

Real Myths = False Truths

Securing America's Future

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July 25, 2016
Version 1.0

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Suggested citation: Busch, Lawrence. 2016. *Real Myths = False Truths: Securing America's Future*. Version ____. East Lansing, MI. Available at:
<http://www.lawrencebusch.net/index.php/real-myths-false-truths-securing-americas-future/>

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Acknowledgements

No book is entirely the work of one author. In addition, others contribute in innumerable ways to bringing it to fruition. Among the many that helped with this volume, Carl Taylor read an early draft of the manuscript and made many useful suggestions. Megdi Abebe helped to locate some rather obscure materials. Dave Ervin, Ken Pigg and Svetla Dimitrova painstakingly went through the manuscript suggesting rephrasing and challenging me on multiple points. John Beck provided some useful insights on union organization. Of course, any errors of commission or omission remain mine alone.

Warning to readers

This volume is not likely to please all potential readers as it directly challenges a lot of what has become common sense over the last several decades. That poses a number of problems. Some readers will see it as utter nonsense. For them, accepting what I have to say would undermine so much of what they believe as to destabilize their entire understanding of and ability to act in the world. They will dismiss it out of hand. Other readers may find this volume disturbing, but feel it is their solemn duty to attempt to refute as much of it as possible. Still other readers will find herein some clarification of a variety of seemingly inexplicable events that have occurred over the last several decades. I hope that others would begin to engage with the premises I put forth here, both with respect to our unexamined myths as well as to my calls to action. What I hope will not happen is that in their frustration with the status quo, some readers will embrace everything I have to say as revealing some underlying and unchanging Truths. Of course, as an author I can choose my sources, but I can have no control over the fate of my work. You, the reader, control that.

Introduction

Nearly a century ago, sociologist W. I. Thomas¹ noted that “If men define situations as real, they are real in their consequences.” In this oft-quoted phrase he emphasized the somewhat startling argument that the truth of a statement is independent of its consequences. Hence, even if we – as individuals or collectively – act on a belief that is utterly false, the consequences of that belief are real. Sometimes the results of such actions are harmless. For example, a gambler might blow on the dice before rolling them and, on winning, conclude that it was his breath that caused him to win. Similarly, most of us who are not computer engineers have only the vaguest idea how our computers work. Likely, many of my assumptions about my computer are simply false. Nevertheless, even if I have a completely mistaken notion of how my computer works, as long as it is in working order, when I press the start button, it will turn on.

That said, often the consequences of false beliefs are negative. For example, for years doctors believed that leeches would drive diseases out of people, whereas in fact in most instances they actually made those persons weaker by reducing the amount of blood in their bodies. More recently, a few naïve persons have responded to emails allegedly from Microsoft claiming that they had won several million dollars in a Microsoft-sponsored lottery. Even though the message was fraudulent, replying to it by including a bank account and social security number had serious negative consequences for those who believed it. Similarly, every community, every nation, every ethnic group, every age, has its myths – beliefs that most people do not doubt and that are the basis for actions of all sorts. Many of these myths have positive outcomes, even if their truth claims are suspect or even obviously false.

Thus, the ancient Egyptians worshipped the sun, source of all life. Moreover, they spent fortunes preparing for the trip to the afterlife, preparing bodies through mummification, and building elaborate tombs. The ancient Greeks exalted the hero who went off to meet his destiny, even knowing that the end would be tragic. The collapse of a Chinese dynasty clearly showed everyone that it had lost the ‘mandate of heaven.’ Each system of myths has provided a source of guidance for the achievement of shared values, a plastic and continuously reinterpretable thread out of which the whole cloth of society might be spun.

Indeed, challenging these beliefs often was – and sometimes remains – quite risky. An ancient Egyptian who challenged the belief in Ra, the sun-god, would likely have been punished by death. Similarly, thousands of early Christians were put to death for failing to demonstrate their belief in the Roman pantheon of gods. And, the medieval church often burned heretics at the stake in an effort to silence them.

Many, perhaps most, North Koreans see Kim Jong-un as a powerful and great leader, as doubtless does Kim himself, but not because he has superhuman powers or great physical strength. They believe he is powerful because others from his immediate subordinates down to the poorest peasant believe it and act accordingly. Hence, protesting against Kim will more than

¹ William Isaac Thomas, *The Child in America: Behavior Problems and Programs* (New York: Alfred A. Knopf, 1928), 572

likely get one jailed, tortured and perhaps killed. The myth of Kim's greatness, while false, is clearly real in its consequences.

Although we like to think of ourselves as self-consciously modern, we moderns are no less likely to be in thrall to our own myths than were those who came before us. Not that long ago we Americans burned witches in Salem, Massachusetts, convinced that those who died were inspired by the devil. Much more recently, in 1978 hundreds of Americans followed Jim Jones to the nation of Guyana to build a new community. Over 900 of them, including Jones himself, committed 'revolutionary suicide' by drinking cyanide. Members of other groups have prepared for the arrival of aliens from outer space or the final days, only to be disappointed when nothing happened when that day arrived.

