

Libertarian Feminism: Can This Marriage Be Saved?

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Let's start with what this essay will do, and what it will not. We are both convinced of, and this essay will take more or less for granted, that the political traditions of libertarianism and feminism are both in the main correct, insightful, and of the first importance in any struggle to build a just, free, and compassionate society. We do not intend to try to *justify* the import of either tradition on the other's terms, nor *prove* the correctness or insightfulness of the non-aggression principle, the libertarian critique of state coercion, the reality and pervasiveness of male violence and discrimination against women, or the feminist critique of patriarchy. Those are important conversations to have, but we won't have them here; they are better found in the foundational works that have already been written within the feminist and libertarian traditions. The aim here is not to set down doctrine or refute heresy; it's to get clear on how to *reconcile* commitments to both libertarianism *and* feminism—although in reconciling them we may remove some of the reasons that people have had for resisting libertarian or feminist conclusions. Libertarianism and feminism, when they have encountered each other, have most often taken each other for polar opposites. Many 20th century libertarians have dismissed or attacked feminism—when they have addressed it at all—as just another wing of Left-wing statism; many feminists have dismissed or attacked libertarianism—when they have addressed it at all—as either Angry White Male reaction or an extreme faction of the ideology of the liberal capitalist state. But we hold that both judgments are unjust; many of the problems in combining libertarianism with feminism turn out to be little more than terminological conflicts that arose from shifting political alliances in the course of the 20th century; and most if not all of the substantive disagreements can be negotiated within positions already clearly established within the feminist and libertarian traditions. What we hope to do, then, is not to present the case for libertarianism and for feminism, but rather to clear the ground a bit so that libertarianism and feminism can recognize the important insights that each has to offer the other, and can work together on terms that allow each to do their work without slighting either.

We are not the first to cover this ground. Contemporary libertarian feminists such as Joan Kennedy Taylor and Wendy McElroy have written extensively on the relationship between

libertarianism and feminism, and they have worked within the libertarian movement to encourage appeals to feminist concerns and engagement with feminist efforts. But as valuable as the 20th century libertarian feminists' scholarship has been, we find many elements of the "libertarian feminism" they propose to be both limited and limiting; the conceptual framework behind their synthesis all too often marginalizes or ignores large and essential parts of the feminist critique of patriarchy, and as a result they all too often keep really existing feminist efforts at arm's length. But an examination of the methods and thought of the 19th century radical individualists, and of Second Wave feminism in light of the individualist tradition, does reveal the possibility of a libertarian feminism, but in a way very different from what contemporary libertarian feminists might have expected, and with very different implications for the terms on which libertarianism and feminism can work together.

The parallels between libertarian and feminist insights are striking. "The state is male in the feminist sense," MacKinnon argues, in that "the law sees and treats women the way men see and treat women" (MacKinnon 1989, pp. 161-2). The libertarian completion of this thought is that the state sees and treats *everybody*—though not in equal degree—the way men see and treat women. The ideal of a woman's willing surrender to a benevolent male protector both feeds and is fed by the ideal of the citizenry's willing surrender to a benevolent governmental protector. "We are not among wild beasts; from whom, then, does woman need protection? From her protectors," Ezra Heywood remarked (McElroy 1991, p. 227); in the same way, libertarians have often described the state as an entity that protects people primarily from harms caused or exacerbated by the state in the first place. Just as, under patriarchy, forced sex is not recognized as *real* or fully serious rape unless the perpetrator is a stranger rather than one's husband or boyfriend, so, under statism, governmental coercion is not recognized as *real* or fully serious tyranny unless it happens under a non-democratic government, a "dictatorship." The marriage vow, as a rape license, has its parallel in the electoral ballot, as a tyranny license. Those who seek to withhold consent from their country's governmental apparatus altogether get asked the same question that battered women get asked: "If you don't like it, why don't you leave?" – the man's rightful jurisdiction over the home, and the state's over the country, being taken for granted. It's always the *woman*, not the abusive man, who needs to vacate the home (to go where?); it's likewise the *citizen*, not the abusive state, that needs to vacate the territory (to go where?).

Despite these parallels, however, many libertarians – libertarian feminists definitely included – seems surprisingly unsympathetic to most of what feminists have to say. Libertarians are often unimpressed by feminist worries about social norms that disable anything a woman says from counting as declining consent to sexual access, but they are indignant at theories of tacit or hypothetical consent that disable anything a citizen says from counting as declining consent to governmental authority.ⁱ Libertarians often conclude that gender roles must not be oppressive since many women accept them; but they do not analogously treat the fact that most citizens accept the legitimacy of governmental compulsion as a reason to question its oppressive character; on the contrary, they see their task as one of consciousness-raising and demystification, or, in the Marxian phrase, plucking the flowers from the chains to expose their character as chains.

When radical feminists say that male supremacy rests in large part on the fact of rape—as when Susan Brownmiller characterizes rape as “a conscious process of intimidation by which *all* men keep *all* women in a state of fear” (*Against Our Will*, p. 15)—libertarians often dismiss this on the grounds that not all men are literal rapists and most not all women are literally raped. But when their own Ludwig von Mises says that “government interference always means either violent action or the threat of such action,” that it rests “in the last resort” on “the employment of armed men, of policemen, gendarmes, soldiers, prison guards, and hangmen,” and that its “essential feature” is “the enforcement of its decrees by beating, killing, and imprisoning” [*HA* VI.27.2], libertarians applaud this as a welcome demystification of the state. Libertarians rightly recognize that legally enacted violence is the means by which *all* rulers keep *all* citizens in a state of fear, even though not all government functionaries personally beat, kill, or imprison anybody, and even though not all citizens are beaten, killed, or imprisoned; the same interpretive charity towards the radical feminist analysis of rape is not too much to ask.

Brownmiller's and other feminists' insights into the pervasiveness of battery, incest, and other forms of male violence against women, present both a crisis and an opportunity for libertarians. Libertarianism professes to be a comprehensive theory of human freedom; what is supposed to be distinctive about the libertarian theory of justice is that we concern ourselves with violent coercion no matter *who* is practicing it—even if he has a government uniform on. But what feminists have forced into the public eye in the last 30 years is that, in a society where one out of every four women faces rape or battery by an intimate partner,ⁱⁱ and where women are threatened or attacked by men who profess to love them, because the men who attack them

believe that being a man means you have the authority to control women, male violence against women is nominally illegal but nevertheless systematic, motivated by the desire for control, culturally excused, and hideously ordinary. For libertarians, this should sound eerily familiar; confronting the full reality of male violence means nothing less than recognizing the existence of a violent political order working alongside, and independently of, the violent political order of statism. As radical feminist Catharine MacKinnon writes, “Unlike the ways in which men systematically enslave, violate, dehumanize, and exterminate other men, expressing political inequalities among men, men's forms of dominance over women have been accomplished socially as well as economically, prior to the operation of the law, without express state acts, often in intimate contexts, as everyday life” (1989, p. 161). Male supremacy has its own ideological rationalizations, its own propaganda, its own expropriation, and its own violent enforcement; although it is often in league with the male-dominated state, male violence is older, more invasive, closer to home, and harder to escape than most forms of statism. This means that libertarians who are serious about ending all forms of political violence need to fight, at least, a two-front war, against both statism and male supremacy; an adequate discussion of what this insight means for libertarian politics requires much more time than we have here. But it *is* important to note how the writings of some libertarians on the family—especially those who identify with the “paleolibertarian” political and cultural project—have amounted to little more than outright denial of male violence. Hans Hermann Hoppe, for example, goes so far as to indulge in the conservative fantasy that the traditional “internal layers and ranks of authority” in the family are actually bulwarks of “resistance vis-a-vis the state” (“Secession, the State, and the Immigration Problem” § IV). The “ranks of authority” in the family, of course, means the *pater familias*, and whether father-right is, at a given moment in history, mostly in league with or somewhat at odds with state prerogatives, the fact that it is so widely enforced by the threat or practice of male violence means that trying to enlist it in the struggle against statism is much like enlisting Stalin in order to fight Hitler—no matter who wins, we all lose.

Some of libertarians' sharpest jabs at feminism have been directed against feminist criticisms of sexual harassment, misogynist pornography, or sadomasochism. Feminists in particular are targeted as the leading crusaders for “political correctness”, and characterized as killjoys, censors, or man-haters for criticising speech or consensual sex acts in which women are denigrated or dominated; it is apparently claimed that *since* the harassment or the portrayal doesn't (directly) involve *violence*, there aren't any grounds for taking political exception to it.

