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Corporations, State Capitalism, and International Trade

Kevin Carson

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A provocative article by Mike Hoy at Loompanics.

Libertarianism is a philosophy based on individual rights.

But what happens if groups of people, i.e., collectivist entities, form together for the purpose of getting the government to grant unearned special privileges to them? How will this affect the marketplace? Well, this has actually happened in America, and the result is that these collectivist entities with their government-bestowed privileges have taken over our economy, in some particular cases to the benefit of some particular individuals, but to the overall detriment to individuals in general. These collectivist entities are known as “corporations,” and it is initially puzzling as to why they are lionized by “Libertarians,” who

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proclaim themselves the defenders of individual rights...

I'll say it again: corporations are not market entities – they are government entities. This was proven by the libertarian/objectivist Robert Hessen in his 1979 book, ironically titled *In Defense of The Corporation* (Hoover Institution). This is a very funny book, because he states in his prologue: *“In this book, the belief that corporations require government permission to exist and that they are the recipients of special privileges will be challenged. I will present an alternative known as the ‘inherence theory’: i.e., corporations are created and sustained entirely by exercise of individual rights, specifically freedom of association and freedom of contract.”*

Now, the essential distinguishing characteristic of the corporate form of enterprise is limited liability for torts. If Hessen (or anybody else) is going to show that corporations are contractual entities, he is going to have to demonstrate that limited liability for torts can be fully accounted for as resulting from voluntary agreements between consenting individuals. Here is where Hessen then proves the exact opposite of what he said he was going to prove. He openly admits that limited liability for torts cannot be a part of the market order! He says:

“Thus far, the inherence theory – the idea that corporate features are created by contract – has been applied to entity status, perpetual duration, and limited liability for debts. But how can limited liability for torts be explained by a contractual theory, since tort victims do not consent to limit their claims to the assets of the corporation?”

I fully agree with Logan in considering free trade an unqualified good. It's extremely dangerous, though, to take what our corporate class enemy calls "free trade" at face value. Things like GATT, NAFTA, and CAFTA have about as much to do with free trade, as the Ministry of Truth has to do with truth.

Getting back to Hoy's point, vulgar libertarian apologists are fond of using individuals, or small firms, as examples to illustrate the principle of faux "comparative advantage" (anything can be comparatively advantageous, if somebody else is underwriting the costs). The discussion of demand and supply curves in the standard micro-econ textbook is written as if the typical firm were still Adam Smith's pin factory. But in fact, something like 30–40% of what's classified as "international trade" is actually an internal transfer between subunits of a single transnational corporation, more akin to the operation of a planned economy than to any kind of real trade. The largest TNCs are approaching the size of the old Soviet economy, with the headquarters of an M-form corporation crunching as many numbers as Gosplan.

In fairness to corporations (words I never expected to write), I have to agree with Murray Rothbard that limited third-party liability against torts, while clearly an illegitimate grant of privilege, is of relatively minor significance compared to limited second-party liability against creditors; and the latter can be accomplished entirely by voluntary contract. (There are exceptions, of course, in such cases as the Price-Anderson Act's indemnification of the nuclear power industry, which the ASI's favorite libertarian wants to extend.) I also agree with Jesse Walker in rejecting arguments that general incorporation is a grant of special privileges. (Jesse also cites Hessen on the comparative insignificance of third-party, as opposed to second-party liability—something Hoy neglected to mention. Third-party tort indemnity is by no means essential to the corporate form.)

The revocation movement's account of history has been laid out in many places; one is *Taking Care of Business*, a 1993 pamphlet by activists Richard Grossman and Frank Adams. The tract notes that in the early 19th century, enterprises took many forms, from limited partnerships to unincorporated associations to cooperatives. "Legislatures also chartered profit-making corporations to build turnpikes, canals and bridges," the authors write. "By the beginning of the 1800s, only two hundred such charters had been granted.... Citizens governed corporations by detailing rules and operating conditions not just in the charters but also in state constitutions and state laws."

The pamphlet does not explain why a business would tolerate such restrictions, if all it need do to avoid them was not incorporate. The answer, of course, is that incorporation bestowed certain

advantages. In those days, historian Robert Hessen notes in his 1979 book *In Defense of the Corporation*, corporate charters often included special privileges, such as “a legally enforced monopoly, exemption from taxation, release of employees from militia and jury duty, power to exercise eminent domain, and authorization to hold lotteries as a means of raising capital.” Others received direct subsidies from the government.