Consider some of the myths that circulate right now. There are still those who believe that President Obama was not born in the United States, despite not only a birth record in Hawaii, but an announcement of it in a Hawaiian newspaper of that date. Others continue to believe that he is a practicing Muslim. Thousands of 'urban legends' circulate on the internet – a sufficient number that entire websites have been developed to counter them.² These urban legends are just sufficiently plausible that people sometimes believe and act on them.

But there are doubtless other myths that have become so embedded in our daily lives, so taken for granted, so habitual, that we hardly recognize them as myths at all. They are so customary that we no longer question them, seeing them as merely parts of the world around us, much as the trees I see when I look out the window. Moreover, since these myths attain the status of uncontested truths, they become the basis of personal and policy decisions. It is some of these myths that I intend to challenge here, although doubtless there are others that I, too, find so credible, so obvious that I unquestioningly act on them.

But as the examples provided above suggest, myths become embedded in societies in the form of various kinds of rules to be followed, as well as 'directions' as to who should follow what rules at what times. Hence, when the US national anthem is played everyone is expected to stand and salute the flag. When dinner is served, everyone is expected to come to the table. When the sign on the door says 'Men,' women are expected not to enter. When the sign on the road says 'Yield,' we are expected to give way to other traffic. Indeed, we live our lives by rules, most of which have become so much 'second nature' to us that we only notice them when they are violated. But where do these rules come from?

One way of understanding their origin is as the outcome of commitments to a set of core values and beliefs. Hence, when the subjects of ancient Egypt bowed down before the Pharaoh, they expressed their commitment to a set of values about maintaining order in the universe, ensuring sustenance in the afterlife and revering the central place of the Pharaoh in communicating with the pantheon of Gods. In contrast, today across the political spectrum we are heirs to a set of values that are often called 'the Enlightenment' or 'modernity.' These values were dominant when our republic was founded and remain central to our individual and collective lives today. Hence, the founders held dear the fundamental rationality of all men, the 'inalienable rights'

² For example, <http://www.snopes.com/>

bestowed upon each of us permitting 'life, liberty and the pursuit of happiness' as well as equality before the law. They were skeptical of all received traditions and customs, refusing to accept them blindly, asking instead for demonstrable proof of their validity and questioning whether they would further the project of modernity. In furtherance of these values, the founders also felt it necessary to draw up a contract binding the citizens of the fledgling United States together. After several years with a looser contract, they abandoned the Articles of Confederation and replaced it by the Constitution. As the preamble notes:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Put differently, the Constitution (and the first ten amendments) embodies the initial desire to achieve a particular set of values central to the modern project including the rule of and equality before the law, liberties to be guaranteed to citizens and promotion of the welfare of all.

Moreover, as supporters of the modern project, as believers in rationality, the founders supported scientific and technical advances and decried all forms of superstition. Hence, the Constitution includes a clause giving Congress the power "To promote the Progress of Science and useful Arts." Over the centuries the federal government has come to support research in the arts and sciences as well as the protection of the property of authors and inventors through patents, copyrights and the like.

Of course, like all projects the modern project of securing liberty, equality before the law and promoting the general welfare through rational means was incomplete at its inception and remains so. The rights secured by the Constitution did not include those of women and slaves. And, despite Washington's objections, Native Americans were pushed westward and ultimately onto reservations as colonization proceeded apace. From the beginning of the republic, there were debates as to the best paths to follow. The Constitution has been subjected to amendment some 27 times in an effort to move ever closer to the values central to the project. Moreover, Congress has passed countless laws in an effort to do the same. Doubtless, more amendments and laws will be necessary in the future.

Hence, the rules we follow are in large part guides to reaching the fruits (and foibles) of the modern project. They come in four somewhat overlapping forms: customs, laws, standards and technologies. They are all designed to provide security in the very broadest sense in our lives, although as I argue in the book, an unexamined adherence to them can and does lead us away from those values so eloquently stated in the preamble to the Constitution. Therefore let me begin by examining each of these forms of rules.

Living by Rules

Some rules take the form of customs. Customs usually arise haphazardly, in ways that are hard to discern. Clearly, someone must have followed the custom in question first, while others followed. But it is often unclear why people followed one particular custom and not some other one. Such customs include queuing, shaking hands, various rules of politeness, opening doors for others, how we embrace friends and relatives when we see them, what is the proper way to eat, what kind of clothing is acceptable for whom and for what occasion, and so on.

These rules vary widely across regions, cultures, families, religious groups and nations. For example, in American society it is considered polite to ask someone to pass a dish at the dinner table. In contrast, in China asking someone to pass a dish is tantamount to acting as a child. Hence, large Chinese dinner tables often have Lazy Susans, making it unnecessary to pass dishes. Similarly, dress varies by age and gender, but not in the same ways in every culture. Even in the US, a century ago infants were put in dresses regardless of their gender. And, the idea that a woman might wear pants was scandalous.

