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Walter Block: Once Again Defending the Undefendable

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“crony capitalist” entity benefiting from an unjust position of power — until, and only until, our attention wanders slightly, at which point Block is back to defending it as a virtuous free market actor again. But...

1.

If it does something to piss Walter Block off in some way, as the *NYT* did, it’s “cronyist” until the heat death of the universe.

But in general, it’s fair to say that for Block any awful thing an employer, landlord, or corporation does is the “free market” and its victims are party to a “voluntary contract.”

In other words, Walter Block is a prime exemplar of the “vulgar libertarian” tendency I first wrote about twenty years ago:

Vulgar libertarian apologists for capitalism use the term “free market” in an equivocal sense: they seem to have trouble remembering, from one moment to the next, whether they’re defending actually existing capitalism or free market principles. So we get the standard boilerplate article arguing that the rich can’t get rich at the expense of the poor, because “that’s not how the free market works” – implicitly assuming that this is a free market. When prodded, they’ll grudgingly admit that the present system is not a free market, and that it includes a lot of state intervention on behalf of the rich. But as soon as they think they can get away with it, they go right back to defending the wealth of existing corporations on the basis of “free market principles.”

Block, notwithstanding, afterward wrote elsewhere that “Libel Laws Should All Be Repealed.” Not, mind you, after all the “crony capitalist” corporations that aid and abet the state have been done away with. No, “be repealed” — present indicative. The actual legal basis upon which Block sued the *Times* is illegitimate.

Oh — Block’s list of possible criteria for including the *New York Times* in the ruling class also includes giving stuff to the government (they donated their archives to a public library). So by Walter Block’s standards, there is virtually no corporation in the world he can’t include in the statist ruling class, if he tries hard enough. It’s instructive to compare the contortions Block is willing to go to, when anyone else is the victim, to defend the suffering of other people — up to and including selling themselves into slavery to pay medical bills and being tortured and mutilated for trying to escape — to the contortions he’s willing to undergo in framing a business as the statist bad guy when he’s the victim.

So we’re back to intellectual incoherence. Or maybe not. As muddled as Walter Block’s thought processes may seem at first glance, on closer inspection they follow regular patterns that can be summarized thus:

Primary Rule: When a corporation or other economic actor is engaged in an activity Block wants to defend, like hiring sweatshop labor or child labor, enforcing non-compete clauses, or buying human beings through “voluntary slavery” contracts, it’s a free market actor engaged in entirely voluntary actions — with two exceptions:

1.

If its business model or profits can be shown to result from collusion with the state or otherwise be dependent on state action, it is (at least theoretically) a

Part I

In one sense, Walter Block is very much in the tradition of right-libertarian and anarcho-capitalist polemics, insofar as he hides power relationships and coercive institutions behind a facade of “free exchange” and “voluntary contract.” In another, however, he is much worse. Anarcho-capitalists, traditionally, have focused on convincing the average person that a stateless regime centered on private property and free contract would be better than the present in most regards, and at least not all that bad in the rest. Block, in contrast, has seemingly built an entire career on gleefully confirming normal, decent people’s darkest imaginings of such a society.

For example, way back in 1969, when even Murray “Unleash the Police to Clear the Streets of Bums” Rothbard was making overtures to the New Left, Block was busy defending “voluntary slavery.”

Consider the case of Mr A who can save his wife’s life only by paying \$1 million for an operation. He does not have the money, tho. The only way he can get it is by selling himself into slavery to Mr B who is willing to pay \$1 million for Mr A’s enslavement. Mr A, valuing his wife’s life more than his own freedom, agrees. He receives [sic] the money, turns it over to the doctor, and voluntarily signs himself into slavery. Mr A, however, soon tires of the drudgery of slavery, and runs away.

Should the enforcement agency try, to catch Mr A and return him to Mr B? I give an unequivocal “Yes” ‘in answer. For A, is running away with (stealing) a valuable piece of B’s property — A, himself. The enforcement agency should stop this theft and return B’s property

to him just as they would return any other piece of property stolen from B.

