



The Ultra-Reactionary as a Radical Libertarian: Carl Ludwig von Haller (1768–1854) on the Private Law Society

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Libertarianism is logically consistent with almost any attitude toward culture, society, religion, or moral principle. In strict logic, libertarian political doctrine can be severed from all other considerations; logically one can be—and indeed most libertarians in fact are: hedonists, libertines, immoralists, militant enemies of religion in general and Christianity in particular—and still be consistent adherents of libertarian politics. In fact, in strict logic, one can be a consistent devotee of property rights politically and be a moocher, a scamster, and a petty crook and racketeer in practice, as all too many libertarians

This chapter is based heavily on Hoppe (2021).

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D. Howden, P. Bagus (eds.), *The Emergence of a Tradition: Essays in Honor of Jesús Huerta de Soto, Volume II*,
https://doi.org/10.1007/978-3-031-17418-6_11

turn out to be. Strictly logically, one can do these things, but psychologically, sociologically, and in practice, it simply doesn't work that way. (Rothbard, 2000, p. 101, emphasis added)

A considerable part of my writings in recent years has been concerned with this very last half-sentence of Rothbard's and its wider implications. Central to the libertarian doctrine are the ideas of private property, of its original acquisition and its transfer, and the corresponding principle of non-aggression. And indeed, it can be safely stated that recognition of these ideas and principles is a *necessary* requirement of human society, of people living together and cooperating with one another in peace. Just as certainly, however, recognition and adherence to these ideas and principles are *not sufficient* to make for conviviality, that is for friendly neighborly and communal relations among men. For this, as Edmund Burke emphasized, manners are actually more important than any laws. More specifically, the manners typically associated with so-called bourgeois morality: of responsibility, conscientiousness, truthfulness, honesty and chivalry, respect- and helpfulness, foresight, courage, self-discipline, moderation and reliability.

There is no need to say much more here on this subject, since I have extensively written on it elsewhere—except to add this. With my view regarding the utmost importance of bourgeois morality to be combined with libertarian law to make for convivial living, I willy-nilly attained the position of one of the most prominent contemporary “right” or “realistic” libertarians and as such became a favorite enemy not just of “leftists” and “greens” in general, but especially and in particular also of all so-called left, progressive and bleeding-heart *libertarians*: that is of those folks, who propagate such “liberating” messages as “anything peaceful goes” (any lifestyle, indeed, the more abnormal or “alternative” the better, such as LGBT, etc., including, one might wonder, even peaceful pedophilia, necrophilia and incest?), “respect no authority” (not of fathers or mothers, nor anyone “better” or “superior”) and “live and let live” (never discriminate against or exclude anyone for any conceivable reason whatsoever).

While such “liberators” love to denounce me as a traitor to libertarianism: a homophobe, a xenophobe, a racist, a closet fascist and a crypto-Nazi, to their great dismay, a large and growing contingent of libertarian-minded people has in the meantime come to recognize that it is actually they, who have brought the libertarian doctrine into increasing

disrepute, and that only a radical break with them and a rightward turn to realism can restore libertarianism to intellectual respectability.

Which brings me to the topic of this essay. This rightward turn to realism has also led to a reassessment of intellectual history and a reevaluation of its various protagonists. More specifically it has drawn my attention to the work of Carl Ludwig von Haller¹ and the discovery of Haller as a precursor of a realistic-right libertarianism, and indeed its most radical form, that is of a private law society (see pp. 16–17).

Haller was once famous but today elicits hardly more than antiquarian interest. He is occasionally still mentioned and claimed by conservative writers as one of their own, but generally dismissed even by them as an “ultra-reactionary,” long since outdated by the development of modern political philosophy and the realities of the modern state. And indeed, Haller was not just an outspoken opponent of the French Revolution and of Napoleon (chaps. 8 and 9, pp. 228–259), he considered them the ultimate, catastrophic outcome of fundamentally wrong ideas propagated and spread by political philosophers since the seventeenth century (chap. 6, pp. 37–79). After some highly promising beginnings with Hugo Grotius, who is charged with only a few minor confusions, Haller diagnoses by-and-large nothing but intellectual decline: starting, to mention here only the (still) most famous protagonists, with Hobbes, continuing through Locke and Pufendorf, and culminating with Montesquieu, Rousseau and Kant (the political philosopher, not the epistemologist!), as the most confused and dangerous ideologues with their notion of a “social contract.” (More on this later.)