While occasionally someone violates these rules, they are nevertheless generally quite effective. In most cases they are supported both by instruction manuals of various kinds (e.g., about manners, sexual conduct, interior decoration or parenting) and by social pressure on those who would violate them. In some cases, proponents of some set of rules may even resort to violence resulting in injury or death to the offender.

A second source of rules is law and regulation. Laws and regulations are developed in at least five intertwined ways. First, some are simply customs that have become accepted as law, usually known to the legal system as ‘common law.’ Much American and British law is of this type. Such law is based on long established customs that an ordinary member of our society would expect as common practice. Second, some laws are developed by legislators who must vote on and pass them, such that they are ‘on the books,’ that is, that they are printed in the heavy legal tomes that often weigh down the shelves of law offices.³ Third, various persons and agencies must translate those laws into administrative code. Put differently, they must spell out in considerable detail how the law is to be implemented and who is to do the implementing. Fourth, laws must be enforced; those who fail to follow the law must be sanctioned in some way or another, and the sanctions must be enforced sufficiently frequently and be sufficiently grave (relative to the infraction) so as to deter actions counter to the law. And, finally, the courts must necessarily interpret the law each time a case is tried. Put differently, judges and juries must decide whether a given case is actually a violation of the law in question.

A third source of rules is standards. Standards are generally created by individual private companies, associations of companies, standards-setting bodies or private voluntary associations. They include technical standards for myriad tools and machines, educational standards that are used to determine who has what competencies, and medical standards that are used to determine

³ These days much of that is merely for show. For some years now, the vast majority of laws as well as transcripts of individual cases are available online. Virtually every American law firm subscribes to these databases.

who can practice medicine and what practices are acceptable in medical care. Standards are usually (but not always) developed, administered and enforced by agencies that are not part of the government, although they always depend on legal statutes as a last resort. Thus, your agreement to provide me with screws that meet ISO Standard 262 (the standard for metric screw threads) can be enforced through the contractual agreement that you made with me to provide screws that met that standard in a given volume by a given date. Similarly, a surgeon who fails to follow the standards that constitute 'good surgical practice' may become a party to a lawsuit.

That said, some standards are designed by government, such as the US organic agriculture standards. And, in other instances governments adopt standards developed by non-governmental organizations. For example, the myriad building, plumbing and electrical codes adopted by American local governments are produced by non-governmental organizations.

Finally, many rules are embedded in physical objects and must be learned in order to use them in the ways understood by their designers. For example, to start my car I must have my electronic key fob with me, put my foot on the brake, press the 'start' button and shift the car into 'Drive' or 'Reverse.' Similarly, to use my cell phone, I must press the button on the back of the phone, slide my hand over the screen starting at the top, tap on the icon for the application I wish to use and then follow the rules for that particular application. Even simple tools such as hammers have rules embedded in them; I must grasp the handle at the end opposite the head in order to get sufficient leverage to drive in a nail.

Of course, none of this is to say that (like customs, laws and standards) physical objects cannot be modified so as to make them useable in different ways or for different ends. Hence, if my electronic skills are adequate, I can modify the electronics in my car such that I no longer need to press on the brake pedal before I push the 'start' button. Similarly, if I have the requisite skills, I can modify the application on my phone. Likewise, I can modify the hammer by changing the length of the handle or size and shape of the head. And, I can use the hammer and phone as paperweights; I can use the car to store my pillow collection.

Three very important aspects of these rules – whether customs, laws, standards or technologies – should be noted. First, it appears that many – perhaps most – of the claims made about allegedly universal aspects of human behavior are in need of considerable qualification. Some are likely completely false. As a group of Canadian researchers recently argued, nearly all these claims are based on societies like ours, that is, Western, Educated, Industrialized, Rich, and Democratic (WEIRD) societies.⁴ Once we move outside that relatively small sample and begin to examine supposedly universal behaviors elsewhere, we find that a great deal of behavior is linked to the acceptance of other customs, laws, standards or technologies. Even something seemingly as basic as numeracy – the ability to count – appears to be a function of customs. One remote Amazonian culture apparently has a number system that only includes one, two and many. Its

⁴ Joseph Henrich, Steven J. Heine, and Ara Norenzayan, "The Weirdest People in the World?," *Behavioral and Brain Sciences* 33 no. 2-3 (2010); Joseph Henrich, Steven J. Heine, and Ara Norenzayan, "Beyond WEIRD: Towards a broad-based behavioral science," *Behavioral and Brain Sciences* 33 no. 2-3 (2010).

members have difficulty counting beyond three (and likely have no need for such higher mathematics in their jungle environment).⁵

