements.

Even a primitive barter society could not function if a man agreed to trade a bushel of potatoes for a basket of eggs and, having received the eggs, refused to deliver the potatoes. Visualize what this sort of whim-directed action would mean in an industrial society where men deliver a billion dollars' worth of goods on credit, or contract to build multimillion-dollar structures, or sign ninety-nine-year leases.

A unilateral breach of contract involves an indirect use of physical force: it consists, in essence, of one man receiving the material values, goods or services of another, then refusing to pay for them and thus keeping them by force (by mere physical possession), not by right—i.e., keeping them without the consent of their owner. Fraud involves a similarly indirect use of force: it consists of obtaining material values without their owner's consent, under false pretenses or false promises. Extortion is another variant of an indirect use of force: it consists of obtaining material values, not in exchange for values, but by the threat of force, violence or injury.

Some of these actions are obviously criminal. Others, such as a unilateral breach of contract, may not be criminally motivated, but may be caused by irresponsibility and irrationality. Still others may be complex issues with some claim to justice on both sides. But whatever the case may be, all such issues have to be made subject to objectively defined laws and have to be resolved by an impartial arbiter, administering the laws, i.e., by a judge (and a jury, when appropriate).

Observe the basic principle governing justice in all these cases: it is the principle that no man may obtain any values from others without the owners' consent—and, as a corollary, that a man's rights may not be left at the mercy of the unilateral decision, the arbitrary choice, the irrationality, *the whim* of another man.

Such, in essence, is the proper purpose of a government: to make social existence possible to men, by protecting the benefits and combating the evils which men can cause to one another.

The proper functions of a government fall into three broad categories, all of them involving the issues of physical force and the protection of men's rights: *the police*, to protect men from criminals—*the armed services*, to protect men from foreign invaders—*the law courts*, to settle disputes among men according to objective laws.

These three categories involve many corollary and derivative issues—and their implementation in practice, in the form of specific legislation, is enormously complex. It belongs to the field of a special science: the philosophy of law. Many errors and many disagreements are possible in the field of implementation, but what is essential here is the principle to be implemented: the principle that the purpose of law and of government is the protection of individual rights.

Today, this principle is forgotten, ignored and evaded. The result is the present state of the world, with mankind's retrogression to the lawlessness of absolutist tyranny, to the primitive savagery of rule by brute force.

In unthinking protest against this trend, some people are raising the question of whether government as such is evil by nature and whether anarchy is the ideal social system. Anarchy, as a political concept, is a naive floating abstraction: for all the reasons discussed above, a society without an organized government would be at the mercy of the first criminal who came along and who would precipitate it into the chaos of gang warfare. But the possibility of human immorality is not the only objection to anarchy: even a society whose every member were fully rational and faultlessly moral, could not function in a state of anarchy; it is the need of *objective* laws and of an arbiter for honest disagreements among men that necessitates the establishment of a government.

A recent variant of anarchistic theory, which is befuddling some of the younger advocates of freedom, is a weird absurdity called "competing governments." Accepting the basic premise of the modern statist—who see no difference between the functions of government and the functions of industry, between force and production, and who advocate government ownership of business—the proponents of "competing governments" take the other side of the same coin and declare that since competition is so beneficial to business, it should also be applied to government. Instead of a single, monopolistic government, they declare, there should be a

number of different governments in the same geographical area, competing for the allegiance of individual citizens, with every citizen free to "shop" and to patronize whatever government he chooses.

Remember that forcible restraint of men is the only service a government has to offer. Ask yourself what a competition in forcible restraint would have to mean.

One cannot call this theory a contradiction in terms, since it is obviously devoid of any understanding of the terms "competition" and "government." Nor can one call it a floating abstraction, since it is devoid of any contact with or reference to reality and cannot be concretized at all, not even roughly or approximately. One illustration will be sufficient: suppose Mr. Smith, a customer of Government A, suspects that his next-door neighbor, Mr. Jones, a customer of Government B, has robbed him; a squad of Police A proceeds to Mr. Jones' house and is met at the door by a squad of Police B, who declare that they do not accept the validity of Mr. Smith's complaint and do not recognize the authority of Government A. What happens then? You take it from there.

The evolution of the concept of "government" has had a long, tortuous history. Some glimmer of the government's proper function seems to have existed in every organized society, manifesting itself in such phenomena as the recognition of some implicit (if often nonexistent) difference between a government and a robber gang—the aura of respect and of moral authority granted to the government as the guardian of "law and order"—the fact that even the most evil types of government found it necessary to maintain some semblance of order and some pretense at justice, if only by routine and tradition, and to claim some sort of moral justification for their power, of a mystical or social nature. Just as the absolute monarchs of France had to invoke "The Divine Right of Kings," so the modern dictators of Soviet Russia have to spend fortunes on propaganda to justify their rule in the eyes of their enslaved subjects.

In mankind's history, the understanding of the government's proper function is a very recent achievement: it is only two hundred years old and it dates from the Founding Fathers of the American Revolution. Not only did they identify the nature and the needs of a free society, but they devised the means to translate it into practice. A free society—like any other human product—cannot be achieved by random means, by mere wishing or by the leaders' "good intentions." A complex legal system, based on *objectively* valid principles, is required to make a society free and *to keep it free*—a system that does not depend on the motives, the moral

character or the intentions of any given official, a system that leaves no opportunity, no legal loophole for the development of tyranny.

The American system of checks and balances was just such an achievement. And although certain contradictions in the Constitution did leave a loophole for the growth of statism, the incomparable achievement was the concept of a constitution as a means of limiting and restricting the power of the government.

Today, when a concerted effort is made to obliterate this point, it cannot be repeated too often that the Constitution is a limitation on the government, not on private individuals,—that it does not prescribe the conduct of private individuals, only the conduct of the government—that it is not a charter for government power, but a charter of the citizens' protection *against* the government.

Now consider the extent of the moral and political inversion in today's prevalent view of government. Instead of being a protector of man's rights, the government is becoming their most dangerous violator; instead of guarding freedom, the government is establishing slavery; instead of protecting men from the initiators of physical force, the government is initiating physical force and coercion in any manner and issue it pleases; instead of serving as the instrument of *objectivity* in human relationships, the government is creating a deadly, subterranean reign of uncertainty and fear, by means of nonobjective laws whose interpretation is left to the arbitrary decisions of random bureaucrats; instead of protecting men from injury by whim, the government is arrogating to itself the power of unlimited whim—so that we are fast approaching the stage of the ultimate inversion: the stage where the government is *free* to do anything it pleases, while the citizens may act only by *permission*; which is the stage of the darkest periods of human history, the stage of rule by brute force.

It has often been remarked that in spite of its material progress, mankind has not achieved any comparable degree of moral progress. That remark is usually followed by some pessimistic conclusion about human nature. It is true that the moral state of mankind is disgracefully low. But if one considers the monstrous moral inversions of the governments (made possible by the altruist-collectivist morality) under which mankind has had to live through most of its history, one begins to wonder how men have managed to preserve even a semblance of civilization, and what indestructible vestige of self-esteem has kept them walking upright on two feet.

One also begins to see more clearly the nature of the political principles that have to be accepted and advocated, as part of the battle for man's intellectual Renaissance.

(December 1963)