In response to Rothbard’s critique of “voluntary slavery” — that it is impossible because Mr A cannot permanently alienate his will by contract, and cannot be compelled to willingly comply if he later decides slavery is not to his liking — Block concedes that individuals cannot alienate their will or be compelled to voluntarily execute a contract made in the past. But perhaps “concedes” is the wrong word, with its implication of reluctance — as opposed to the glee he displays here:

But Prof. Rothbard has purchased correctness only at the cost of irrelevancy [sic]. For no slave owner like B expects the enforcement agency to do the impossible. No advocate of the enforcement of voluntary slave contracts expects the enforcement agency to force A to willingly work as a slave. All that is expected is that the enforcement agency drag the unwilling slave, kicking and screaming if need be, back to the waiting arms of the rightful slave owner, B; this much is certainly within the realm of possibility....

The next question is, Should it be done? The answer is “Yes”....

Well, a slave’s body is alienable, because it is physically possible to drag him into captivity and slavery. It is only impossible to drag a willing slave into slavery, so only a slave’s will is inalienable.

Block’s original defense of “voluntary slavery” was written fifty-five years ago. But — perhaps coming to fear that his graphic description of the violent recourse available to the wronged slave-owner lacked sufficient prurient appeal, or that he had been insufficiently clear on the right of slave-owners to mutilate or kill

actually existing rich people and businesses — until he, personally, has a bad experience with one of them. But on closer inspection, it looks more like intellectual incoherence. In his indictment of the *Times*, he goes on to list a large number of other “crony capitalist” corporations that also belong to the ruling class:

[G]ood candidates for membership in the ruling class: ABC, Alliant Techsystems, Archer Daniels Midland, BAE Systems, Blackhawk Industries, Blackwater, Boeing, CBS, Chrysler, Colt, Fox News, General Dynamics, General Motors, Goldman Sachs, Halliburton, KDH Defense Systems, Lenco, Lockheed Martin, Martin-Marietta, Monsanto, MSNBC, NBC, *New York Times*, Northrup-Grumman, Oshkosh Defense, Raytheon, *Washington Post*.

How, specifically, has the *Times* sinned in this regard? By “aiding and abetting statist depredations in a large scale manner” — namely, by acting as “a propaganda machine for the state.” So basically any periodical that in any way advocates for policies that Block, ex cathedra in his capacity as a non-statist, finds “statist,” or prints news or opinions that otherwise “aid and abet statist depredations,” is subject to libel lawsuits — if not to the Ragnar Daneskjold treatment.

This, you might think, falls under the heading of personal pettiness. But Block’s other criteria for corporate membership in the ruling class include “ownership positions in industries heavily regulated by government, such as radio and television, etc.” If you interpret this category to include all corporations that get the bulk of their profits from direct government subsidies, or unearned economic rents or monopoly profits on artificial property rights like patents and copyrights, regulatory entry barriers, or other restraints on competition, that would include virtually every Fortune 500 corporation in existence.

money entirely through their contributions to human welfare on the free market. But the *New York Times*, decidedly, is not.

The *Times* is a state-connected entity to its very core:

How, then, can I justify suing the *New York Times* for libel? It is simple. The libertarian case against suing for libel applies only to *innocent people*, and this newspaper does not at all qualify. Rather, this organization is a member in good standing of the ruling class, and all bets are off for criminals of that ilk. This applies, also to using other kinds of violence against those who themselves have broken the libertarian law. For example, Ragnar Danneskjold, the pirate hero in *Atlas Shrugged*, was in my opinion entirely justified in attacking government ships. But, suppose, for some reason, who [sic] was unable to physically invade these boats, but (work with me here) was only able to sue them for libel. Would have been [sic] justified in doing so? In my understanding of our libertarian philosophy, this certainly would have been a licit act on his part.

Contrast this highly nuanced examination of the *NYT*'s role in a statist system of power to his plain-spoken defense of rack-renting landlords in the above-quoted piece on gentrification:

But is this unfair? Certainly not. Assume that the rich came by their wealth in an honest way, not through government grants of special privileges, subsidies, bail-outs, a la crony capitalism, but via laissez faire capitalism. Thus they have contributed more to everyone else than the poor.