Second, once established, these rules tend to become ‘natural.’ Hence, through the processes of childhood socialization, the vast majority of us learn the ‘right’ way to behave, we learn habits of behavior and customs common to people like us. We learn what customs, standards, and laws to follow, and when we can safely violate those customs, standards and laws. We learn how to open a door, turn on a computer. These things become ‘second nature’ to us. We need not think about them most of the time. Hence, when I get in my car, I don’t need to think about which side of the road to drive on. When I approach a ticket counter, I stand in the queue. When I buy a new house, I assume that it meets the building codes. Hence, some members of the Tea Party vociferously argue that government should not touch Medicare, even as they argue against universal health care coverage. The former, of course, is seen as a well-established ‘natural’ right, while the latter is seen as new, untried, and untested incursion of government into the health care sector.⁶ And, of course, when governments attempt to enforce laws that violate generally accepted customs – as the US did during prohibition – there is widespread violation of those laws. Similarly, when customs or standards or laws or technologies are found unacceptable or are considered obsolete, they are abandoned and others take their place.

Third, given this naturalness, changing the rules embedded in customs, laws, standards and technologies requires work. They must be made visible once again. And, only then can we consider changing them. This is true if one just wishes to change them for oneself, but even more so if one wishes to change them for everyone.

In short, we all live by rules – rules that quickly become taken for granted, that become as natural as breathing or eating. For most of us, breaking those rules seems unthinkable. For some rules, changing them seems as absurd as asking for the sun to stop shining. Yet, at other times, rules are challenged. Hence, 50 years ago smoking was a sign of sophistication, of being a mature adult. Yet, evidence that smoking causes cancer has forced us to rethink how we behave, to redefine what habits are acceptable. Initially, this involved people deciding that they would give up smoking or simply not start. More recently, as medical research and evidence of a cover-up by the cigarette companies has piled up, laws have been passed that prohibit smoking in public places, that tax cigarettes more heavily, and that put warning labels on cigarette packages. Some companies have even sought to take advantage of the new anti-smoking laws to develop new technologies in the form of so-called electronic cigarettes; these give the smoker a nicotine high without release of any smoke. As the example of smoking illustrates, rules can be changed, but change occurs fairly slowly.

Thus, if by freedom or liberty we mean living with the bare minimum of rules, what is sometimes referred to as the ‘night watchman state,’ then it is clearly a myth. Such a world

⁵ Peter Gordon, "Numerical Cognition Without Words: Evidence from Amazonia," *Science* 306(2004).

⁶ Let us also remember that the US government spends about \$40 billion annually on medical research. Most of the results of that research are only available to those persons who have Medicare, other insurance coverage, or who are independently wealthy.

would have few customs, laws, standards or technologies since through each of these society imposes rules on us. In a small, primitive, isolated village that position might be acceptable to all (although anthropologists tell us that such villages are often particularly rule-bound). But in our contemporary global village, a plethora of rules is necessary. Therefore, key issues to be debated are: Who are we? How shall we live? Who gets to make the rules? Who benefits and who loses from a given rule? Which rules are better left as is? Which rules should be changed? What are the consequences of leaving the rules untouched or of modifying them? Moreover, none of these questions can be answered once and for all. In a world of slow change and relative isolation such questions are likely to be hardly noticed. But in a world in which rapid change of all sorts is commonplace and in which we are constantly in contact with other cultures, we must address these questions. Our collective ability to do that is inhibited by a dysfunctional Congress. Yet, if we do not address these questions, then we will be unable to secure our future. Our ability to secure our democracy, our shared notions of justice and nature itself will decline, leading to further conflict, inadequate and inappropriate policies and perhaps the end of the republic.

In an effort to address these questions, in this volume I attempt to challenge many of the widely accepted myths in contemporary American society – myths shared by the right and left, by the rich and poor, by those holding the reins of power and those who find themselves powerless. Then, I propose some utterly immodest changes that might be made so as to go beyond the current myths, to reinterpret them, to recast them in light of our contemporary dilemmas. I begin with a myth that has been haunting us for a century and a half.

Communism vs. Capitalism

In 1859 President James Buchanan vetoed the Land Grant College Act, calling it a move toward communism. To Buchanan and many of his contemporaries communism was a real evil – even though no communist states would exist for another 58 years. Unlike proponents of capitalism who argued that markets should determine how goods were to be distributed, communists argued that distribution of goods would be better managed by the State. Hence, for many supporters of capitalism, any non-market activity was suspect based on a slippery slope argument: If higher education was supported by governmental action, then clearly we were moving one step closer to communism.⁷

Only after Lincoln was elected and the southern states seceded did the act pass, creating an ‘agricultural and mechanical college’ in each state with funds from the sale of government land in the west. Those colleges all later became full-fledged public universities including the University of California, the University of Illinois, and Michigan State University where I currently work. Those institutions were and remain global models for higher education. Thousands of foreign students compete to enter these institutions each year as a result of their reputations.