Those benefits were awarded only to particular corporations.

The movement for general corporation was actually a movement to *eliminate* special monopoly privileges for corporations.

Even without any special grant of privilege from the state, corporations would still be a useful form of voluntary association for pooling investment funds.

(I do have serious doubts as to whether corporations could function on a national or international scale, in a free market anarchy of loosely federated direct democracies, since there would be no central state to maintain a unified legal system or impose a single law code from above. Under those circumstances, the transaction costs of operating and enforcing rights as a single corporate entity, in a large number of local venues, would likely be prohibitively high in most industries.)

The evils of corporate power derive, not from the corporate form as such, but from the state’s enforcement of special monopoly privileges or its grant of subsidies to underwrite various operating expenses. This, in turn, is possible only because of the growth of the largest corporations to a size many times beyond the point of diminishing returns, thanks to state subsidies to the diseconomies of large scale, and the resulting interlocking of organizations and personnel between corporation and state. Without political influence over the

some forms of state activity, within an overall state-capitalist framework. And the areas of selective reduction are chosen by state capitalist elites, in terms of their own strategic priorities. The overall legal framework necessary for protecting special corporate privileges, and the structural supports for keeping the international economy under the control of large corporations, are maintained or even strengthened. Only those forms of current state activity that no longer suit the TNCs’ purposes (those that impede the shuffling of raw materials and unfinished goods between subsidiaries of the international corporate planned economy, and the shipping of finished goods from their sweatshop producers to consumers in the West) are eliminated. The assessment that these trade barriers no longer suit state capitalist interests reflects the transition of most capital-intensive manufacturing from the realm of national capital to transnational capital. The political conflict over tariff barriers is, therefore, a struggle between national capital (the old-line NAM constituency of the textile industry, for example) and transnational capital (the New Deal coalition that has supported pseudo-“free trade” since FDR/Truman engineered the Bretton Woods system).

In practice, no legal system in history has ever regulated *every* aspect of the economy. Some aspects of the economy, in any system, are subject to mandates and prohibitions, and some are left to individual discretion. It’s a safe guess that the respective choice of regulation or freedom, in any system, reflects the strategic interests of that society’s ruling class. As the majority argued in *Gibbon v. Ogden*, the decision of what *not* to regulate reflected Congress’ mercantilist policy intentions just as much as the decision of what *to* regulate. To let our class enemy set the priorities in “deregulation” and “privatization,” in accordance with its own strategic picture, is a recipe for defeat. *WE* must decide which of the commanding heights of state capitalism to seize and dismantle first, consistent with our own strategic goals.

it artificially profitable. And when such trade is characterized by government-enforced unequal exchange, it doesn't reduce poverty for the people on the losing side of the transaction. A mugging is a kind of "transaction," and the more times you're mugged the worse off you are. When government enters the picture, "trade" is a zero-sum situation in which one party benefits at the other's expense. I am not opposed to increasing or reducing world trade "in principle"; so long as people are doing it on their own dime, they can decide for themselves whether it's beneficial or not, and how much of it to engage in. I'd wager, though, that a lot fewer corporations would find it profitable under such circumstances.

Even Logan Ferree of the Geoist DLC, with whom I usually agree, in the Democratic Freedom blog recently treated CAFTA as a pro-free trade litmus test. Worse, he treated the volume of "trade" as such as a net benefit, regardless of the terms under which it takes place.

Any increase in trade will create winners and losers, that's a fundamental fact of economics. The economy as a whole will improve, but let's not pretend that no one will be hurt. With a stronger economy we should have enough wealth, and compassion, to help those who are hurt by increased trade. Democrats should be focusing on how best to harness the economic growth created by trade, not blocking it.

But, as the All-Spin Zone has pointed out, CAFTA actually *increases* statism in some ways. For example, it mandates pseudo-"privatization" (aka looting) of taxpayer-funded infrastructure, as well as adherence to international "intellectual property" [sic] accords.

As I argued in the comment thread on Logan's post, neoliberal faux "free trade" pacts are simply selective reductions of

state's taxing and spending power, these large corporations would be forced to internalize all of their own costs and risks—in short, they wouldn't be large corporations any more, and the corporation would just be another way for producers to organize their own production.