But the popularity in libertarian circles of Ayn Rand's novel *The Fountainhead* (a deeply problematic novel from a feminist standpoint,ⁱⁱⁱ but instructive on the present point) indicates that libertarians know better when it comes to, say, conformity and collectivism. Although its political implications are fairly clear, *The Fountainhead* pays relatively little attention to governmental oppression *per se*; its main focus is on social pressures that encourage conformity and penalize independence. Rand traces how such pressures operate through predominantly *non-governmental* and (in the libertarian sense) *non-coercive* means, in the business world, the media, and society generally. Some of the novel's characters give in, swiftly or slowly, and sell their souls for social advancement; others resist but end up marginalized, impoverished, and psychologically debilitated as a result. Only the novel's hero succeeds, eventually, in achieving worldly success without sacrificing his integrity – but only after a painful and *superhuman* struggle. It would be hard to imagine libertarians describing fans of *The Fountainhead* as puritans or censors because of their objections to the Ellesworth Toohey's of the world—even though Toohey's malign influence is mainly exercised through rhetorical and social means rather than by legal force. An uncharitable reading that the situation unfortunately suggests is that libertarians can recognize non-governmental oppression in principle, but in practice seem unable to grasp any form of oppression other than the ones that well-educated white men may have experienced for themselves.

A more charitable reading of libertarian attitudes might be this: while the collectivist boycott of independent minds and stifling of creative excellence in *The Fountainhead* is not itself enacted through government means, collectivism clearly *is* associated with the mass psychology that supports statism. So is patriarchy, actually, but it is most closely associated with a non-governmental form of oppression—that is, male supremacy and violence against women. All this makes it seem, at times, that libertarians—including libertarian feminists—are suffering from a sort of willful conceptual blindness; perhaps because they are afraid to grant the existence of serious and systematic forms of political oppression that are not connected solely or mainly with the state. It's as though, if they granted any *political* critique of the outcomes of voluntary association, they would thereby be granting that voluntary association as such is oppressive, and that government regulation is the solution. But such a phobic reaction only makes sense if you first accept (either tacitly or explicitly) the premise that all *politics* is exclusively the domain of the *government*, and as such (given Mises's insights into the nature of government) all *political* action is essentially *violent* action. This is, as it were, a problem that has no name; but we might

call it “the authoritarian theory of politics,” since it amounts to the premise that any political question is a question resolved by *violence*; many 20th century libertarians simply grant the premise and then, because they hold that *no* question is worth resolving by (initiator) violence, they call for the death of politics^{iv} in human affairs.

It's true that a libertarian could (as Karl Hess, for example, does) simply insist on a *definition* of politics in terms of the authoritarian theory, and stick consistently to the stipulation, while also doing work on a systemic critique of forms of oppression that aren't (by their definition) enacted through the “political means”; they would simply have to hold that a full appreciation of oppressive conditions requires a thorough understanding of what “the economic means” or “action in the market” or “civil society” can include. But *given* the curious misunderstandings that many libertarians seem to have of feminist critiques, it seems likely that the issue here isn't *merely* terminological—it may be that the real nature of typical feminist concerns and activism is rendered incomprehensible by sticking to stipulations about the use of “politics” and “the market” when the ordinary use of those terms won't bear them. A women's “Ogle-In” on Wall Street has something importantly in common with legislation, court proceedings, and even market activities such as boycotts or pickets that appeals to our pre-analytic use of “political”—even though neither the “Ogle-In” nor the market protests are violent, or in any way connected with the State: they are all trying to address a question of *social coordination* through *conscious* action, and they work by calling on people to make choices with the *intent* of addressing the social issue—as opposed to actions in which the *intent* is some more narrowly economic form of satisfaction, and any effects on social coordination (for good or for ill) are *unintended consequences*.^v

Libertarian temptations to the contrary notwithstanding, it makes no sense to regard the state as the root of *all* social evil, for there is at least one social evil that cannot be blamed on the state – and that is the state itself. If no social evil can arise or be sustained except by the state, how does the *state* arise, and how is it sustained? As libertarians from La Boétie to Rothbard have rightly insisted, since rulers are generally outnumbered by those they rule, the state itself cannot survive *except* through popular acceptance which the state lacks the power to compel; hence state power is always part of an interlocking system of mutually reinforcing social practices and structures, not all of which are violations of the nonaggression axiom. There is nothing un-libertarian, then, in recognizing the existence of economic and/or cultural forms of oppression which, while they may draw *sustenance* from the state (and vice versa), are not

reducible to state power. One can see statism and patriarchy as mutually reinforcing systems (thus ruling out both the option of fighting statism while leaving patriarchy intact, and the option of fighting patriarchy by means of statism) without being thereby committed to seeing either as a mere epiphenomenon of the other (thus ruling out the option of fighting patriarchy solely indirectly by fighting statism).

The relationship between libertarianism and feminism has not always been so chilly. 19th-century libertarians – a group which includes classical liberals in the tradition of Jean-Baptiste Say and Herbert Spencer, as well as individualist anarchists in the tradition of Josiah Warren – generally belonged to what Chris Sciabarra has characterized as the “radical” or “dialectical” tradition in libertarianism, in which the political institutions and practices that libertarians condemn as oppressive are seen as part of a larger interlocking system of mutually reinforcing political, economic, and cultural structures.^{vi} Libertarian sociologist Charles Dunoyer, for example, observed:

The first mistake, and to my mind the most serious, is not sufficiently seeing difficulties where they are – not recognizing them except in governments. Since it is indeed there that the greatest obstacles ordinarily make themselves felt, it is assumed that that is where they exist, and that alone is where one endeavors to attack them. ... One is unwilling to see that nations are the material from which governments are made; that it is from their bosom that governments emerge One wants to see only the government; it is against the government that all the complaints, all the censures are directed^{vii}

From this point of view, narrowly directing one’s efforts toward purely political reform without addressing the broader social context is unlikely to be effective.

Contrary to their reputation, then, 19th-century libertarians rejected atomistic conceptions of human life. Herbert Spencer, for example, insisted that society is an organism, and that the actions of individuals accordingly cannot be understood except in relation to the social relations in which they participate. Just as, he explained, the “process of loading a gun is meaningless unless the subsequent actions performed with the gun are known,” and a “fragment of a sentence, if not unintelligible, is wrongly interpreted in the absence of its remainder,” so any part, if “conceived without any reference to the whole,” can be comprehended only in a distorted manner.^{viii} But Spencer saw no conflict between his organismic view of society and his political individualism; in fact Spencer saw the undirected, uncoerced, spontaneous order of organic processes such as growth and nutrition as strengthening the case *against*, rather than for, the

subordination of its individual members to the commands of a central authority.^{ix} In the same way, American libertarian Stephen Pearl Andrews characterized the libertarian method as “trinismal,” meaning that it transcended the false opposition between “unismal” collective aggregation and “duismal” fragmented diversity.^x Even the egoist-anarchist Benjamin Tucker insisted that society is a “concrete organism” irreducible to its aggregated individual members.^{xi}

While the 19th-century libertarians’ social holism and attention to broader context have been shared by many 20th-century libertarians as well, 19th-century libertarians were far more likely than their 20th-century counterparts to recognize the subordination of women as a component in the constellation of interlocking structures maintaining and maintained by statism.^{xii} Dunoyer and Spencer, for example, saw patriarchy as the original form of class oppression, the model for and origin of all subsequent forms of class rule.^{xiii} For Dunoyer, primitive patriarchy constituted a system in which a parasitic governmental élite, the men, made their living primarily by taxing, regulating, and conscripting a productive and industrious laboring class, the women. Herbert Spencer concurred:

The slave-class in a primitive society consists of the women; and the earliest division of labour is that which arises between them and their masters. For a long time no other division of labour exists.^{xiv}

Moreover, Spencer saw an intimate connection between the rise of patriarchy and the rise of militarism:

The primary political differentiation originates from the primary family differentiation. Men and women being by the unlikeness of their functions in life, exposed to unlike influences, begin from the first to assume unlike positions in the community as they do in the family: very early they respectively form the two political classes of rulers and ruled. ... [In] ordinary cases ... the men, solely occupied in war and the chase, have unlimited authority, while the women, occupied in gathering miscellaneous small food and carrying burdens, are abject slaves [whereas in] those few uncivilized societies which are habitually peaceful ... in which the occupations are not, or were not, broadly divided into fighting and working, and severally assigned to the two sexes ... along with a comparatively small difference between the activities of the sexes, there goes, or went, small difference of social status. ... Where the life is permanently peaceful, definite class-divisions do not exist. ... [T]he domestic relation between the sexes passes into a political relation, such that men and women become, in militant groups, the ruling class and the subject class
.....^{xv}

Accordingly, Spencer likewise saw the replacement of militarized hierarchical societies by more market-oriented societies based on commerce and mutual exchange as closely allied with the decline of patriarchy in favor of increasing sexual equality; changing power relations within the

family and changing power relations within the broader society stood in relations of interdependence. In Spencer's view, the mutual reinforcement between statism, militarism, and patriarchy continued to characterize 19th-century capitalist society:

To the same extent that the triumph of might over right is seen in a nation's political institutions, it is seen in its domestic ones. Despotism in the state is necessarily associated with despotism in the family. ... [I]n as far as our laws and customs violate the rights of humanity by giving the richer classes power over the poorer, in so far do they similarly violate those rights by giving the stronger sex power over the weaker. ... To the same extent that the old leaven of tyranny shows itself in the transactions of the senate, it will creep out in the doings of the household. If injustice sways men's public acts, it will inevitably sway their private ones also. The mere fact, therefore, that oppression marks the relationships of out-door life, is ample proof that it exists in the relationships of the fireside.^{xvi}

This analysis of the relation between militarism and patriarchy from the fantastically-maligned but seldom-actually-read radical libertarian Herbert Spencer is strikingly similar to that offered by the fantastically-maligned but seldom-actually-read radical feminist Andrea Dworkin:

I mean that there is a relationship between the way that women are raped and your socialization to rape and the war machine that grinds you up and spits you out: the war machine that you go through just like that woman went through Larry Flynt's meat grinder on the cover of *Hustler*. You damn well better believe that you're involved in this tragedy and that it's your tragedy too. Because you're turned into little soldier boys from the day that you are born and everything that you learn about how to avoid the humanity of women becomes part of the militarism of the country in which you live and the world in which you live. It is also part of the economy that you frequently claim to protest.