In the aftermath of World War I the US experienced a ‘red scare,’ in which thousands of persons were arrested and jailed for allegedly holding communist ideas. Similarly, after World War II, Senator Joseph McCarthy held hearings to expose and condemn those he claimed were sympathetic to communism. Based largely on hearsay rather than evidence, the hearings ruined the lives of many and that left us with the term ‘McCarthyism.’ In each instance, constitutional protections of freedom of speech were brushed aside in the name of protecting freedom!

During the entire Cold War (ca. 1947-1989) most Americans were anti-communists; indeed, the Soviet Bloc had little to offer Americans. President Reagan talked openly about the ‘Evil Empire.’ But when the Cold War ended in 1989, many of our convictions went with it. Since then we have been floundering, unsure of what role we want in the world, what kind of nation we want. Do we want to be an imperial power? Do we want to turn all governmental services into market-based services? Do we want to do away with government altogether? Ironically, the end of the Cold War in which for some it was ‘better to be dead than red’ has left us even more insecure than before.

Communism was clearly a myth – a real myth in that it was real in its consequences. Those who believed in it were successful in putting it into practice in several nations, even though its lofty ideals were soon eclipsed by autocratic regimes. Under communism, all decisions about the distribution of goods and services were made by the State in the name of the people, but wealth and (especially) power were concentrated within a small elite. Its remnants remain today in just a

⁷ Conversely, after the Soviet Union was established, Soviet leaders did their best to stifle any market activity, believing that it was merely the first step down the slippery slope to restoring capitalism. While farm workers were allowed small personal plots on which to grow vegetables (and to sell part of their produce), in general markets were driven underground. Black markets thrived under the Soviet system.

few places such as North Korea and Cuba. China continues to observe it in name, but certainly not in substance. (As one Chinese colleague explained to me over lunch in Hangzhou some years ago, China has a capitalist economy with a communist government.)

But the myth of communism was accompanied with another counter-myth. The counter-myth was that the only alternative to communism was one in which nearly all goods would be privately owned and would be distributed by competition in the market. This counter-myth was and still is known as capitalism. The collapse of the Soviet Union in 1989 ended one half of the myth but left the anti-communist myth of the market largely intact. Hence, George H. W. Bush could proclaim that the Cold War had ended and that we in the West had 'won.' Francis Fukuyama could write of 'the End of History.' Margaret Thatcher could confidently proclaim that 'There is no alternative.'⁸

During the previous century and a half there was widespread agreement in the Western world (especially in the US) that policies had to be undertaken in response to the threat of communism. Hence, social security, public welfare, free or low cost college education, massive state investments in various public improvements were undertaken, often under labels such as the New Deal, the Fair Deal, and the Great Society. But it would be a mistake to see this as solely a Democratic Party affair. Republicans embraced similar ideas: Hoover promoted policies that he believed would raise the levels of living of all Americans, putting 'a chicken in every pot and car in every garage,' while protecting us from the evils of communism. Eisenhower ushered in the Interstate Highway System. Nixon established both the Environmental Protection Agency and the Occupational Health and Safety Administration.

However, with the collapse of communism, many of those policies seemed to some to be unnecessary. After all, if there was no longer a threat, and markets could actually make all decisions about the distribution of goods and services better than any government agency, then the role of politicians was simply to promote markets and otherwise to get out of the way. And, in those cases where markets could not be developed, then competitive forces would do. This renewed enthusiasm for free markets and competitions assumed that all markets were the same, that simply letting markets do their work would lead virtually automatically to high levels of efficiency, rapid economic growth, widespread prosperity, and the triumph of democracy. However, a closer look reveals that, alas, the world is more complex than that. Let us look more carefully at this thing called capitalism.

⁸ While she may have used the phrase before the Cold War ended, it was in a 1997 editorial that, she coined the phrase. See Thatcher Margaret Thatcher, "The Boneless Wonder of New Labour," *Daily Telegraph*, April 1 1997.

Capitalism

The term ‘capitalism’ is widely used by both its supporters and detractors. Supporters argue that capitalism is the best way to organize an economy (or society) while detractors argue that it nearly invariably leads to control by a handful of large firms, greater inequalities of income and wealth and, ultimately, the erosion of democratic governance. But both supporters and detractors generally fail to ask several key questions: Which capitalism is it that we are talking about? What is included and excluded from this thing called capitalism? When one looks at the US historically, or compares the US to other nations today, one quickly discovers that capitalism is hardly one easily definable thing. The term encompasses an incredibly diverse set of institutions and an equally diverse set of outcomes. Let us look first at the changes that have occurred in the US.

While in some sense the US has been a capitalist nation since its inception, until the late nineteenth century most Americans lived and worked on farms and much of what they produced was consumed by each family. Those engaged in industry mostly constructed items one at a time as assembly line production existed in only a small number of industries such as hog slaughtering. Only with the Civil War did the US develop a manufacturing sector of considerable size. Moreover, the aftermath of the Civil War saw the rapid growth of railway and much later road infrastructure (all sponsored by the government) that allowed rapid growth of industry. The case of Chicago is instructive. Economic historian, William Cronon⁹ tells us that Chicago rose from a small village on Lake Michigan to America’s second city by virtue of a combination of things. On the one hand, its location on the lake made it easy to ship virgin lumber from Michigan and Wisconsin directly to Chicago sawmills. On the other hand, its development as a railhead made it the ideal place to ship and reship grain and meat.