Back to Hoy:

Managers of corporations have more in common, as a class, with government bureaucrats than they do with individual entrepreneurs.

Now *that's* something we don't hear said nearly often enough. I find it fascinating that the neocon critics of the New Class (like Peggy Noonan and David Brooks) focus so much on the welfare/educational bureaucracy, or on academic and journalistic intelligentsia, but ignore the role of the managerial New Class in the corporate reorganization of the economy. Taylorism was as much a part of the "Progressive" Era as was the publik skool ideology. And all the claims of current management theory fads to have replaced Taylorism with assorted forms of "empowerment" are worth a bucket of warm spit. TQM, and every other fad of the week, translates in practice to Taylorism, because they're implemented by bosses.

I once worked in a hospital that had three separate offices, side by side, with the word "Quality" in the job titles on the doors. The place was overrun with middle management on "quality committees" doing "root cause analysis," to the extent that there were more of those people there on weekdays than actual nursing staff on the floor. But their approach to solving errors in patient care was not to increase nursing staff (most error results from chronic understaffing and overwork, and the fact that there's not time to slow down and notice things, practice proper septic techniques, or think about what you're doing); rather, it was to appoint yet another committee, and come up with another tracking form for us to fill out on top of everything we were already doing. In fact, their solution to just

about everything was to think up a new slogan, tinker with the mission statement, or slap a new coat of paint on the outside. “Shining it on” should have been in their list of “core values.” But then, in fairness, I’ve never seen a place that *wasn’t* like that.

As David Gordon argued in *Fat and Mean*, the average large corporation (despite the myth of management downsizing) is a hotbed of middle management featherbedding—at the same time that more and more actual work is being squeezed out of fewer and fewer real producers (that wonderful “labor productivity” they’re always talking about on MSNBC). In a competitive marketplace, such bullshit might spell the end of a hospital. But in a cartelized market, where every metropolitan area has two or three big hospitals with the exact same pathological organizational culture, there’s no danger whatsoever from competition.

Hoy continues:

...“Libertarian” followers have been taught numerous thought-stopping techniques by “Libertarian” leaders, so that anyone who attempts to discuss the non-market reality of corporations is slapped with a negative label (“anti- corporate,” “anti-trade,” etc.—there are lots), and then any questions raised by that person are literally unthinkable to “Libertarians.”

“Libertarian” leaders use an intellectual sleight-of-hand to get “Libertarian” followers to cheer for corporations. They present their pro-corporate (i.e., pro-government entity) blather as if they are talking about individuals. Let’s look at a real-world example. Here is a blurb for the book *Why Globalization Works* by Martin Wolf from the Laissez Faire book catalog: “The foes of international buying and selling don’t like to admit that if it’s bad for

a New York grocer to trade with a Timbuktu grocer, it’s also bad for the New Yorker to trade with a New Jerseyite. Or that the end-of-the-line of such anti-market logic requires you to survive on what you can grow in your backyard, without ever trading your turnips for your neighbor’s corn.”

...Contrary to “Libertarian”-spewed horseshit, “Globalization” is not Joe Doakes, “New York grocer” trading his turnips for the corn of Sam Smith, “Timbuktu grocer.”

(Uh, couldn’t Hoy come up with a better name than “Sam Smith” for a Timbuktu grocer?) I would add, contra the Laissez-Faire Institute’s copywriter, that whether “international buying and selling” is a good or a bad thing depends on who’s paying for it. All too much rhetoric in the globalization debate equates “free trade” to “more trade” or “globalization.” For example, “paul d s” of Global-Growth.Org (in a comment thread) challenged Jim to answer these questions:

(vi) Do you deny that open markets encourage increased trade?

(vii) Do you deny that trade growth generally reduces poverty and brings prosperity?

(viii) Are you opposed to increasing world trade and promoting economic growth in principle?

“More trade” is a bad thing, if its increase is possible only through state intervention to shift or conceal its inefficiency costs. In such cases, “open markets” (unsubsidized markets, in which market actors internalize all their own costs) might well result in reduced trade. A great deal of the trade that takes place today is possible only because so much of the cost side of the ledger is externalized on the taxpayer, rendering