And the problem is that you think it's out there: and it's not out there. It's in you. The pimps and the warmongers speak for you. Rape and war are not so different. And what the pimps and the warmongers do is that they make you so proud of being men who can get it up and give it hard. And they take that acculturated sexuality and they put you in little uniforms and they send you out to kill and to die. (*Letters from a War Zone* ** cite)

Nor did Spencer confine his attention to those forms of patriarchal oppression that were literally violent or coercive in the sense of violating libertarian rights; he denounced not only the legal provision that "a husband may justly take possession of his wife's earnings against her will" or the "statute, which permits a man to beat his wife in moderation and to imprison her in any room in his house,"¹ but the entire system of economic and cultural expectations and institutions within which violent forms of oppression were embedded. He complained, for example, of a variety of

¹ *Ibid.*, p. 139.

factors—more often cultural than legal—that systematically stunted women's education and intellectual development, including such facts as that women “are not admissible to the academies and universities in which men get their training,” that “the kind of life they have to look forward to, does not present so great a range of ambitions,” that “they are rarely exposed to that most powerful of all stimuli – necessity,” that “the education custom dictates for them is one that leaves uncultivated many of the higher faculties,” and that “the prejudice against blue-stockings, hitherto so prevalent amongst men, has greatly tended to deter women from the pursuit of literary honours.”^{xvii} In the same way he protested against the obstacles to women’s physical health and well-being deriving from patriarchal norms of feminine attractiveness and propriety that promoted in the training of girls “a certain delicacy, a strength not competent to more than a mile or two’s walk, an appetite fastidious and easily satisfied, joined with that timidity which commonly accompanies feebleness.”^{xviii}

The 19th-century libertarians’ attitude toward (what was called) the “woman question” has much in common with their attitude toward the (analogously labeled) “labor question.” 19th-century libertarians generally saw the existing capitalist order as a denial, rather than as an expression, of the free market. For most of these thinkers, “capitalism” meant, not economic *laissez-faire* (which as libertarians they favored), but rather government intervention in the marketplace *on behalf of capitalists at the expense of laborers and consumers*, and they condemned it accordingly as the chief prop of plutocratic class oppression.² But rather than simply calling for an end to pro-business legislation, they also favored private cooperative action by workers to improve their bargaining power *vis-à-vis* employers or indeed to transcend the wage system altogether; hence their support for the labor movement, workers’ cooperatives, and the like.^{xix} Similarly, while calling for an end to legislation that discriminated against women, 19th-century libertarians like Spencer did not confine themselves to that task, but also, as we’ve seen, addressed the economic and cultural barriers to gender equality, “private” barriers which they saw as operating in coordination with the governmental barriers.

Such problems as domestic violence and crimes of jealousy, for example, derive, Stephen Pearl Andrews taught, primarily from the inculcation of patriarchal values, which encourage a

² This sort of analysis retains some popularity within libertarianism today, particularly in the Rothbardian wing of the movement. See, e.g., Walter E. Grinder and John Hagel III, “Toward a Theory of State Capitalism: Ultimate Decision-making and Class Structure,” *Journal of Libertarian Studies* 1, no. 1 (1977), pp. 59-79; Roy A. Childs, Jr., “Big Business and the Rise of American Statism,” in Joan Kennedy Taylor, ed., *Liberty Against Power: Essays by Roy A. Childs, Jr.* (San Francisco: Fox & Wilkes, 1994), pp. 15-47; and Roderick T. Long, “Toward a Libertarian Theory of Class,” *Social Philosophy & Policy* 15, no. 2 (Summer 1998), pp. 303-349.

man to suppose “that the woman *belongs*, not to herself, but to him.” Although the best immediate solution to this problem “may be to knock the man on the head, or to commit him ... to Sing-Sing,” the superior longterm solution is “a public sentiment, based on the recognition of the Sovereignty of the Individual.” The ultimate cure for domestic violence thus lies in *cultural* rather than in legal reform: “Let the idea be completely repudiated from the man’s mind that that woman, or any woman, could, by possibility, belong to him, or was to be true to him, or owed him anything, farther than as she might choose to bestow herself.” (Andrews 1889, p. 70) But Andrews’ solution was not solely cultural but also economic, stressing the need for women to achieve financial independence. Andrews criticized the system “by which the husband and father earns all the money, and doles it out in charitable pittances to wife and daughters, who are kept as helpless dependents, in ignorance of business and the responsibilities of life,” and “liable at any time to be thrown upon their own resources, with no resources to be thrown upon.” (p. 42) One key to women’s economic independence would be to have children “reared in Unitary Nurseries” (p. 41), *i.e.*, day care (funded of course by voluntarily pooled resources rather than by the State, which Andrews sought to abolish). Andrews looked forward to a future in which “with such provision ... for the care of children, Women find it as easy to earn an independent living as Men,” and thus “freed by these changes from the care of the nursery and the household, Woman is enabled, even while a mother, to select whatever calling or profession suits her tastes.”

So the individualists' libertarianism was not cashed out in *ignoring* non-governmental forms of oppression, but in their refusal to endorse government intervention as a long-term means of combating them. At first glance, contemporary liberals might find all this puzzling: “So the 19th century libertarians *recognized* these problems, but they didn't want to do anything effective about them?” But “effective political action” only means “government force” if you buy into the authoritarian theory of politics; and there are good reasons—both historical and theoretical—for contemporary feminists to reject it. Feminists such as Kate Millett and Catharine MacKinnon³ have directly criticized conceptions of politics that are exclusively tied to the the exercise of State power, and throughout the late 1960s and 1970s, radical feminists continually fought against the patronizing response to their program by male Leftists who could not recognize women's “personal” circumstances as a *political* issue, or the actions and institutions suggested by Women's Liberation as a *political* program, precisely because they were outside of the realm of male public debate and government action. And as historians of second-wave

³ Cf., for example, Catharine MacKinnon, *Toward a Feminist Theory of the State*, p. 160ff

feminism such as Susan Brownmiller⁴ have shown, many of radical feminism's most striking achievements were brought about through efforts that were both clearly *political* in nature but also *independent* of State political processes—such as consciousness-raising groups, “ogle-ins” and WITCH “hexes” against street harassment and sexist businesses,^{xx} and the creation of autonomous women-run institutions such as cooperative day-care centers, women's health collectives, and the first battered women's shelters and rape crisis centers.^{xxi}

Nineteenth century libertarians would hardly have been surprised that these efforts have been as effective as they have without the support of government coercion; in fact, they might very well argue that it is precisely *because* they have avoided the quagmire of the bureaucratic State that they *have* been so effective.^{xxii} If libertarian social and economic theory is correct, then non-libertarians typically overestimate the efficacy of governmental solutions, and underestimate the efficacy of non-governmental solutions. The 19th-century libertarian feminists opposed state action not only because of their moral objections to state coercion but also because they understood the state – what Ezra Heywood called the “booted, spurred and whiskered thing called government” (in McElroy 1991, p. 226) – as *itself* a patriarchal institution, whose very existence helped to reinforce patriarchy (or what Angela Heywood called “he-ism”) in the private sector; using the state to fight male supremacy would thus be like attempting to douse a fire with kerosene. As Voltairine de Cleyre put it:

Today you go to a representative of that power which has robbed you of the earth, of the right of free contract of the means of exchange, taxes you for everything you eat or wear (the meanest form of robbery), – you go to him for redress from a thief! It is about as logical as the Christian lady whose husband had been “removed” by Divine Providence, and who thereupon prayed to said Providence to “comfort the widow and the fatherless.” In freedom we would not institute a wholesale robber to protect us from petty larceny. (“Economic Tendency of Freethought” **)

The 19th-century libertarians would thus not have been surprised to learn that, in our day, that anti-pornography law written with feminist intentions has been applied by male police and male judges to censor feminist publications, or that sex discrimination law has, in the hands of male legislators and judges, been used to reverse 19th century feminist gains in custody and divorce law.^{xxiii} Hand the he-ist state a club, and you can be sure the club will be used in a he-ist manner.