At first glance, this looks like hypocrisy: Block, it seems, is willing to assume away the entire real world of privilege enjoyed by

their slaves under the terms of the “voluntary slavery” contract—Block revisited the issue within the past decade.

In a 2015 article in *Journal of Economic and Social Thought*, he doubled down on the awfulness in almost every conceivable way. Throughout the entire article, the argumentation follows a common pattern: “What’s everyone so hysterical about? We all agree that 19th century slavery was bad. All I’m saying is...” — whereupon he follows up with something so gob-smackingly horrific that readers are paralyzed with open-mouthed shock.

Not satisfied with merely defending the permissibility of “voluntary slavery” under ancap law, he stresses that the “incidents” of slavery in themselves were not so bad at all — only the fact that it was involuntary. Aside from their lack of choice in their status, Block seems almost astonished that African-American slaves were not content with such a cushy lot. Otherwise, slavery wasn’t so bad. You could pick cotton, sing songs, be fed nice gruel, etc. The only real problem was that this relationship was compulsory. It violated the law of free association, and that of the slaves’ private property rights in their own persons.

As if this weren’t enough, he adds immediately thereafter: “The Civil Rights Act of 1964, then, to a much smaller degree of course, made partial slaves of the owners of establishments like Woolworths.” From there on out he proceeds to enumerate a whole host of things which, to his mind, are also slavery: not only forced integration of public establishment but rent control, unions, and affirmative action.

Yeah, Walter, I guess people get upset about anything these days.

Block also went into more graphic detail, in an article written only last year, about the full range of unaccountable violence available to the slave-master:

My learned friend’s [Stephan Kinsella’s] thesis is that the voluntary slavery contract is illicit since the will of

the slave cannot be alienated. To be sure, that is correct. But the sale has nothing to do with the will. I stipulate it cannot be alienated. What is being sold, in sharp contrast, is not the will; rather, it is the right to object to being beaten, or killed, by the slave master. Note, I say “killed” but not murdered since under the aegis of voluntary slavery, the master has the right to end the life of the slave if he wishes to do so, at his own discretion.

Presumably Block’s only objection to Dune’s Baron Harkonnen – bedding, and then mutilating and murdering, a different slave every night – is that the victim didn’t enter into the relationship by voluntary contract.

A lesser ancap than Block, even one who defended “voluntary slavery” in principle, would seek to reassure readers that things would not be as bad as feared, that despite its technical legality it would actually seldom come to such a pass, that there would be guard rails against the worst abuses, and that in some way the very mechanisms of an anarcho-capitalist society that tolerated slavery would make its actual practice highly unlikely. Block instead goes out of his way to systematically tweak all the parameters, so as to guarantee the absolute worst possible outcome. He aims, like a pin-studded Cenobite emerging from the puzzle box, to inform the horrified reader: “You think you know how bad anarcho-capitalism would be? We have such sights to show you.”

This approach appears to be common among Hoppeans. Hans Hermann Hoppe and his reactionary disciples have obsessively sought some configuration of property rules which, through universal private appropriation of land, would facilitate the construction of their ideal neo-feudal order from the building blocks of private property and free contract. In such a society, with every square foot of a territory owned by some white Christian theocrat, the landed proprietors acting in concert would be able to “physically remove” anyone whose ideology, ethnicity, or sexual

eviction by landlords, considering Smith’s treatment of landlords as a prime example of unearned income (as well as, more generally, classical political economy’s treatment of rent on land as the original, paradigmatic case of unearned economic rents).