Soon, Chicago grain merchants perfected the idea of treating grain as a liquid. This permitted storage in grain elevators and eliminated the need to examine each sack of grain to determine its qualities. Instead, grain was sampled and given a grade, then combined with other grain of like qualities. When a customer wanted No. 2 winter wheat, he would buy it at the going price on the Mercantile Exchange and it would be delivered as a liquid poured into hopper cars.

Chicagoans similarly standardized the production of dimension lumber (e.g., 2x4s) making possible the widespread use of balloon frame construction. (Prior to that, post and beam construction was typical and required much larger pieces of lumber mortised together.) The use of dimension lumber required only minimal carpentry skills and reduced waste. This permitted a farmer on the Great Plains to purchase all the lumber and hardware needed to build a house (and the plans as well) directly from a Chicago merchant. And, since the dimensions were publicly known and fixed, a buyer could compare prices. In fact, Sears, Roebuck and Co. sold more than 70,000 homes to rural residents in the form of kits, complete with instructions and plans.¹⁰ Other companies did the same.

⁹ William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W.W. Norton and Co., 1991).

¹⁰ Sears Archives, "What is a Sears Modern Home?," Sears <http://www.searsarchives.com/homes/>.

Finally, Chicago developed the dressed beef industry. Instead of shipping beef on the hoof to places further east, Chicagoans eventually developed a large meat packing industry along with refrigerator cars. This reduced waste, allowed the rise of a leather tanning industry in Chicago, and allowed thousands of unskilled workers to replace the skilled butchers further east.

But ultimately, what went on in Chicago and elsewhere led to the development of huge monopolies – the so-called trusts. Nearly every commodity from sugar to steel to crude oil was dominated by a trust – a single company or small group of companies that dominated the market, set prices, and otherwise squeezed every penny out of buyers. The owners of these trusts became known as the Robber Barons, powerful men who controlled much of American industry.

As discussed below, the great trusts were broken up somewhat later, only to return in a quite different form in the last few decades. But the obvious point here is that the capitalism of the early nineteenth century, of the early twentieth century, and of the early twenty-first century are not the same capitalism. Not only have the technologies available changed, but so has the legal framework. Income and inheritance taxes, taxes on unearned income, limits on the use and abuse of workers, minimum wage and workmen's compensation laws, the amount of industrial pollution permitted, and hundreds of other laws have changed. Put differently, historically speaking capitalism is a moving target.

The same holds if we compare capitalisms in different nations. For example, German capitalism differs from American capitalism in that, among other things, workers are required to be represented on the boards of large companies. (Ironically, this is the result of conditions imposed on Germany by the United States at the end of World War II.) Unions are organized at the industry level and bargain with employers' associations about wages and working conditions. Moreover, Germany has managed to institutionalize a high wage economy that is nevertheless competitive in world markets. They have done this by promoting social cohesion and reducing inequalities. Until recently, the Great Recession had relatively little effect on Germany by comparison to its southern neighbors or the US.

Similarly, Korean capitalism differs from American capitalism, by virtue of the enormous role played by corporate conglomerates known as *chaebol*. For example, Samsung manufactures consumer electronics and petrochemicals, runs hotels, sells insurance, operates a medical center, and manages investments, among other things. Some have recently argued that these *chaebol* are now a weakness of the Korean economy, but regardless of the merit of that claim, they remain major players. Nothing even vaguely similar exists in the US.¹¹

China, too, may be said to have a capitalist economy, although it still has a one-party regime and regularly intervenes in the marketplace in an attempt to produce outcomes that are to the party's liking. Some of the world's largest multinational companies are now headquartered in China. Likely, you have never heard of them, but they are of enormous size. They include Sinopec, the

¹¹ Warren Buffet's Berkshire Hathaway has been compared to a *chaebol*, but it differs in that Buffet has already given away a substantial part of his fortune and his descendants will not have the same level of control that leaders of *chaebol* have.

China National Petroleum Corporation and Ali Baba, now the world's largest internet sales company. Clearly, Chinese capitalism differs considerably from the sort that we have in the US as well from that in Germany, Japan or Korea.

But we must go further than this. In addition to the many forms that capitalism has taken over time and space, the alleged universality and fixity of capitalism papers over the many other forms of economy that form part of our social world. Thus, all sorts of transactions that have economic value are generally concealed by talk of Capitalism. These include various forms of barter, household labor, underground economies (such as the drug trade), credit that does not pass through banking institutions, food sharing, non-formal child care, a wide range of gifts and voluntary labor among others.¹² These other forms of economy – without which social life would be rendered nearly impossible – are obscured by the presumption that all that is economic must be either capitalism or communism.