While adverse power relations in the private sector – whether between labor and capital or between men and women – were seen as drawing much of their strength from the support

⁴ In *In Our Time: Memoir of a Revolution*

given to them by corresponding power relations in the political sector, these thinkers did not conclude that it would be sufficient to direct all their energies against the sins of government in the hope that the private forms of oppression would fall as soon as political forms did. On the contrary, if private oppression drew strength from political oppression, *the converse was true as well*; 19th-century libertarians saw themselves as facing an interlocking *system* of private and public oppression, and thus recognized that political liberation could not be achieved except via a thoroughgoing transformation of society as a whole. While such libertarians would have been gratified by the extent to which overt governmental discrimination against women has been diminished in present-day Western societies, they would not have been willing to treat *that* sort of discrimination as the sole index of gender-based oppression in society.

Moses Harman, for example, maintained not only that the family was patriarchal because it was regulated by the patriarchal state, but also that the state was patriarchal because it was founded on the patriarchal family: “I recognize that the government of the United States is exclusive, jealous, partialistic, narrowly selfish, despotic, invasive, paternalistic, monopolistic, and cruel – logically and legitimately so because the unit and basis of that government is the family whose chief corner stone is institutional marriage.” (In McElroy 199, p. 104) Harman saw the non-governmental sources of patriarchy as analogous to the non-governmental sources of chattel slavery (another social evil against which libertarians were especially active in fighting. Hence the fight against patriarchy would likewise require challenging not only governmental but also religious, economico-industrial, and societal obstacles (such as the social sanctions against divorce, birth control, and careers for women, coordinate with the legal sanctions).

While the non-governmental obstacles drew strength from the governmental ones, Victor Yarros stressed that they also had an independent force of their own. In addition to their “burden of economic servitude,” which Yarros optimistically opined “would not outlive the State and legality for a single day, for it has no other root to depend upon for continued existence,” women are also “subjected to the misery of being the property, tool, and plaything of man, and have neither power to protest against the use, nor remedies against abuse, of their persons by their male masters” – and *this* form of subjugation, he thought, could not be abolished overnight simply by abolishing the state, since it was “sanctioned by custom, prejudice, tradition, and prevailing notions of morality and purity”; its abolition must thus await further economic and intellectual progress.

19th-century libertarians, especially in the English-speaking world (French libertarians tended to be more socially conservative), were deeply skeptical of the institution of marriage. “Marriage is unjust to woman,” Moses Harman declared, “depriving her of her right of ownership and control of her person, of her children, her name, her time and her labor. ... I oppose marriage because marriage legalized rape.” (In McElroy **, pp100-102) A woman takes the last name first of her father, then of her husband, just as, traditionally, a slave has taken the last name of his master, “changing names every time he changed owners.” (** p. 112) Some, like Harman and Spencer, thought the solution lay in reconstituting as marriage a purely private relation, neither sanctioned nor regulated by the State, and thus involving no legal privileges for the husband. Others went farther and rejected marriage in any form, public or private, as a legacy of patriarchy; de Cleyre, for example, maintained that the “permanent relation of a man and a woman, sexual and economical, whereby the present home and family life is maintained,” is a “dependent relationship” and “detrimental to the growth of individual character,” regardless of whether it is “blessed by a priest, permitted by a magistrate, contracted publicly or privately, or not contracted at all.” (“They Who Marry Do Ill” **) Victor Yarros and Anselme Bellegarrigue nevertheless advised women to exploit existing gender conventions in order to get themselves supported by a man; Benjamin Tucker and Sarah Holmes, by contrast, insisted that “every individual, whether man or woman, shall be self-supporting,” and “have an independent home of his or her own.”^{xxiv}

19th-century libertarian feminists are not easily classifiable in terms of the contemporary division between (or the stereotypes of) “liberal feminists” and “radical feminists.” We’ve already seen that they recognized no conflict between the “liberal” value of individualism and the “radical” claim that the self is socially constituted. They were also “liberal” in taking individuals rather than groups as their primary unit of analysis – but “radical” in their contextualizing methodology; they would have agreed with MacKinnon’s remark that thoughts and ideas are “constituent participants in conditions – more than mere reflections [à la Marxism] but less than unilinear causes [à la liberalism] of life settings.” (MacKinnon 1989, p. 46) They were “liberal” in their stress on negative freedom and their respect for the actual choices people make, but they were also “radical” in their recognition that outward acquiescence may not express genuine consent – since, in Andrews’ words, “wives have the same motives that slaves have for professing contentment, and smile deceitfully while the heart swells indignantly.”

(Andrews ***) Unlike some radical feminists (such as Mary Daly), they did not treat patriarchy as the *root cause* of all other forms of oppression; for them patriarchy was simply one component (though the chronologically first component) of a larger oppressive system, and to the extent that they recognized one of this system's components as causally primary, they were more likely to assign that role to the *state*. But like radical and unlike liberal feminists, they did not treat sexism as a separable aberration in a basically equitable socio-economic order; they argued that male supremacy was a *fundamental principle* of a social order that required radical changes in society and culture, as well as law and personal attitudes. Thus they would gladly endorse MacKinnon's statement that "powerlessness is a problem but redistribution of power as currently defined is not its ultimate solution" (MacKinnon 1989, p. 46). 19th century libertarian feminists vigorously debated the degree to which participation in electoral politics was a legitimate means and end for women's liberation;^{xxv} they also offered radical critiques of the traditional family, and were willing to issue the kinds of shocking and extreme condemnations for which today's radical feminists are often criticized – as when Andrews and de Cleyre described the "whole existing marital system" as "the house of bondage and the slaughter-house of the female sex" (Andrews 1889, **), "a prison ... whose corridors radiate over all the earth, and with so many cells, that none may count them" (de Cleyre, "Sex Slavery" **), or when Bellegarrigue demystified romantic love by noting that "[t]he person whom one loves passes into the state of property and has no right; the more one loves her, the more one annihilates her; being itself is denied her, for she does not act from her own action, nor, moreover, does she think from her own thought; she does and thinks what is done and thought for her and despite her," and finally concluded that "Love is Hate."^{xxvi} As abolitionist William Lloyd Garrison (also a libertarian and a feminist) remarked, in another context, in defense of what some considered his extremist rhetoric: "I have need to be all on fire, for I have mountains of ice about me to melt." (***) 19th-century libertarian feminism was simultaneously liberal and radical, perhaps because libertarianism precisely is *liberalism radicalized*.

Since the 19th century, libertarianism and feminism have largely parted ways – perhaps, in part, because libertarians allowed the advance of state socialism in the early 20th century to drive them into an alliance with conservatives, an alliance from which libertarians could not hope to emerge unmarked. (Few libertarians today even remember that their 19th-century

predecessors often called their position “voluntary socialism”⁵ – “socialism” to contrast it, not with the free market, but with actually existing capitalism, and “voluntary” to contrast it both with state socialism and with anti-market versions of anarchist socialism.)^{xxvii}

In the century or so since libertarianism and feminism parted ways, feminists have developed increasingly sophisticated analyses and demystifications of patriarchy, but their understanding of statism has grown correspondingly blurred; libertarians have developed increasingly sophisticated analyses and demystifications of statism, but their understanding of patriarchy has grown correspondingly blurred. A 19th-century libertarian feminist, if resurrected today, might thus have much to learn from today’s libertarians about how statism works, and from today’s feminists about how patriarchy works; but she or he would doubtless also see present-day feminists as, all too often, extraordinarily insensitive to the pervasive and inherently destructive effects of state hegemony *per se*, and present-day libertarians as, all too often, extraordinarily insensitive to the pervasive and inherently destructive effects of male hegemony *per se*. A contemporary marriage, or remarriage, of feminism with libertarianism thus seems a consummation devoutly to be wished – but *not* if it is now to be a *patriarchal* marriage, one in which the feminism is subordinated to or absorbed into or muffled by the libertarianism, a marriage in which one party retains, while the other renounces, its radical edge. Our concern about the nature of libertarian feminism in its contemporary form is precisely that it tends to represent this sort of unequal union.^{xxviii}

Libertarian feminist Joan Kennedy Taylor has written extensively on the need for a more libertarian feminism and a more feminist libertarianism. While her work has been admirable in highlighting the importance of synthesizing libertarian insights with feminist insights, and in her willingness to call fellow libertarians to task when it is needed, we worry that her attempt at a synthesis often recapitulates antifeminist themes, and hobbles her feminist program in the process.