Walter Block, as we have seen repeatedly demonstrated, is willing to swallow a camel when it comes to ignoring the actual power relationships embedded in the capitalist economy. But in one subset of special cases, he is quite capable of straining at gnats in discovering hidden levels of statism – the subset of cases where his own skin is in the game. Block is considerably more sympathetic to the underdog – even when the underdog is the victim of an action he would otherwise defend as entirely uncoercive – when that underdog is himself. Consider his libel action against the *New York Times* for allegedly taking his “not so bad” comment about slavery out of context. This, despite his devoting an entire chapter in his book *Defending the Undefendable* to libel and slander:

A man does not own his reputation any more than he owns the thoughts of others – because that is all his reputation consists of... Whether his reputation was “taken from him” by fair means or foul, by truth or falsehood, he did not own it in the first place and, hence, should have no recourse to the law for damages. What then are we doing when we object to, or prohibit, libel? We are prohibiting someone from affecting or trying to affect the thoughts of other people. But what does the right of free speech mean if not that we are all free to try to affect the thoughts of those around us? So we must conclude that libel and slander are consistent with the rights of free speech.

As it turns out, Block is entirely capable of understanding the concept of structural power relations – but only in conflicts to which he is a party. Landlords, transnational corporations, and corporate employers may all be free market entities that made their

fication by eminent domain (note that he sandwiches it in between well-to-do college students and “homosexual men,” in his list of the major actors involved in gentrification):

Who are the main guilty parties in this sad story? College students who often have more money than the people they replace (or at least their parents do). When the Olympics come to town, people are moved en masse to make way for the new stadiums, swimming pools, ball fields, etc. Ditto for the World’s Fairs. They, too, export inhabitants with a long history, willy nilly. They, too, eradicate cultures and communities that were thriving before the rampage took place. Although this will not be politically correct, and we shudder to even mention it so beholden are we to the modern dictates and proprieties, but homosexual men are also offenders in this regard.

In his defense, I should note that Block is sufficiently obtuse as to be, quite plausibly, unaware of the state’s role in condemning large areas of land for Olympics and World Fairs. This passage, in the same piece, is also rich:

There is also more than just a little bit of economic illiteracy involved in the case against gentrification. First of all, economic freedom, as Adam Smith so clearly saw in 1776, creates the Wealth of Nations. Those so concerned with the poor and with eradicating poverty, as we all should be, must realize that opposition to gentrification is an attack on the marketplace. To the degree that people are not free to buy and sell, to “barter and truck” is the extent to which the economy is more impoverished than it need be.

There’s also more than just a little bit of irony involved in Block’s appeal to Adam Smith in support of rack-renting and

practices they found abhorrent — all without violating the sacred “non-aggression principle.”

Block and the Hoppeans remind me of the alt-right dregs of humanity who, in search of some set of extenuating circumstances which would justify their committing rape or using the n-word, conduct endless thought experiments in which such actions are the only way to stave off extermination of the biosphere by cobalt bombs or implosion of the universe from vacuum decay.

It strikes me that there must be some — perhaps unconscious — bad faith at work for Block. On the one hand, he goes out of his way to manufacture the most arbitrary, extreme, and coercive background conditions imaginable, so as to drive his Mr A into a situation where “voluntary slavery” is the only available option. On the other, Block at the same time pretends to be unaware of the very concept of background violence or structural power differentials.

In the case not only of “voluntary slavery,” but of any number of other abhorrent practices Block has defended, he justifies them as entirely voluntary arrangements in which power considerations come into play not at all. In subsequent installments of this commentary, I will survey other examples of Block’s tendency to frame as completely “voluntary” relationships and transactions which in fact take place against a large background of structural violence and compulsion, and consider the actual coercive nature of the capitalist system he defends.

Part II

In the previous installment of this column, I discussed Walter Block’s repeated defense of “voluntary slavery contracts” as one example of his long record of defending economic phenomena as “voluntary,” regardless of the role of background or systemic violence in making them possible.

But it didn't stop there. Consider his defenses, just within the past year or so, of both "fast fashion" and non-compete clauses. In response to complaints that "fast fashionistas" — i.e. Third World producers of fast fashion — use too much water and other resources, Block writes:

But every penny spent by firms in this industry is willingly accepted by sellers. How do they get those pennies in the first place? From willing sellers. It is rather arbitrary to complain that others are buying up too much, when the ability to do so emanate from this source. That is to say, of course they are justified in buying up H2O. They have a right to do so based on the dollar votes at their disposal, predicated, in turn, on consumer sovereignty. In like manner, successful companies such as Microsoft, Toyota, McDonalds, Walmart, have a right to buy up pretty much anything they want to purchase, including real estate, raw materials, groceries, and, yes, water.