Dismissed, then, by most of his contemporaries (and practically all moderns) as an arch-enemy of the “glorious” enlightenment project (indeed, Haller typically referred to the enlightenment philosophers depreciatingly as sophists), Haller came under additional fire by the “great” Hegel. In his *Grundlinien der Philosophie des Rechts* of 1820 (paragraph 258), Hegel presented Haller as an unabashed advocate of a crude power naturalism, that is of arbitrary rule by the powerful and mighty. Falsely and deceptively, though, as Haller’s main work also contains a

¹The present essay is based exclusively on the first, foundational volume of this work and all references are to this volume: “*Restauration der Staats-Wissenschaft: Darstellung, Geschichte und Kritik der bisherigen falschen Systeme. Allgemeine Grundsätze der entgegengesetzten Ordnung Gottes und der Natur*,” (second expanded and improved edition, Winterthur 1820).

chapter 14 (pp. 388–409) on the very limitations of power, and a following chapter 15 (pp. 410–443) on the right of resistance and in particular the right to self-defense and self-justice that, owing to the wide range and extent assigned to it by Haller, must appear to contemporary ears nothing short of revolutionary (see esp. p. 418, fn. 6 and p. 420, fn. 12).

Before this background relating to the history of ideas I shall now attempt to present Haller as a radical libertarian. This, to the best of my knowledge, has never been done before. In general, although his own work is massive in volume, the literature on Haller, especially since the second half of the twentieth century, is rather sparse. It mostly comes from conservative sides and, as most conservative thought, is typically weak on analytical rigor and in any case completely unfamiliar with modern libertarianism (at least that is my provisional impression, as I admittedly have not carefully researched the matter). Libertarians, on the other hand, have systematically neglected Haller, owing most likely to his reputation as a reactionary conservative with a notable predilection of princely or monarchical rule (something anathema in libertarian circles at least until my *Democracy the God That Failed*).

While a first, then, my attempt at a reconstruction of Haller as a radical libertarian is hopefully not the last. In fact, I hope that my little piece will entice other right-minded libertarians to likewise take a closer look at Haller (notwithstanding Haller's often tiresome, laborious and long-winded prose). Especially, since my own concern here is exclusively with the first volume of Haller's main, six-volume treatise, presenting only the most basic principles of his social philosophy, and being rather brief and sketchy even in this limited task.

Encountering Haller's central thesis for the first time: that the existence of states is in accordance with natural (and divine) law, that states are necessary and universal social institutions, that they are manifestations of an unchanging human nature, and that they have as such always existed and will always exist—many contemporary libertarians (and most certainly all radical libertarians) will initially be taken aback. Doesn't this sound rather statist? How can one nonetheless claim Haller to be a libertarian? This puzzle is immediately resolved, however, once it is realized that Haller's definition of a state differs fundamentally from the modern, Weberian definition of the state as a territorial monopolist of violence and ultimate decision-making. Or more precisely, Haller categorically distinguishes between "natural" states, as part of a natural social order, and "artificial" states, that is the alleged outcomes of a so-called social contract, that stand

in systematic violation to divine law and the law of nature. Whereas natural states, as we shall see, are subject to the provisions of private law (essentially property and contract law) and as such, as any private law subject or institution, conceivably *may* commit unjust acts (and hence also *may* give cause to justifiable resistance), artificial states, which according to Haller's definition include practically all present, modern states subject to so-called public law represent institutions that are *from the outset* and *per construction* unjust (and hence always and invariably give cause to justifiable resistance).

According to Haller, natural states arise spontaneously or organically—that is: “naturally”—out of the inexorable fact of human inequality: out of the fact that there are strong and weak, wise and foolish, diligent and lazy, acquisitive and dull, rich and resourceful and poor and dependent people (chaps. 16 and 17, pp. 444–462). The inevitable result of these inequalities is a hierarchical, vertical structure of each and every human society, with a more or less complex, mutually beneficial system of dependencies and servitudes on the one hand and corresponding freedoms and liberties on the other. Of course, Haller is not (and cannot at the time of his writing be) familiar with the Ricardian law of association (as best elucidated by Ludwig von Mises some two hundred years later), which provides *proof* of how a “superior, better or more productive” as well as an “inferior, worse or less productive person” can both benefit from mutual cooperation, but he anticipates this fundamental insight. He recognizes the natural tendency of the weak to seek help and assistance from the stronger and of the foolish and dull to consult and ask the wiser for knowledge and advice, and yet he also sees the benefits provided to the strong and the wise by their inferior or subordinate vassals, servants, clients, pupils and students. And he concludes from this observation that there exists a natural tendency, in all of human society, for the “mighty” to rule the “weak” to their mutual advantage (see also pp. 301 ff).