Many of the most frustrating elements of Taylor's attempt at libertarian feminism are connected with what you might call her dialectical strategy: throughout Taylor's work she attempts to position herself, and her libertarian feminism, mainly by means of *opposition*—by her insistent efforts to ally it with “mainstream”, “liberal” feminism^{xxix} and *thus* to distance it from “extreme”, “radical” feminism. The positioning strategy comes uncomfortably close to

⁵ Cf. Francis Dashwood Tandy, **

classical anti-feminist divide-and-conquer politics, in which the feminist world is divided into the “reasonable” (that is, unthreatening) feminists and the feminists who are “hysterical” or “man-hating” (so, presumably, not worthy of rational response), and the specter of “*That Kind of Feminist*” is then invoked to give feminists the Hobson's Choice between being marginalized and ignored, or being bullied into dulling the feminist edge of their politics wherever it is threatening enough to offend the “mainstream.”

Since the strategy amounts to little more than a barely-intellectualized version of old antifeminist standbys such as the “hairy-legged man-hater” and lesbian-baiting, we might call it “Lavender Menace” politics;^{xxx} and although Taylor shows considerably more understanding of, and sympathy with, classical feminist concerns than the anti-feminists who employ this strategy, her treatment of issues pioneered by radical feminists—such as sexual harassment in the workplace—seems to combine the authoritarian theory of politics with Lavender Menace rhetoric in ways that leave it limited and frustrating. Her book on sexual harassment,^{xxxi} oxymoronically subtitled “A Non-Adversarial Approach to Sexual Harassment,” much of what women experience as harassment in the workplace is simply a misunderstanding between the male and female subcultures, a misperception by women of such practices among men in traditionally all-male environments as hazing newcomers or telling sexist jokes. For Taylor, “male behavior that may seem directed at women in a hostile way may just be treating them as women often say they wish to be treated – like men.” (p. 7) Because women are the ones who are seeking to “enter male workplaces that are permeated by male culture,” Taylor concludes that “it should be the woman, and not the man, whose behavior is modified.” (p. 200)

But why, then, doesn't it equally follow that libertarians living in a predominantly statist culture should stop complaining about governmental coercion and instead adapt themselves to the *status quo*? After all, statist don't just tax and regulate libertarians; they tax and regulate each other. This is how statists have, for centuries, behaved toward one another in traditionally all-statist environments, and, one might argue, they're just innocently treating libertarians the same way. If Taylor and other libertarians are nevertheless unwilling take such statist behavior for granted, why should women follow her advice to take the analogous male behavior for granted? As Elizabeth Brake writes:

But why is part of men's culture to tell “dirty and anti-female jokes,” as Taylor claims? She writes that women should shrug off such joking Would the workplace situation that Taylor describes seem as harmless if she wrote, “Whites tell dirty and anti-black jokes among themselves”? Would she still counsel that the targets of such jokes should toughen up, rather than advocating a behavioral change

on the part of the jokers? ... It is staggering that Taylor forgets to ask *why* these jokes target women. And why does the hazing or teasing of women take a sexual form? I take it that men do not grope each other as part of their hazing rituals.^{xxxii}

To this we may add: and why are these *still* traditionally all-male or mostly-male environments, long after most purely *legislative* barriers to workplace equality have fallen? Is the behavior Taylor describes merely an effect, and not also in part a sustaining cause, of such workplace inequality?

Taylor has much to say about the harmful effects of power relations in the political sphere, but she seems oddly blind to harmful power relations in the “private” sphere; and much of her advice strikes us as counseling women to adapt themselves docilely to existing patriarchal power structures so long as those structures are not literally coercive in the strict libertarian sense. This sort of advice draws its entire force from the authoritarian theory of politics—in assuming that state violence is the only politically effective means for combating patriarchy. Taylor effectively renounces combating patriarchy; in so doing she not only undermines feminism, but also reinforces the very idea that drives some contemporary feminists towards a statist program.

We have similar concerns about many of the writings of Wendy McElroy, another of today’s foremost libertarian feminists. We greatly admire much that she has to say, including her radical analyses of state power; and her historical research uncovering the neglected radical individualist tradition of the 19th century is invaluable. But, as with Taylor, we find her treatment of present-day feminism problematic. Perhaps even more so than Taylor, McElroy's efforts at forging a libertarian feminism are limited by her tendency towards Lavender Menace politics. In her recent writings McElroy typically treats radical feminists *per se* as the enemy, adopting Christina Hoff Sommers' Lavender Menace terminology of “equity” and “gender feminism” for her analytical purposes. McElroy contrasts the political equality that her feminism seeks with the socioeconomic equality that radical feminism is said to seek, objecting that the goal for “gender feminists” is “not equality” but “gender (class) justice for women.” By “political equality,” McElroy (a voluntaryist anarchist) does not mean equal access to the franchise; rather, she means the absence of any and all political subordination of one person to another, where “political” is understood explicitly in terms of the authoritarian theory of politics:

Society is divided into two classes: those who use the political means, which is force, to acquire wealth or power and those who use the economic means, which

requires voluntary interaction. The former is the ruling class which lives off the labor and wealth of the latter. (McElroy 1991, p. 23)

For McElroy, then, the sort of gender inequality that feminism needs to address is simply a specific instance of the broader kind of inequality that libertarianism *per se* addresses – the subordination of some people to others by means of political force:

The libertarian theory of justice applies to all human beings regardless of secondary characteristics such as sex and color. ... To the extent that laws infringe upon self-ownership, they are unjust. To the extent that such violation is based upon sex, there is room for a libertarian feminist movement. (p. 22)

Notice how restrictive this recommendation is. The basis for a libertarian feminist movement is the existence of *laws* that (a) “infringe upon self-ownership,” and (b) do so “based upon sex.” Libertarian feminism is thus conceived as narrowly political in scope, and politics is conceived of exclusively in terms of the authoritarian theory. But on what grounds? Why is there no room in McElroy’s classification for a version of feminism that seeks to combat *both* legal and socioeconomic inequality, say? And why wouldn’t the concerns of this feminism have a perfectly good claim to the adjective “political?” McElroy’s answer is that “[a]lthough most women have experienced the uncomfortable and often painful discrimination that is a part of our culture, this is not a political matter. Peaceful discrimination is not a violation of rights.” (p. 23) Hence such discrimination is “not a subject that libertarianism as a political philosophy addresses except to state that all remedies for it must be peaceful.” (p. 23)

Now it is certainly true that no libertarian feminist can consistently advocate the use of political force to combat forms of discrimination that don’t involve the use of violence. But how should we classify a feminist who seeks to alter not only political institutions but also pervasive private forms of discrimination – but combats the latter through non-violent means only? What sort of feminist would she be? Suppose, moreover, that libertarian social theory tells us, as it arguably does, that governmental injustice is likely to reflect and draw sustenance from the prevailing economic and cultural conditions. Won’t it follow that libertarianism *does* have something to say, *qua* libertarian *political* theory, about those conditions?

McElroy is certainly not blind to the existence of pervasive but non-governmental discrimination against women; she writes that “our culture heavily influences sex-based behavior” and “even so intimate a matter as how we view ourselves as individuals” in such a way that “Many of the societal cues aimed at women carry messages that, if taken to heart, naturally produce feelings of intellectual insecurity and inadequacy.” So isn’t this sort of thing a

problem that feminists need to combat? McElroy's answer is puzzling here. She writes: "Although discrimination may always occur on an individual level, it is only through the political means that such discrimination can be institutionalized and maintained by force." (p. 23) This statement can be read as saying that sexual discrimination becomes a *systematic* problem, rather than an occasional nuisance, only as a result of state action. Yet she does not, strictly speaking, say that only through state action can discrimination be institutionalized (though the phrase "on an individual level" certainly invites that interpretation). What she says is that only through the *political means* can discrimination be institutionalized *by force*. Since, on the authoritarian theory that McElroy employs, the "political means" just *is* force, the statement is a tautology. But it leaves unanswered the questions: (a) can discrimination be institutionalized and maintained by means other than force? and (b) can discrimination be institutionalized and maintained by force but not by the state? Systematic non-governmental male violence would be an instance of institutionalizing patriarchy through means that are political, in McElroy's sense, but not governmental; various non-violent forms of social pressure would be a means of institutionalizing patriarchy through non-political means. McElroy is right to say that, for libertarians, discrimination that does not violate rights cannot be a "political" issue (in her sense of "political"); but it does not follow that feminism must be no more than "a response to the legal discrimination women have suffered from the state."

The implicit suggestion is that to regard something as a legitimate object of feminist concern is *ipso facto* to regard it as an appropriate object of legislation. On this view, those feminists who see lots of issues as meriting feminist attention will naturally favour lots of legislation, while those feminists who prefer minimal legislation will be led to suppose that relatively few issues merit feminist attention. But without the conceptual confusions that all too often accompany the authoritarian theory of politics, it's hard to see any reason for accepting the shared premise. Certainly McElroy's 19th-century libertarian feminist predecessors did not accept it.