As for charges that they exploit labor with sweatshop working conditions, Block responds that sweatshop employers are simply doing it because they can get away with it — exactly as you and I would.

The haberdashers and milliners are no more guilty of trying to improve their economic status than anyone else. When was the last time, gentle reader, you selected a poorer paying job (or investment) when a better one, other things equal, was available to you? When was the last time you paid a plumber, a carpenter, an electrician more, when you could have paid less for the same job? When you paid more for a house or car than you needed to? Thought not.

what they can charge for their "services" — which in turn depends upon their bargaining power and institutional power relationships. So, far from wages and the rate of profit reflecting the respective "marginal productivity" of labor and capital, the "marginal productivity" of labor and capital is determined by their comparative bargaining power. The "marginal productivity" of a "factor," as institutional economists like Thorstein Veblen and John R. Commons have shown, is just another name for its *power*.

The claim that workers sign non-compete clauses voluntarily, and wouldn't do so unless they benefited, is equally meaningless. Absent the immediate presence of weapons, or threat of violent retribution by the employer, of course the worker signs "voluntarily" — just as citizens voluntarily go into the Post Office to buy first class stamps. People choose between the alternatives available to them. The question that should be asked is, who sets the range of available alternatives? The current distribution of ownership and control over economic opportunities and access to the means of production is the result, not only the concentration of massive amounts of wealth in a few hands, via enclosure and other expropriations, as the founding act of capitalism; it reflects, further, centuries of that wealth compounding on itself through unearned economic rents via artificial property rights enforced by the state.

Now, given the range of available alternatives — given, that is, the fact that the employer is in an artificial position of control over access to opportunities, as the result of numerous illegitimate historical and institutional factors — it's a tautology that workers will "benefit" from signing the non-compete clause compared to being denied employment altogether. Although he's fond of accusing others of "economic illiteracy," and does so in several of the pieces linked above, Block himself demonstrates no small amount of it in the course of his arguments.

Sometimes Block doesn't even limit himself to defending background violence. He even speaks up in favor of state violence that's very much in the foreground, as in this apparent defense of gentry-

meaningless in any practical sense without taking such contexts into consideration.” It was part of a larger project of depoliticizing political economy. As Ernesto Screpanti and Stefano Zamagni argue in *An Outline of the History of Economic Thought*,

After removing every sociopolitical connotation from the distributive problem, so as to be able to demonstrate that each subject receives a share of the national income proportional to his production contribution...

...[T]he application of a general rule such as that of marginal productivity seems to satisfy two fundamental principles: the *principle of efficiency*, since the possibility is excluded that unproductive resources can be part of the distribution of income and can continue to be produced; and the *principle of equity*, since it seems ethically legitimate that each agent receives an income in relation to what he has contributed to produce. In other words, the distribution of income is governed by a ‘natural law’ which attributes to every agent the amount of wealth he has contributed to produce. The notion of exploitation loses all meaning in this context.

Rather than market exchange and free contract being a neutral set of rules that immaculately allocates income to “factors of production” according to their productivity, the truth is that productivity is itself defined in terms of a preexisting power distribution; in other words, “marginal productivity” is a tautological concept by which income is allocated to economic actors according to their respective power. Marginal productivity theory treats the existing distribution of ownership rights over “factors of production” as given, and then proceeds to show how the product is distributed among them according to their “contribution” (i.e. what they contribute to the price of a finished good). But what the various factors contribute to the price of a finished good basically amounts to

In addition, he argues, sweatshop employment practices can’t be all *that* exploitative, because their profits are relatively low:

Another difficulty with this charge is that firms in this industry do not garner vast profits as they would be expected to, if they were really radically underpaying numerous employees. One inside source has stated: “How profitable is the fashion industry? A clothing brand isn’t a very profitable business. Most people think you’ll make a kajillion dollars and be well on your way to overnight stardom. But the reality is that the profit margins on clothing are notoriously low. According to industry analysts, you’re looking at 4–13% profit margins.”