According to Haller, the mutually advantageous—non-injurious—character of the natural, vertical or hierarchical structure of each and every human society is best exemplified by the institution of a family, which also provides the prototype of a natural state. Each family member—father, mother and child—is subject to the same universal law and entitled to the same rights belonging to every human person: to be free from aggression by another person. Haller terms this law the “absolute” private law (p. 341; p. 450, fn. 8; see also chap. 14, pp. 388–409). Their association is voluntary and hence mutually beneficial, although never altogether

contractual but, most definitely in the case of all children, plain natural or customary and affected also by an element of love. The equality of father, mother and child in terms of “absolute” private law and the voluntary character of their relationship do not imply that they are also equals in regard to what Haller terms “social” (or more appropriately “relative” or “relational”) private law, however, which he considers the second, largely customary, much neglected and underdeveloped branch of private law (p. 450, fn. 8). Rather, the father (or the mother, in matrilineal societies), as the owner of the common household, enjoys more liberties regarding household matters than the mother and child. He is the head of the household, whereas mother and children are his dependents. No one (at least at the dawn of human civilization) ranks above him. He is the household’s *sovereign* (and sovereign rule or sovereignty, according to Haller, is the defining characteristic of a state, as we shall see in more detail in the following), subject and subordinate as such solely to the impersonal, eternal and divinely inspired laws of nature, whereas mother and children are also subject and subordinate to his personal authority.

To be sure, even as the sovereign ruler of his household the father cannot justifiably do whatever he pleases. Apart from abstaining from aggression against other family members, he is bound by social private law to honor certain contractual or customary obligations vis-à-vis mother and child (different as these may be in both cases), and the neglect of these duties vis-à-vis his dependents would release these from their service obligations toward him. On the other hand, however, any neglect of duties on the part of mother or child would entitle the father, more far-reaching and consequential, to exclude or expel them from his household, thus asserting his very position as a *sovereign*.

Whether as the result of natural developments or the sovereign’s abuse of power and the dependents’ exercise of the right of resistance, then, this if you will “original position” of a natural, vertical social order exemplified by a family is bound to change and change again over time, continuously bringing about new and more complex types of dependencies and corresponding liberties, expanding or restricting the range of a sovereign’s rule, and rendering erstwhile sovereigns lose and former dependents gain sovereignty (see esp. chap. 19, pp. 482–493).

The children (and subsequently their children), for instance, may leave the parental household and strike out on their own. Presumably, they thereby gain liberties not previously enjoyed, but they may settle on land owned by their fathers, keep working in their fathers’ business or

otherwise keep relying on their ongoing assistance. Hence, even if the children's liberties may have significantly increased, they are not sovereigns regarding their newly founded separate households, but remain qu renters or employees a sovereign's dependents. By the same token, the sovereign, as the result of this development, gains a greater number of dependents, all the while his direct control of each of them is successively diminished by the interposition of a steadily growing number of intermediate authorities and their respective liberties.

Alternatively, the children strike out on their own and establish another separate household, completely independent of their original home. Thus, a new sovereign head of household—another state—with its very own dependents is created, standing in a purely “extra-social” relation with other sovereigns. That is, his relationship with other sovereigns is regulated exclusively by absolute private law or, synonymously with this, by the law of nations or, in libertarian lingo, by the non-aggression principle.

As well, just as established sovereigns—or states—may increase their number of dependents or new sovereigns may come into existence, so established states may lose their erstwhile dependents in that these break their ties with their former ruler to become independent or attach themselves to another sovereign, or they may lose their former sovereignty altogether and become instead dependents by going broke and being taken over by either another sovereign or some former upstart-dependent, for instance.

The picture of a natural social order emerging from Haller's writings, then, is this: Relations between people can be of two types: extra-social or social (pp. 337ff.).

Extra-social relations exist between people who have nothing to do with each other, who stand side by side, independent of each other, as equals, as man to man, either in peaceful co-existence or else at war with each other. Yet while much attention has been paid by political philosophers to such relations as they exist for instance between various independent kings, states or nations, but also between someone individual Hans in Germany and some individual Franz in Austria, and while extra-social relations are certainly part of a natural social order, they are neither the original nor the primary, dominant, most characteristic or interesting part of a natural order. Rather, extra-social relations only emerge out of prior social relations, with the prime example being that of the relation between father, mother and child. These, as already noted, do not stand side by side and independent of each other but are connected with each other through

various dependencies, and it is only through the separation of these originally socially connected individuals into different households or families, then, that extra-social relations between people come into existence. Thus, in every social order exceeding the size of a single family, then, people stand or find themselves always in both, extra-social *and* social relations to other people.

As far as social relations are concerned, then, they all have their natural origin in some mutual benefit arising (or expected to arise) from them (or rather the inability of satisfying certain needs or attaining certain comforts in isolation and without the cooperation with others). And there exist three types of social relations that a person may enter.