It may seem odd to hold up 19th-century libertarian feminism as a model against which to criticize McElroy. For no one has done more than McElroy to popularize and defend 19th-century libertarian feminism, particularly in its American version. McElroy's career has been a steady stream of books and articles documenting, and urging a return to, the ideas of the 19th-century libertarian feminists. Yet we know – and it is largely owing to McElroy's own efforts

that we know – that if there are any “gender feminists” lurking out there, the 19th century individualists, while libertarian, would certainly be found among their ranks.

As we’ve seen, McElroy contrasts the libertarian version of class analysis, that assigns individuals to classes based on their access to political power, with both the Marxist version (based on access to the means of production) and the radical feminist (based, as she thinks, on biology).

Classes within ifeminist analysis are fluid. This is not true of radical feminist analysis that is based on biology. To radical feminism, biology is the factor that fixes an individual into a class. To ifeminism, the use of force is the salient factor and an individual can cross class lines at any point.”^{xxxiii}

There is a double confusion here. First, radical feminist analysis is *not* “based on biology.” On the contrary, a central theme of radical feminism has been precisely that gender differences are socially constructed, and that women are constituted as a politically relevant class by social institutions, practices, and imputed meanings, not by pre-social biological facts beyond anyone’s control. MacKinnon, for example, notes that while those actions on the part of women that serve the function of “maintaining and constantly reaffirming the structure of male supremacy at their expense” are “not freely willed,” they “are actions nonetheless,” and “once it is seen that these relations require daily acquiescence, acting on different principles ... seems not quite so impossible.” (MacKinnon 1989, pp. 101-2) Second, libertarian analysis traditionally understands the ruling class not just as those who make use of the “political means” (*i.e.*, force) – is a mugger thereby a member of the ruling class? – but as those who control the *state*, the hegemonic and institutionalized *organization* of the political means. The membership of *that* ruling class may not be strictly fixed at birth, but one cannot exactly move into it at will either. Hence McElroy’s description simultaneously overstates the rigidity of class as radical feminists see it and understates the rigidity of class as libertarians see it.

In her hostility to the so-called “gender feminist” version of class analysis, McElroy is momentarily led into a rejection of class analysis *per se*, forgetting that she herself accepts a version of class analysis: “Self-ownership is the foundation of individualism,” she writes; “it is the death knell of class analysis. This is because self-ownership reduces all social struggle to the level of individual rights, where every woman claims autonomy and choice, not as the member of an oppressed subclass, but as a full and free member of the human race.” (p. 147) As McElroy remembers perfectly well in other contexts, there is nothing incongruous in upholding a doctrine of individual autonomy and at the same time pointing to the existing class structure of

society to help explain why that autonomy is being systematically undermined. Perhaps McElroy's attachment to the authoritarian theory of politics makes her suspect that a state solution must be in the offing as soon as a political concept like "class" is introduced.

Whether the choice involved concerns traditional gender roles, terms of employment, or prostitution, McElroy often comes close to claiming that *any* critical attention to the authenticity of someone else's choices or the cultural or material circumstances that constrain them is tantamount to treating that person as "a child or a mentally incompetent person" (p. 124)—a claim that no-one in the world ought to believe, and one that no-one earnestly does.

Catharine MacKinnon's discussion of "consent" in male supremacy offers a useful counterpoint to McElroy's limited discussion of choice—albeit from a source that is sure to provoke McElroy and many other libertarians. MacKinnon's work suggests that consent – whether to intercourse specifically or traditional sex roles generally – is in large part "a structural fiction to legitimize the real coercion built into the normal social definitions of heterosexual intercourse," and concludes that to the extent that this is so, "it makes no sense to define rape as different in kind."⁶ Liberal and libertarian feminists have often complained against radical feminists that such assimilation of social and institutional influence to literal compulsion slights women by underestimating their capacity for autonomous choice even under adverse circumstances; from this standpoint, the radical feminist tendency to view all intercourse through rape-colored spectacles is open to some of the same objections as the patriarchal tendency to view all intercourse through consent-colored spectacles.^{xxxiv}

But MacKinnon and other radical feminists are best interpreted, not as claiming a literal equivalence between rape and ordinary intercourse, but only as claiming that the two are a good deal less different than they seem – objecting not so much to the distinction as to the *exaggeration* of the difference's extent and significance. Even this more moderate claim, however, strikes many liberal and libertarian feminists as "trivializing rape." This is a fair complaint; but the charge of trivialization is also a two-edged sword. If understating the difference between two evils trivializes the worse one, overstating the differences trivializes the less bad one. (And even calling the understating kind of trivialization "trivialization" may understandably strike some feminists as an instance of, or at least an invitation to, the overstating kind of trivialization.)

⁶ Catharine MacKinnon, *Sexual Harassment of Working Women* (New Haven, Yale University Press, 1979), p. 298.

Now the distinction between literal compulsion and other forms of external pressure is absolutely central to libertarianism, and so a libertarian feminist, to be a libertarian, must arguably resist the literal effacing of these differences. But it does not follow that libertarian feminists need to deny the broader radical feminist points that (a) patriarchal power structures, even when not coercive in the strict libertarian sense, are relevantly and disturbingly *like* literal coercion in certain ways, or that (b) the influence of such patriarchal power structures partly rests on and partly bolsters literally violent expressions of male dominance. Libertarians have never had any problem saying these things about *statist ideology*; such ideology, libertarians often complain, is socially pervasive and difficult to resist, it both serves to legitimate state coercion and receives patronage from state coercion, and it functions to render the state's exploitative nature invisible and its critics inaudible. In saying these things, libertarians do not efface the distinction between coercion and ideological advocacy; hence no libertarian favors the compulsory suppression of statist ideology.

Why not follow the 19th-century libertarians, who neither denied the existence and importance of private discrimination, nor assimilated it to legal compulsion? There is nothing inconsistent or un-libertarian in holding that women's choices under patriarchal social structures can be sufficiently "voluntary," in the libertarian sense, to be entitled to immunity from coercive legislative interference, while at the same time being sufficiently "involuntary," in a broader sense, to be recognized as morally problematic and as a legitimate target of social activism. Inferring broad voluntariness from strict voluntariness, as many libertarians seem tempted to do, is no obvious improvement over inferring strict involuntariness from broad involuntariness, as many feminists seem tempted to do; and libertarians are ill-placed to accuse feminists of blurring distinctions if they themselves are blurring the same distinctions, albeit in the opposite direction.

If we dispense with the limitations imposed by Lavender Menace rhetoric and the authoritarian theory of politics, then what sort of a synthesis between feminism and libertarianism might be possible? We do not intend, here, to try to set out a completed picture; we only hope to help with providing the frame. But while it can certainly draw from the insights of 20th century libertarian feminists, it will likely be something very different from what a Joan Kennedy Taylor or a Wendy McElroy seems to expect. Taylor, for example, envisions libertarian feminism as a synthesis of libertarian insights with the spirit and concerns of mainstream liberal feminism; but if what we have argued is correct, then it's not at all clear that mainstream liberal

feminism is the most natural place for libertarians to look. Liberal feminists have made invaluable contributions to the struggle for women's equality—we don't intend to engage in a reverse Lavender Menace rhetoric here. But nevertheless, the 19th century libertarian feminists, and the 21st century libertarian feminists that learn from their example, may find themselves far closer to Second Wave *radical* feminism than to liberalism. As we have argued, *radical* feminist history and theory offer a welcome challenge to the authoritarian theory of politics; radical feminists are also far more suspicious of the state as an institution, and as a means to sex equality in particular, than liberal feminists. While liberal feminists have bought into bureaucratic state action through mechanisms such as the EEOC and the proposed Equal Rights Amendment, Catharine MacKinnon has criticized the way in which feminist campaigns for sex equality “[have] been caught between giving more power to the state in each attempt to claim it for women and leaving unchecked power in the society as a whole” (MacKinnon 1989, p. 161), and R. Amy Elman argues in *Sexual Subordination and State Intervention* that feminist activism against rape and battery has met with considerably more success in the United States than in “progressive” Sweden because of the (relative) decentralization of political authority in the U.S. These are remarks that would not be out of place in the works of radical libertarians such as Tom Bell or Murray Rothbard; there is good reason to think that an explicitly libertarian feminism will have much to say to, and much to learn from, the radical feminist tradition.