He also argues that workers can’t be underpaid, by definition, because wages “tend to reflect marginal revenue productivity.”

In the case of non-compete clauses, they are self-evidently beneficial to the worker because the worker enters into them voluntarily, and would not do so if it weren’t to their benefit.

The fact that these contracts are consummated is proof positive that they are mutually beneficial, at the very least in the ex-ante sense of expectations....

Nor do they have to sign these agreements in the first place. And if they do, their wages will increase, not decrease. After all, they are giving up something that would otherwise be their right to engage in. People earn more, not less, when they give up an option that would otherwise be theirs.

Must be nice to live in Block’s wonderful, magical, imaginary world where everything is a “voluntary” contract between equals, and power differentials don’t exist. Let’s take a look at all the power

relations and structural inequalities involved in the various examples Block defends above.

We'll start with "voluntary slavery contracts." The first thing that came to my mind, in reading Block's argument for the beneficial function of such voluntary slavery — which I suspect would come to the minds of most non-sociopaths, as well — is what kind of hellish society would have the kind of gross wealth inequality, economic insecurity, enormously expensive healthcare, and total lack of institutions for mutual aid and social solidarity, which would drive someone to sell themselves into slavery in order to pay for his wife's cancer treatment. Most libertarians, rightly or wrongly, portray their ideal libertarian society as a significant improvement on this one in terms of things like the typical standard of living and availability of affordable, quality healthcare. Block posits an ideal society, on the other hand, whose gini coefficient makes Sparta, Mississippi look like Sweden by comparison. Then, having consciously designed the kind of society which would drive someone into "voluntarily" selling himself into slavery, he lovingly describes all of its most inhuman aspects — right down to for-profit slave patrols and masters' absolute life-and-death power over slaves.

Next, Block's argument that the resources consumed by fast fashion producers are bought from "willing sellers:" That means precisely nothing. Plenty of coercive transactions, in which one party or the other has a state enforced monopoly or other position of privilege, involve "willing sellers." In the case of the natural resources consumed by large corporations — land, forests, minerals, fossil fuels, water — the seller is often the heir or assign of colonial governments or settlers who expropriated commonly owned resources, or a post-colonial government that expropriated the expropriators and administers the resource with no accountability to the public. Corporate malefactors collude with the illegitimate private or state actor, more specifically, to pump water in unsustainable amounts from aquifers that are rightfully part of the wa-

ter commons owned by the people of the area involved. A case in point is the large-scale looting of water by Nestle and other bottling companies, in collusion with local water utilities.

The claim that "successful companies ... have a right to buy up pretty much anything they want to purchase" is hardly as obvious as Block seems to think. That assertion assumes that not only the buyer's wealth, but the seller's title to the thing sold, is legitimate. To repeat, the great bulk of "property rights" in the world's land and natural resources are traceable to engrossment, expropriation, looting, and enclosure.

Block's argument that low sweatshop profits mean no exploitation is taking place displays a profound ignorance of how the global economy actually works. Sweatshops are part of global supply chains that are enclosed within corporate frameworks. They may be nominally independent; but they are still, *de facto*, vertically integrated under the control of the old Western industrial corporations. The industrial corporations have outsourced much, most, or all of actual production to those sweatshops, but they retain a full legal monopoly over disposal of the product thanks to their control of intellectual property and finance. The corporations push their suppliers to the very edge, and those suppliers in turn exploit their workers without mercy. Global retail chains, likewise, are notorious for pushing vendors to cut costs to the bare minimum. Shit, as the old saying goes, runs downhill. So while sweatshop workers are grossly exploited, the biggest net beneficiaries of the exploitation are not the sweatshop employers themselves but the global corporations that outsource production to them.

The doctrine that wages reflect the marginal productivity of labor, like the rest of the marginalist project, amounts to an attempt to redefine actual power relations as neutral and power-blind relations of exchange. As I write elsewhere, "marginal productivity attains its formally valid character by stripping away all context of property rules, power structures, etc. But the concept is largely