For one, people can be associated with each other as equals, such as brothers or sisters or as members of a club or a common interest group. According to Haller, however, this is the empirically least frequent type or form of social relation. Far more common instead is it for people to enter into a social relation with others either as a master (or ruler) or else as a servant (or dependent). The examples offered by Haller for this are plenty. There is the father (or the mother) versus the child. There is the landlord versus the tenant, the employer versus the employee, the producer versus the consumer, the general versus the officer, the officer versus the soldier, the master versus the apprentice, the teacher versus the student, the doctor versus the patient, the priest versus the brethren, the patron and the benefactor versus the beneficiary and the beggar, and so on.

Regarding these various forms of rulership and dependency, of superior and inferior status, Haller emphasizes again and again their natural, mutually advantageous character. The various rulers did not impose their rulership on their corresponding dependents, nor did the various dependents elevate and appoint their corresponding rulers to their superior position. The rulers did not receive their status as rulers from the ruled, but they had it and occupied it on account of their own talents or achievements. Nor did any of the various dependents lose any of their freedoms or liberties on account of their dependency, but they were dependents either by nature (such as infants) or on account of their own voluntary choice so as to satisfy needs or wants otherwise unattainable. As Haller sums it up (p. 352): “The inferiors do not give anything to their superior, and he in turn does not take anything away from them, but they help and use each other; both acting within their own respective rights, equal regarding their inborn, natural rights, and unequal in regard to their acquired rights do

they both exercise their rightful freedom in accordance with their own free will and to the best of their abilities.”

While this portrait of the complex vertical structure of a natural social order may strike some critics, such as the earlier mentioned left-libertarian “respect no authority” types, for instance, as inconsistent with the well-known economic doctrine of *consumer*-sovereignty, according to which it is the demand from the side of the dependents, that is the consumers, tenants, patients, students and so on, that make or break their alleged rulers, and hence, if anyone at all, it is they (the dependents) who rule and should be recognized as rulers, Haller’s picture is actually in full accordance with economic doctrine and even adds an important, often neglected or ignored aspect.

Of course, Haller is fully aware of the fact that every relationship between ruler and ruled can be dissolved if it is no longer deemed mutually beneficial. The consumers may turn to another producer, the soldier to another general, the students to another teacher, the patients to another doctor and so on. As well, a former consumer may become a producer and the producer consumer, the soldier general and the general soldier, the student teacher and the teacher student, the patient doctor and the doctor patient, and so on. But what never changes, owing to the natural inequality of all men, is the distinction between ruler (or superior) and ruled (or subordinate) and the fact that in each and every type of social relationship it is always the ruler qua ruler who contributes most to social well-being and is the promoter of social advancement.

As well, Haller points out two more interrelated features characteristic of a natural social order which are of great importance for its internal stability. For one, he notes that practically no one, no ruler and no ruled, is exclusively ruler or ruled. Rather, every person is familiar with and has learned to exercise both roles, of ruler *and* ruled, if only in different contexts or under different circumstances. The ruling father may also be a dependent tenant, the ruling head of the local football club, and a dependent employee. The dependent child may also be a ruling employer, a doctor’s or lawyer’s dependent patient or client and a ruling teacher of students. The officer may rule his soldiers and at the same be ruled by a general, who is in turn subject to the rule of his landlord and so on.

Secondly and notwithstanding this intricate and ubiquitous intermixture of the roles of ruler and ruled, however, there is in every sizable society also a natural tendency toward social stratification, that is the emergence of a ruling “upper” class of people enjoying greater liberties and comforts

and a corresponding “lower” class of people with lesser liberties and greater dependencies. Naturally, with all social relations being mutually beneficial, there exists upward and downward mobility, but the stratification in upper and lower social classes itself is to be taken as a natural tendency. On one end of the extreme, there are people who are the heads of households and at the same time major landowners, owners of farms, factories and firms, of mansions and rental properties; people who employ hundreds or even thousands of employees, of advisors, teachers, lawyers, doctors, managers, security guards, cooks, maids and servants, and so on. On the other end of the extreme, there are day laborers, vagabonds, beggars or the recipients of alms. And in between these extremes, then, there exist countless gradations, and ceaseless fluctuations regarding the social status of different people and the corresponding extent of liberties or dependencies enjoyed or willingly sought and accepted by them.

Of course, Haller does not deny that this hierarchical order can be skewed or distorted by violence, conquest and usurpation, and at the conclusion of this essay I will discuss the reasons, the fundamentally *intellectual* errors, that Haller identifies as the source of any lasting or enduring (rather than merely temporary) distortions, as they have become increasingly characteristic of the contemporary world. However, the natural state of affairs according to Haller is rule of and by the “mightier” (chap. 13, pp. 355–387). That is to say, the top and the higher ranks of the social hierarchy, the members of the upper class, are typically occupied and made up of the best and most accomplished people, that is those endowed with the greatest talents and of the highest achievements. And it is precisely their status as “better,” more talented, accomplished and successful that persuades and leads “lesser,” less talented, accomplished and successful people to attach themselves to *them* as their dependents. To attach oneself instead, to be dependent and ruled by someone inferior and of lesser accomplishment is simply un-natural and absurd; and any such relationship, should it ever come into existence, would invariably lead to strife, resistance or rebellion. In distinct contrast, a person’s voluntary dependency comes most naturally and easy the higher the rank or status of one’s ruler, because the greater and more accomplished the ruler, the better and more securely to satisfy one’s own needs. Thus, in peacetime, for instance, writes Haller (p. 374), when one’s central concern is to live and to live comfortably, people naturally turn to the wealthiest and most noble of people for assistance. During war, on the other hand, when people’s main concern is to be protected from aggression and destruction, they will