It's true that in spite of their suspicions of the state as a tool of class privilege, radical feminists are sometimes willing to grant the State powers that liberal feminists would withhold—for example, to penalize pornographers for the misogynist content of their works. To libertarians this may seem paradoxical: shouldn't distrusting an institution make one *less* willing to augment its powers, rather than more? But this apparent disconnect is less paradoxical than it seems; if radical feminists are suspicious of the state, they are equally suspicious of society, especially market society, and so are disinclined to view as entitled to immunity from state interference. “The underlying assumption of judicial neutrality,” MacKinnon writes, “is that a status quo exists which is preferable to judicial intervention.” (MacKinnon 1989, p. 167) Hence MacKinnon's ambivalence about special legal protections for women; such protections treat women as “marginal and second-class members of the workforce” (p. 165), but since market society does that already, such laws may offer women some concrete benefits. Here of course libertarians have reason to be less suspicious of market society, since on their theoretical and historical understanding, most of the evils conventionally attributed to market society are

actually the product of state intervention itself. Here, however, it would be a mistake for libertarians to assume that any persisting social evil, once shown not to be an inherent product of market society *per se*, must then be *either* a pure artefact of state intervention, or else not importantly bad after all.^{xxxv}

Libertarian feminism, then, should seek to shift the radical feminist consensus away from state action as much as possible; but the shift should *not* be the shift away from radicalism that libertarian feminists such as McElroy and Taylor have envisioned. In an important sense, putting the “libertarian” in “libertarian feminism” will not be importing anything *new* into radical feminism at all; if anything, it is more a matter of urging feminists to *radicalize* the insights into male power and state power that they have already developed, and to *expand* the state-free politics that they have already put into practice. In this light, we can see that libertarianism and feminism are two traditions – and, at their best, two *radical* traditions – that have much in common, and much to offer one another. We applaud the efforts of those who have sought to bring them back together; but too often, in our judgment, such efforts have proceeded on the assumption that the libertarian tradition has everything to teach the feminist tradition and nothing to learn from it. Feminists have no reason to embrace a union on such unequal terms. Happily, they need not. If libertarian feminists have resisted some of the central insights of the feminist tradition, it is in large part because they have feared that acknowledging those insights would mean abandoning some of the central insights of the libertarian tradition. But the libertarian critique of state power and the feminist critique of patriarchy are complementary, not contradictory; hence neither side needs to surrender its identity in allying with the other. The marriage of libertarianism with feminism can and should be saved, but only as a marriage of equals.

i For example, consider the following two passages:

When we are raped, we hear that we brought it on ourselves. ... For we could have stayed home or gone out only with a guardian. ... Belatedly, we find that a male guardian can often protect us only from himself, and ... [t]he protectorate tends not to recognize rape by guardians or by males to whom we have once been accessible. ... No matter what the men do to them, it is not really rape, because *the rules give the women's status itself the value of consent*....

Another kind of rule gives female appearance ... the value of consent. Consider the rule that women who dress or move “provocatively” are “asking for it” [either in] the “sexy” way, where our clothes and manner accent femininity [or in] the “castrating bitch” way, where our clothes and manner manifest, rather, a refusal to make a feminine or “sexy” display of femaleness, and we consequently need to be “taught our place.” ...

The most blatant rule, summing up the spirit of the institution of rape, is that when a woman says no she means yes. ... The net result is that women are politically disabled from withholding consent to male sexual access. ... It is sufficient [for consent] that the woman either is or is not wearing clothes that highlight her femaleness, that she is alone either with or without other men ... that she says either yes or no, and so on. ... [T]he rules of rape discredit her refusals.

(Claudia Card, “Rape as a Terrorist Institution,” in R. G. Frey and Christopher W. Morris, eds., *Violence, Terrorism, and Justice* (Cambridge: Cambridge University Press, 1991), pp. 303-12.)

Do we not continually hear them quote Blackstone's assertion that “no subject of England can be constrained to pay any aids or taxes even for the defence of the realm or the support of government, but such as are imposed by his own consent, or that of his representative in parliament?” And what does this mean? In affirming that a man may not be taxed unless he has directly or indirectly given his consent, it affirms that he may refuse to be so taxed; and to refuse to be taxed is to cut all connection with the state. Perhaps it will be said that this consent is not a specific, but a general one, and that the citizen is understood to have assented to everything his representative may do when he voted for him. But suppose he did not vote for him, and on the contrary did all in his power to get elected someone holding opposite views – what then? The reply will probably be that, by taking part in such an election, he tacitly agreed to abide by the decision of the majority. And how if he did not vote at all? Why, then he cannot justly complain of any tax, seeing that he made no protest against its imposition. So, curiously enough, it seems that he gave his consent in whatever way he acted – whether he said yes, whether he said no, or whether he remained neuter! A rather awkward doctrine, this.

(Herbert Spencer, *Social Statics*, p. 190.)

The analogy between these two passages is striking. Yet while most libertarians would enthusiastically endorse Spencer's critique of electoral consent, few libertarians have expressed much sympathy for the analogous analysis of rape presented by Card (cf. Long 1995, p. 17).

ii CDC *National Violence Against Women Survey* (2000). Statistics on violence against women have been hotly contested, and some of these disputes have been taken up by libertarian authors such as Wendy McElroy. The explanation and defense of the NVAWS figures, and of related feminist research into the prevalence and nature of gender violence is, as they say, beyond the scope of this essay; for a discussion in the context of a different survey that nevertheless raises many of the salient points, see Robin Warshaw's *I Never Called It Rape*, an analysis of the findings of Mary Koss's 1985 study of sexual assault among college women.

iii For discussion see Mimi Reisel Gladstein and Chris Matthew Sciabarra, eds. *Feminist Interpretations of Ayn Rand* (University Park: Pennsylvania State University Press, 1999).

iv Karl Hess' article “The Death of Politics” (cite **) is the *locus classicus* for this view; though Hess, happily, seems not to make the conceptual error that often accompanies such terminology.

v The relationship of our pre-analytic notion of the marketplace to coordination by unintended consequences may help explain the confusion involved in the authoritarian theory of politics, and so many of the frustrating limitations that we have found in most contemporary libertarian feminism. If you identify politics as such with violent means, and non-violent means as such with the market, but our ordinary use of the contrast between “political” and “market” means is more closely connected with intended and unintended consequences, then you're liable to conflate two important, but *distinct* lessons of free market economics: (1) the *Hayekian* lesson that unintended consequences are vitally important, and *often* more effective means of social coordination than consciously planned efforts; and (2) the *Misesian* lesson that *uncoerced* action *always* produces better consequences for social coordination than government intervention. Since ordinary use identifies market transactions with coordination (mostly) by unintended consequences, and some libertarians identify free action with

market transactions by definition, it is easy to conflate (1) and (2), but when you conflate them that puts you in the position of transferring the *universal truth* of (2) to (1), when in fact there are very good reasons to think that (1) is *often* true but sometimes *false*. The unjustified expansion of (1) imposes conceptual blinders that make non-violent political action more or less invisible; either it is miscategorized with violent political action (as in frequent attacks on antipornography feminists as “censors” *whether or not* they propose any government action whatever against pornography), or it is marginalized as non-political and therefore not importantly bad (as in facile claims that the free market will simply take care of any problematic wage inequality without any concerted effort), or it is simply ignored.

As Lavoie writes: “The problem with conventional liberalism’s combination of democracy and markets is that, the way they are each understood, the more one of them advances, the less room there is for the other. Radicalized democracy would seem to imply that decisions that now are left to the (unconscious) forces of the market, would instead be (consciously) undertaken by a democratic government. Radicalized free markets would seem to imply that decisions that are now taken by (persons on behalf of) democratically legitimated governments, would be left instead to the (impersonal) market. The ideals, as they are understood, cannot be taken too seriously, or they will collide head-on with one another.” For Lavoie this contrast is misconceived; markets “are not essentially impersonal confrontations,” but have an essential character of “publicness”; while at the same time democracy is “not a quality of the conscious will of a representative organization that has been legitimated by the public, but a quality of the discursive process of the distributed wills of the public itself. ... More important than whether the government permits regular elections is the issue of whether all the other institutions of human interaction are imbued with a democratic spirit, with an open political culture. ... Democracy should not be reduced to government institutions, but understood to apply to the whole range of our discourses with one another.” (cite **)

vi Chris Matthew Sciabarra, *Total Freedom: Toward a Dialectical Libertarianism* (University Park: Pennsylvania State University Press, 2000); cf. Sciabarra, *Marx, Hayek, and Utopia* (Albany NY: State University of New York Press, 1995), and Sciabarra, *Ayn Rand: The Russian Radical* (University Park: Pennsylvania State University Press, 1995). Sciabarra’s radical libertarian critique of acontextual method and Archimedean utopian planning, in both statist and libertarian thought, might be profitably compared with (among others) Catharine MacKinnon’s radical feminist critique of the ideal of “objectivity” (i.e., unsituated knowledge without a point of view) and Archimedean legal proceduralism in patriarchal liberalism.

vii Charles-Barthélemy Dunoyer, *L’Industrie et la morale considérées dans leurs rapports avec la liberté* (Paris: A. Sautet, 1825), pp. 2-3. Passages from Dunoyer are translated by Roderick Long.

viii Herbert Spencer, *The Principles of Ethics*, vol. 1, ed. Tibor R. Machan (Indianapolis: Liberty Fund, 1978), pp. 37-38.