In short, to talk of capitalism or of a capitalist economy is to talk of many rather diverse ways of organizing economies. Capitalism with a capital C is a myth. Rather than insisting on the desirability of or railing against capitalism, it is high time that we asked just what kind of capitalism we are talking about. What aspects are desirable and perhaps even necessary, and what aspects might be better modified or rejected altogether? But to answer this and related questions, we need to look at the centerpiece of all forms of capitalism: the market.

¹² For other examples see J. K. Gibson-Graham, *A Postcapitalist Politics* (Minneapolis: University of Minnesota Press, 2006).

The Market

A very significant portion of Americans appear to believe in something called the 'free market.' The free market is guided, we are often told, by something called the 'invisible hand.' But what this is or might be is, at best, murky. Reams of paper have been generated trying to explain the invisible hand bringing more noise than light to the issue. The myth of the market has a variety of (usually interrelated) claims. These include:

- *All markets have the same basic format.* Producers supply a given good and put it up for sale, while buyers demand that good. The market price is 'discovered' when the interactions between buyers and sellers are such that the quantity sellers are willing to sell is equivalent to the quantity buyers are willing to buy. Put differently, at the market price, the market will clear; there will be no more suppliers willing to produce any more and no more buyers willing to buy any more. To some this is seen as the 'invisible hand' at work, while for others it is a logical property of the market. Either way, it suggests that markets are self-regulating. They do not require any regulation. Indeed, it is asserted that regulation will usually distort the efficiency or otherwise mar the functioning of the 'free market.' Hence, governments may promote the creation of markets, but once created, they should stay out of the way rather than intervene in them.
- *Markets promote efficiency,* that is, they promote the production of goods of a given quality for the lowest cost, or the production of higher quality goods for the same cost. This maximizes the net benefits for both consumers and producers of goods. Those firms or persons unable to produce at the market price will be forced out of business, while the market share of the most efficient or lowest costs producers will increase. Since production of that good is now less costly, capital can be invested elsewhere – in new products and processes or in various kinds of cost-savings or enhancements of existing products and processes. This has the effect of increasing national and global wealth. Moreover, since markets are efficient, they are clearly the best way to distribute goods and services.
- *Markets enhance personal freedom* since they expand the scope and nature of choices available to us as individuals. This becomes evident when one contrasts the abundant choices to be found in the marketplace with government programs or regulations. These government actions restrict our freedom by limiting our choices, insisting that we behave in certain ways and not others, creating massive bureaucracies and promoting rationing.
- *Markets are technical phenomena,* best managed by allowing trained economists, financial analysts, statisticians and others to fine-tune them, while the rest of the population accepts the results.
- *Markets are information processors.* After all, they link the individual demand of millions of buyers with the supply of thousands of firms. Hence, in a world of limited resources, markets tell us what people are willing to pay for, what is valuable, and what is not. They tell us which ideas are marketable, which things are important in life and how to organize our personal lives so as to be successful.

- *Monopolies and oligopolies are rarely problematic.* In most instances, they are fleeting, as, in a dynamic market-driven world, new firms and technologies take market share from them. They only become problematic under two conditions: (1) when their existence blocks entry of new firms or (2) when they are able to use their size to inflate prices, thereby restricting sales. If new firms can easily enter the market, if buyers could not get lower prices by breaking up monopolies and oligopolies, then there is no reason for intervention. They are merely an expression of the efficiency of the market.

While some might quibble over wording, most Americans and a large proportion of the populace in most other nations today would find the assertions about markets above to be largely unexceptionable. But what if these assertions turn out to be myths? What if markets vary in formats leading to multiple outcomes? What if markets often fail to promote efficiency or trade off efficiency for other, more widely held values? What if markets often restrict personal freedoms? Might the notion that the promotion, management and organization of markets should be handled by experts sometimes lead to undesirable consequences (such as the 2008 financial debacle)? Might the much vaunted information processing capabilities of markets be accompanied with an impoverishment of that information? Might monopolies and oligopolies, even when their existence neither raises prices nor keeps out other firms, still be problematic? And, perhaps most importantly, might markets – at least the kinds we expect in the modern world – be impossible without States to design and enforce them? Let's begin to answer these questions by examining the relationship between markets and money.

Markets and Money

Markets are one means by which we humans exchange various goods and services. Others include gifts, inheritances, barter, tribute, need and desert (what one deserves). In principle, markets allow us to dispose of things we no longer desire or have too much of in exchange for some good or service we desire. Importantly, both the willing buyer and seller in a market transaction are better off than either was before the exchange, since they have both been able to gain something that would have been unavailable to them without the market transaction. Markets that involve money have the extra advantage of allowing us to dispose of things without immediately acquiring something else. (And, in capitalist societies, money allows us to 'invest' in some venture, expecting returns at some future date.) Hence, I may sell you the widgets I produced for a given quantity of money and hold on to that money (or part of it) until I desire to spend it to acquire other goods and services. Alternatively, I might invest those funds in some enterprise so as to yield more funds at a later date. Monetized markets allow, among other things:

- The creation of a very complex yet integrated division of labor, where people engaged in myriad different tasks are able to exchange things with others not engaged in the same tasks. For example, I can buy a refrigerator that I could not possibly make myself by exchanging it for money which the retailer can use to pay its employees, the manufacturer, the landlord who owns the store and the stockholders who provided capital. In turn, the manufacturer can pay its employees, suppliers, stockholders and others. And, the supplier of the raw materials can do the same.