naturally subject themselves to the rule of the bravest and most cunning of people. And occasionally, when, rarely enough, “big questions” rise to the rank of contentious social issues or concerns, that is fundamental questions regarding right or wrong and true or false, people will look out for the wisest of people and voluntarily subject themselves to their authority. Indeed, notes Haller (p. 369), the natural law or principle that the superior will rule and exercise authority over the inferior and the inferior recognizes and accepts such relationship as natural and a matter-of-course holds also in the field of games and sports: fame, honor, trophies and prizes are invariably bestowed or awarded to the winners, the champions, while the losers, however reluctantly, cannot but accept their defeat.

As well, this very law or principle of social stratification, as Haller emphasizes again and again, provides at the same time the best assurance of social stability and protection against social strife and unrest (pp. 377ff). The stability of every society, that is the peaceful, tranquil and convivial association of men, is always threatened from two sides. On the one hand by the envy of the have-nots vis-à-vis the haves, and on the other hand by the abuse of power by the powerful. Yet envy by the have-nots, even if it cannot be entirely eradicated, is minimized or moderated to the very extent that the position of the haves rests on superior talent or achievement. Indeed, the greater and more apparent the superiority of the haves, the less and more attenuated the have-nots’ envy or resentment. And as far as the abuse of power by the mighty is concerned, this too can never be entirely ruled out, of course. But the more their position of power rests on their superior talent and achievement and their authority and status is voluntarily acknowledged and accepted by others, the less reason is there for them to abuse, offend or injure anyone. To the contrary, the more reason for them to act noble and be generous vis-à-vis the less powerful or powerless so as to maintain and secure their very position.

Before the backdrop of these considerations regarding the natural rule of the “mighty” over the weak and needy, the stratification of people into upper and lower social classes and the central importance in particular of the members of the former class for the maintenance of social stability, tranquility and the general welfare, and in light of our earlier discussion regarding the role and position of the father qua head of a household as prototype of a state, we can now proceed to Haller’s final exposition of his doctrine of the “natural state.”

From the very outset, it should be recalled that Haller’s understanding and definition of a natural state is entirely different from what we

“moderns” have come to understand and mean by the term. Haller’s concept of the state corresponds to its pre-modern usage, that is the meaning it had throughout most of the Middle Ages. Hence the label “ultra-reactionary” was attached to him by his modern critics.

The natural, physical basis of all states is land, that is the ownership of contiguous or dis-contiguous pieces of ground land (p. 450, p. 460). The owner and hence ruler of this land may be an individual person—a prince, a king, an emperor, a czar, a sultan, a shah, a khan and so on—and the state is hence referred to as a princely state or a principality. Or else the owner is an association or cooperation of several individuals—of senators such as in Rome, doges such as in Venice, or “Eidgenossen” (confederates) such as in Switzerland and so on—and the state is then referred to as a republican state or a republic. In any case, however, whether ruled by a prince or by some cooperative, every state and every state ruler is subject to the same private law as any other, “lesser” property owner and person. The difference between a state and the ruler of a state and other people and their property, as Haller repeatedly emphasizes, is not a categorical one, but merely one of degree (pp. 450 ff).

A prince’s direct rule extends only to his own property, just as in the case of every other person and his property, and as we will see shortly, it is only in regard to this “self-administration” of one’s own property that there exists somewhat of a difference between a prince and everyone else. In any case, as a private law subject, a prince does not rule over other people and their property, however, (p. 479)—except insofar as these have voluntarily attached themselves to the prince and entered into some sort of social relationship with him to better satisfy this need or that. Hence, in distinct contrast to the modern state, a prince may not unilaterally pass legislative decrees or impose taxes on other people and their property (p. 450, fn. 8). Rather, whatever dependencies or servitudes there may exist vis-à-vis a prince they vary from one dependent to another, and in any case they are all voluntarily accepted and may be dissolved once they are no longer deemed mutually beneficial.—And Haller adds some illuminating terminological observations to further clarify this status of a prince as a mere private law subject (see p. 480, fn. 14): The most appropriate way to refer to the status of a prince, king and so on, then, is to identify him simply as the head of a particular household, such as the head of the house of Bourbon, or the house of Habsburg, Hohenzollern or Wittelsbach, and so on, for instance. Less appropriate, and already slightly misleading is it to refer to them instead as the king of France, and the

kings of Austria, Prussia or Bavaria, because this insinuates, falsely, that they are something like the owners of all of France, Austria and so on. And entirely misguided is it to call them the government of France, Austria, Prussia and Bavaria, as if they were merely the employees of the French, Austrian, Prussian or Bavarian population.