ix Herbert Spencer, *The Man Versus The State, with Six Essays on Government, Society, and Freedom* (Indianapolis IN: Liberty Fund, 1992), pp. 454-461.

x Love, *Marriage, and Divorce and the Sovereignty of the Individual: A Discussion Between Henry James, Horace Greeley and Stephen Pearl Andrews*, 2nd ed. (Boston MA: Benjamin R. Tucker, 1889), ch. 29; cf. Andrews, *The Primary Synopsis of Universology* (New York: Dion Thomas, 1871).

xi Benjamin R. Tucker, *Instead of a Book, By a Man Too Busy to Write One: A Fragmentary Exposition of Philosophical Anarchism* (New York: Benj. R. Tucker, 1897), p. 35.

xii The 19th-century libertarians’ contribution to feminist analysis is largely overlooked by contemporary scholars, who often seem to write as though the liberal critique of patriarchy began in 1869 with John Stuart Mill’s *The Subjection of Women*. Susan Brown, for example, calls Mill “the first liberal thinker to address systematically the issue of women’s oppression” (L. Susan Brown, *The Politics of Individualism: Liberalism, Liberal Feminism and Anarchism* (Montréal: Black Rose Books, 1993), p. 5), while Catharine MacKinnon characterizes Mill’s *Subjection of Women* as “the original statement of the view ... that the status of the sexes in the family ... accounts for the inequality of the sexes in society as a whole.” (Catharine MacKinnon, *Toward a Feminist Theory of the State* (Cambridge MA: Harvard University Press, 1989), p. 42) Sometimes Mary Wollstonecraft is remembered as well; but the contributions of Herbert Spencer and Stephen Pearl Andrews in the early 1850s, for example, have received comparatively little attention. A similar situation exists with regard to the libertarians’ pre-Marxist analysis of society in terms of classes and class struggles; on this see David M. Hart, *Class Analysis, Slavery and the Industrialist Theory of History: The Radical Liberalism of Charles Comte and Charles Dunoyer* **. For the 19th-century libertarian feminist tradition, particularly its American version, see Hal D. Sears, *The Sex Radicals: Free Love in High Victorian America* (Lawrence KS: Regents Press of Kansas, 1977); Wendy McElroy, *Freedom, Feminism, and the State: An Overview of Individualist Feminism*, 2nd ed. (New York: Holmes & Meier, 1991); McElroy, ed., *Individualist Feminism of the Nineteenth Century: Collected Writings and Biographical Profiles* (Jefferson NC: McFarland, 2001); McElroy, *The Debates of Liberty: An Overview of Individualist Anarchism, 1881-1908* (Lanham MD: Lexington Books, 2003).

xiii Writing in 1825, six decades before Friedrich Engels published his *Origin of the Family, Private Property, and the State*, Dunoyer observed:

Women are the slaves of the savage life; they form the working class of that state; they carry out nearly all the useful labor that gets done there. ... Everything they produce is the property of the husband. ... What characterizes this age of society above all is the degradation to which women are there reduced. (Dunoyer, *op. cit.*, pp. 146-7.)

xiv Herbert Spencer, *The Principles of Sociology*, vol. 1 (New York: D. Appleton, 1885), p. 750.

xv Herbert Spencer, *The Principles of Sociology*, vol. 2 (New York: D. Appleton, 1884), pp. 289-91.

xvi Herbert Spencer, *Social Statics: or, The Conditions Essential to Human Happiness Specified, and the First of Them Developed* (New York: Robert Schalkenbach Foundation, 1970), pp. 143-4.

xvii *Ibid.*, p. 140.

xviii Herbert Spencer, *Education: Intellectual, Moral, and Physical* (New York: D. Appleton, 1887), p. 254.

xix See, for example, Tucker, *op. cit.*; Frédéric Bastiat, “Speech on the Suppression of Industrial Combinations” ***; Herbert Spencer, *The Principles of Sociology*, vol. 3 (New York: D. Appleton, 1910), pp. 535-74; Gustave de Molinari, *Les Bourses du Travail* (Paris: Guillaumin, 1893); Stephen Pearl Andrews, *The Science of Society*, vol. 1 (New York: William J. Baner, 1851); vol. 2 (New York: Fowler & Wells, 1852); Ezra H. Heywood, *The Labor Party: What Workingmen Want, Whom It Concerns, and How to Get It* (New York: Journeymen Printers Co-operative Association, 1868); A. J. Brigati, ed., *The Voltairine de Cleyre Reader* (Oakland CA: AK Press, 2004). (It is sometimes suggested that 19th-century libertarians sympathized with the labor movement only because they accepted the labor theory of value. But Bastiat, Molinari, and Spencer did not accept the labor theory of value.)

xx Who says that feminists don't have a sense of humor?

xxi Some of these efforts—especially women's health clinics, battered women's shelters, and rape crisis centers—have since been co-opted and effectively taken over by professionalized civil service bureaucrats and have become heavily dependent on, or directly administered by, the therapeutic State. But that was not part of the original conception; the take-over mostly occurred in the course of the 1980s, and is rightly resented by many radical feminists.

xxii Especially by contrast with, for example, the decade-long liberal feminist campaign for the ERA.

xxiii On sex discrimination law, see MacKinnon 1989, Chapter 12, especially p. 221ff

xxiv Tucker 1897, p. 15; cf. Sarah Elizabeth Holmes [“Zelm”], “Reply to Victor,” *Liberty* 5.21, no. 125 (26 May 1888), pp. 6-7.

xxv Thus while some libertarians, like Spencer and Heywood, supported women's suffrage, regarding the franchise as a crucial tool of women's liberation, others regarded the suffrage issue as cosmetic at best and an enticement to political corruption at worst; Lysander Spooner, for example, was saddened to see the suffragists “so anxious that woman should participate in all the falsehood, absurdity, usurpation, and crime of *making laws*, and enforcing them upon other persons,” and opined that women suffragists would be better advised in “going up to the State House ... to throw all of the existing statute books in the fire.” (In McElroy 1991, pp. 223-4)

xxvi Anselme Bellegarrigue, *Les Femmes d'Amérique* (Paris: Blanchard, 1853), pp. 34, 44; passage translated by Roderick T. Long.

xxvii What counts as an “anti-market” version of anarchist socialism, however, is more complicated than it seems. If a socialist thinker favors replacing market exchange with relationships of communal sharing, but also favors allowing people to engage in market exchange if they are so foolish as to want to do so, it's misleading to call her position “anti-market,” since the pro-market libertarians have never asked for anything *more* than this. (cf. John Henry Mackay, **)

xxviii In light of the systematic theoretical and historical parallels between libertarianism and Marxism, it is perhaps not surprising that our critique of a one-sided union of libertarianism with feminism has much in common with MacKinnon

1989's critique of a one-sided union of Marxism with feminism (pp. 3-80).

xxix See, for example, the otherwise excellent "Why Aren't More Women Part of the Libertarian Movement?", *Association of Libertarian Feminists News* No. 70, <<http://www.alf.org/alfnews/alf70.html>>

xxx The original "Lavender Menace" was the specter of lesbianism; the endless stream of anti-feminist lesbian-baiting led Betty Friedan to launch a misguided rhetorical campaign against the "Lavender Menace" of lesbians in NOW and the feminist movement more broadly. In reaction, an *ad hoc* group of lesbian feminists crashed the opening session of the Second Congress to Unite Women in 1970, wearing t-shirts stenciled "LAVENDER MENACE", and distributed the classical lesbian feminist position paper, "The Woman-Identified Woman". The event is usually marked as the public debut of lesbian feminism, and forced a radical change for the better in both liberal and radical feminist support for lesbians. Cf. Karla Jay, *Tales of the Lavender Menace: A Memoir of Liberation*.

xxxi Joan Kennedy Taylor, *What to Do When You Don't Want to Call the Cops: A Non-Adversarial Approach to Sexual Harassment* (New York: New York University Press, 1999)

xxxii Elizabeth Brake, "Sex Skeptics: Speech is Free but Thought Remains in Chains," p. 107; *Reason Papers* 25 (Fall 2000), pp. 101-112.

xxxiii Wendy McElroy, Introduction, p. 18; in McElroy, ed., *Liberty for Women: Freedom and Feminism in the Twenty-first Century* (Chicago: Ivan R. Dee, 2002), pp. 5-26.

xxxiv On this point see Elizabeth Brake, "A Liberal Response to Catharine MacKinnon," *Southwest Philosophical Studies* 22 (Spring 2000), pp. 17-23; cf. also Brown 1993, ch. 2.

xxxv McElroy, for example, assumes (1996, ch. 7) that the gender wage gap falls in the "not importantly bad after all" category; on this see Roderick T. Long (10/20/2004), "Platonic Productivity", <<http://praxeology.net/unblog10-04.htm#12>>.