Princes or, in the case of republics, senators, doges and so on are always members of the upper social classes, of course. But it is not the size of their land holdings, the number of “their people,” that is the number of their directly or indirectly dependents, or their income or wealth that makes them the heads of state. Indeed, there may exist people who own more land, who employ more people, and whose income and wealth exceeds that of a prince, senator or doge, and yet who do not qualify as heads of a state (pp. 474–475). As a matter of fact, as the already mentioned example, at the fictitious beginnings of mankind, of a single-family unit as prototype of a state demonstrates, mere “size,” according to Haller, has essentially nothing to do with the question of whether or not a social relationship or position qualifies as a state. In fact, and especially noteworthy, Haller even expresses a strong preference for a multiplicity of small principalities or republics (p. 432), very much along the lines of my own call for a Europe of a thousand Liechtensteins rather than one unified EU, as the best assurance against the possibility of the abuse of power on the part of a state ruler.

So what, then, according to Haller, is it that distinguishes the head (or heads) of a state, whether big or small, from all other persons and their property? It is *not*, as has already been explained, that a prince or an association of senators would never stand or find himself (or themselves) in a social position of inferiority. No one in a society based on the division of labor is exempt from that sobering experience. Even the greatest of kings need doctors and counselors and must bow to their superior authority, for instance. Rather, summed up in just one word, what makes for a head of state is *sovereignty* or independence (pp. 473–481). He (or they), who is entirely free to make decisions regarding his person and property, because there is no one person ranking above him to whom he owes a justification; who is subject to no one else’s authority either by virtue of customs or contract and who can accordingly do or not do with his property whatever he pleases without having to answer to anyone, except God and the eternal natural law—he (or they) qualify as head of state. And by contrast, then: everyone who is someone else’s dependent or whose property is subject to some sort of servitude, such as every vassal, lessee, employee,

tenant, renter or debtor, for instance, does not qualify as a state, regardless of how big, mighty, wealthy or influential he (or they) otherwise might be.—As Haller admits and indeed repeatedly emphasizes, however, dependence comes in degrees, and the difference between a sovereign and a dependent is by no means as that between day and night. A dependency might be so light as to be hardly noticeable, a dependent may even command more resources than a sovereign ruler and their different rank or status may ultimately boil down to no more than a difference in prominence and prestige.

From Haller's definition of a head of state as a private law subject, distinguished from every other person merely by the sovereignty of his rule over his own property, then, follows his categorical rejection of the by now dominant alternative definition of a state as a protection agency and a provider of justice.

For Haller, states qua states are essentially nothing else than a private enterprise and as such have *no common function or purpose* (pp. 470–472). That is *not* to say that they have *no purpose*. *Every* social institution and relationship does have a purpose. But they have *no common purpose*, but rather a variety or a multitude of different private purposes—and this holds for states as well. The purpose and function of a state, then, is to afford and allow its head(s) a good and comfortable life, according to his (or their) own, varying and changing conception of what he (or they) regard as a “good” and “comfortable” life. Most emphatically, however, states cannot be defined as protection agencies or justice providers according to Haller (pp. 463–465), because the task and the right to protect one's own person and property, that is to act in accordance with the principles of natural law as laid down by God, applies equally to everyone and to all social institutions and relations and hence cannot be considered as *unique* to states and as their defining characteristic. Indeed, Haller notes, people do not conclude contracts or enter into agreements that are self-understood and a matter-of-course. And it is self-understood that you may not injure other people or damage their property and that you may defend yourself and use defensive violence if you are injured or your property is damaged, taken or confiscated by others (see also chap. 15). Of course, states, because of their greater prominence, may assume a more important role as promoters and defenders of justice. But to promote and defend justice is equally and at the same time also the inalienable right and obligation even of the lowliest of persons.

This brings me to the concluding section of the present essay.

At this point the subtitle of Haller's magnum opus may be recalled: *Theory of the Natural-Social Order Contrasted to the Chimera of the Artificial-Civil One*. What has so far been presented is the first, positive part of this work. That is, what Haller considers the natural outcome of people living together, everywhere and at all times. This natural order is not claimed to be perfect, of course. Nothing in human affairs is or ever will be perfect. But it is the best possible arrangement to preserve all natural human liberties, to best satisfy everyone's needs and adjust to changing circumstances. Of course, like all human institutions it is subject to the possibility of abuse, but within its framework it also best provides for the means and measures to prevent, to combat, to avoid or to evade any such abuse.

As should be completely obvious by now, however, Haller's natural social order and natural state have nothing whatsoever to do with modern society and the modern state that we are all only too familiar with by now. The modern state and modern society cannot even be considered as an example and consequence of Haller's state turned rogue. Rather, the modern state and society, which Haller, writing some two hundred years ago, terms the artificial state and the artificial-civil society and recognizes as in the making by then already since about the seventeenth century and coming into full fruition for the very first time with the French Revolution, is a beast of a completely different nature.

The successive transformation and ultimate replacement of the natural order and natural state by the modern, artificial one is the result of a fundamental intellectual error, relentlessly promoted in various, slightly differing but essentially always identical versions by countless "social contract" theorists to this very day. Indeed, the result of an intellectual error and a faulty theory of the grandest proportions, as Haller does not tire to demonstrate in great detail (see esp. chap. 11). A theory, as he notes exasperatedly, so patently false, from beginning to end, as to be almost risible; a chimera so devoid of common sense and detached from reality that only an "intellectual"—a "sophist" in Haller's terminology—could invent it. And yet a theory that would literally turn the world upside down. That would transform lowly servants into rulers of princes and children into masters of parents (chap. 4, esp. p. 25, fn. 6; and also p. 284), and that would be destructive of all human liberties (p. 335–336).

The theory, as summarized by Haller, boils down to four propositions (pp. 295–296).

Originally, in the state of nature, mankind had lived outside of any social relations, that is in exclusively extra-social relations, side by side with each other and in a state of complete freedom and equality.

However, in this state of affairs natural human rights and liberties were not secure.

Hence, people associated with each other and delegated the power to arrange for and assure general, all-around protection and security to one or several people among them.

Through this institution of a state, then, the freedom of each individual would be better and more securely safeguarded and protected than before.

Following Haller, I shall now, as my final task, take up each of these propositions in turn to demonstrate, with all due brevity, the utter absurdity of the entire doctrine, its manifold internal contradictions and the disastrous consequences following from its acceptance.

The first proposition and premise of the theory must already be rejected as mere fiction or fake, without any factual basis whatsoever. Never has anything like a state of nature as depicted by social contract theorists existed anywhere. Never has anyone ever lived entirely outside of social relations. If he did, he did not need a language as a means of communication, and if he does use a language instead this proves the existence of social relationship with others. Indeed, as has been already demonstrated, social relations, as exemplified by the institution of a family, *precede* extra-social relations (which can come about only by the break-away of children from parents). Nor, as the family institution and the fact that we are not all born simultaneously but sequentially, one after another demonstrate, has anyone ever lived throughout his entire life in a state of affairs characterized by complete freedom and equality. Rather, from the very outset, the state of human nature is characterized by unequal liberties and inequalities, by rulers and ruled, masters and dependents. Such inequalities are not the result or outcome of previous contracts or agreements or require contracts or agreements for their explanation or justification. To the contrary, they precede all contracts and agreements and provide the natural basis and justification for all mutually beneficial—agreed upon or contracted—social relations and associations (see pp. 300–303).

The analysis of the second proposition does not fare any better. Even critics of the social contracts theory let this proposition often slide by uncommented. However, as Haller perceptively points out, it, too, gets things upside down and puts the cart before the horse. True enough, the potential danger emanating from some person C or the fear of an attack

by C may help tie A and B together. But the association of A and B is not itself based on insecurity or fear. Rather, it is the result of mutual trust or even love. A and B do not fear each other or believe their rights to be endangered or infringed upon by their association, but to the contrary, A and B trust or love each other and associate for this reason. Fear and mistrust are reasons *not* to associate, but to distance and separate oneself from others. To assert instead, as Hobbes does, for instance, that social relations emerge out of a state of affairs of universal fear, out of a *bellum omnium contra omnes*, is simply absurd, then. As well, contra all social contract theorists, as in particular the natural mutual attraction and association of the sexes demonstrates once again, human cooperation based on trust and love precedes all conflict and war, and human cooperation is always available and capable (again: not unfailingly, but as satisfactorily as humanly possible!) of dealing also with such extra-ordinary, extra- or anti-social events (see pp. 303–305).

Which brings us to the third proposition and with that to the very height of absurdity. And it is here, then, with Haller's criticism of this thesis in particular, where any still lingering doubt in anyone's mind about the status of the author of a massive work concerning "*The Restoration of the Theory of the State*" should finally be laid to rest, and Haller's status as a radical libertarian—in modern lingo: as an anarcho-capitalist—be firmly cemented. Because here, two hundred years ago, Haller advances practically every single argument also leveled against the legitimacy of the (modern) state by contemporary libertarianism and libertarians in the tradition of Murray Rothbard.

To begin with, it is noted that there exists no record whatsoever that anything resembling a contract as imagined by social contract theorists has ever been concluded anywhere. And Haller immediately cuts to the heart of the matter as to why this is so and why any such contract is inconceivable. In the state of nature, he writes (p. 322), everyone, for his protection and security, could rely on his own powers and means of self-defense or he could choose someone more powerful than himself, and equipped with more or better means of protection, and attach himself at mutually agreed upon terms to such a person as his vassal or servant; and he could terminate and leave any such association and return to defensive self-sufficiency or attach himself to another presumably better protector. Why, then, Haller wonders, would anyone consider it an improvement, if he could no longer choose his own protector and mode of protection but such a

decision were made instead by others, that is “the people?” How is that supposed to be freedom?!

More specifically, the mention of the “people” provides the keyword for an entire barrage of embarrassing follow-up questions. Who are these “people,” who supposedly delegate their powers to the state and its head(s) so as to then assure all of their security and protection? Is it everyone who can breathe, and if not why not (see pp. 312 ff)? Is it the entire world population that makes up “the people?” Or are there different “people,” and how then to draw the borderlines and determine who does or does not belong to this “people” or that? And what about the fact that there are constantly people dying and born? A contract can bind only those, who actually concluded it, and hence, must not the contract be continuously renewed and redesigned, then, whenever a newborn enters the scene?

Moreover, why would the head of a household or a prince, for instance, agree that his children or his servants should have an equal say in the selection of their joint ruler or overlord? And if they did have such a say, would this not imply that some previously harmonious—mutually beneficial—relationship between parents and children or between a prince and his servants would thereby become increasingly infected by jealousy, tension and strife? Likewise, regardless of who is considered and counted as a member of the “people,” is it conceivable that all of them, unanimously, would agree on who should be their overlord? And if that is not the case, which can be taken as a certainty, how can this contract still be considered binding also on those disagreeing or dissenting? And does this not imply, then, that the entire complex network of harmonious relations characteristic of a natural social order will be distorted or destroyed and be replaced by a system of rival or even hostile parties and partisanship affecting and infecting every nook and cranny of the social fabric? (pp. 323–324)

Still: the questions do not cease. Whoever is appointed by one party of the “people” as the supreme protector of all parties, then, that may impose his will on everyone, supporters and dissenters alike—how far-reaching are his competences? What constraints, if any, are put on his actions? Are people still allowed to protect and defend themselves against injurious or wrongful actions by others? May people still bear arms or build a fortress? May a father still smack his son for gross misconduct? May an employer still dismiss his employee for negligent behavior? May a landlord still expel a delinquent tenant from his property or ban others from entry? Or must everyone disarm and any or all of these potential conflicts come under the

purview of the state? Surely, there is no unanimous answer to be expected to these questions. However, what can be asserted with certainty is that the interposition of the state in any such matter is an infringement of natural law, a violation of private property rights and an arbitrary restriction of human liberty, that is the very opposite of the alleged purpose of the institution of a state (pp. 328–330).

Last but not least, there remains still one more unanswerable question to reveal once more the total muddle and confusion of the social contract theory: Whoever is appointed by a part of the “people” to be—supposedly—the entire “people’s” employee and the security provider and protector for all of them, he needs resources to do so. He needs manpower, material goods and the means to finance them, and it is his employer, that is the “people,” who must provide him with all that. But how much money, personnel and protective gear is necessary to do the job? And who among the people is supposed to contribute what part of the total? Surely, it is impossible to ever reach a unanimous agreement on this question. Certainly the head of state, to whom all powers had allegedly been delegated, would ask for ever more resources, arguing that the more resources he had at his disposal the more security he could provide. But why would anyone who had not voluntarily chosen this person as his protector, who deemed himself capable of providing for his own security or who regarded his alleged protector as less than impartial, as a partisan or even as a dangerous foe, hand over any of his money or other property to him so as to be wasted or even used to oppress him and rob him of ever more of his own property? Harmonious relations and voluntary services and payments would be replaced by coercion, serfdom and taxes, and coercion, serfdom and taxes, then, would be used for ever more future coercion, serfdom and taxes (pp. 330–332).

The *bellum omnium contra omnes*, then, that did not exist in the state of nature—it is actually only brought about by the institution of the (artificial) state, and it is continuously incited and promoted by the state so as to steadily expand its own powers at the expense of the increasing loss of all private liberties. And this horrendous state of affairs, then, that we owe to the propaganda, the relentless intellectual claptrap of the social contract theorists, Haller sarcastically notes, is what we are supposed to consider the new and improved human freedom and liberty. What a cruel joke.

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