- Production and disposal of large quantities of goods at acceptably low prices. Market prices make it possible to compare with relative ease the cost of the millions of products and services available at a given moment.
- Collection of price data such that prices become public knowledge over time and space. Hence, I can find out (with some margin of error) what the price of eggs in Kansas City was in 1952, as well as the price of a share of General Electric stock a few minutes ago. I can use that knowledge to make decisions about purchases or sales.

These services provided by markets are often quite useful and have rightly been seen as important and valuable parts of contemporary societies.

Types of Markets

But, while many introductory economics textbooks and many commentators talk of 'the market,' in fact markets come in many types and forms. Let's consider as examples the similarities and differences between stock markets, farmers markets, real estate markets, labor markets and land markets. As we shall see, each is subject to different forms of regulation and could not function without them. Moreover, those regulations do not merely put limits on the actors in those markets; they *create* very different kinds of entities that we collect under the rubric of markets.

Stock Markets. Ironically, one of the best approximations to the free markets of introductory economics texts is the stock market. There, stock certificates of all kinds are regularly bought and sold. Importantly, a given share of common stock of, for example, IBM, will trade for the same value as any other given share at that point in time. Put differently, all the stocks traded on stock markets are commodities, that is, they have the same value as all other shares of a particular stock.¹³ Here we have things (shares or stock certificates) that are absolutely identical for purposes of trading, and the trading itself takes place publicly. Moreover, everyone wishing to buy or sell can know the current price of the stock in question either by reading the (now electronic) ticker or by calling a broker. This would appear to be the paradigm case for a free market.

Yet, stock markets are among the most highly regulated of markets. It is only by virtue of that regulation that they are able to approximate the ideal free market of economics texts. This includes the protections offered (to varying degrees depending on the jurisdiction) in all markets including (1) enforceable ownership rights, (2) protection against outright fraud, (3) the ability to enforce contractual arrangements between parties to an exchange, and (4) the ability to create legally-recognized limited liability corporations. Hence, stock certificates must be issued by the company in question; I cannot issue stock certificates for IBM. Similarly, in contracting with a broker to purchase shares of IBM, the broker cannot (legally) decide to use my money to purchase some other company's stock. But in addition to these requirements that pertain to all markets, stock markets have many other forms of regulation. Among the many regulations are the rules of the Securities and Exchange Commission (SEC) that require all listed companies to file publicly available quarterly and annual reports that specify the financial state of each

¹³ Some companies issue both preferred and common stock, but all stock certificates within a given class are 'the same' for purposes of buying or selling.

company, as well as to show what potential risks investors might have to contend with (e.g., new technologies that might not work as expected, legal actions against the firm, rising costs of raw materials, unexpected competition).

In addition, so-called insider trading is strictly prohibited and carefully policed. Such trading, were it allowed as a matter of course, would permit insiders to buy low before an announcement of something that raised the share price of a given firm, or to sell high before the announcement of something that lowered that share price. Of course, such bans are never perfect. Congress was recently forced, under considerable public scrutiny, to police its members by banning insider trading for them (although it appears that they have reversed that decision while no one was looking).¹⁴ And, even as billionaire Raj Rajaratnam was convicted of insider trading in 2011, sentenced to 11 years in prison and fined \$150 million, doubtless a few others are still quietly engaging in similar behavior.

Furthermore, each stock exchange has a set of rules and regulations that determine what firms must do to be listed, what kind of behavior is expected of them, how trades must take place and myriad other aspects of the organization of the market. For example, among other things the New York Stock Exchange (a part of Euronext) organizes the market, establishes metrics for tracking the performance of various listed stocks, promotes new technologies that improve market performance, establishes a code of ethics, advocates for its members, and sets rules of competition required for all firms listed on the exchange. Those who fail to comply will often find themselves excluded from the market.

In addition, the market is organized such that I, as a private individual, cannot trade on the market at all. Although I might be able to engage in a private sale of stock, to do so I would have to identify that person or persons who wished to buy my stock for the going price. In practice, this is often quite difficult and costly. Hence, I must go through a broker whose behavior is regulated so as to discourage absconding with the funds involved. For services rendered, I need to pay that person a commission. And, of course, in addition to being regulated by governmental and stock market bureaucracies, brokerage firms also *necessarily* have their own internal rules and bureaucracies.

What this implies is somewhat paradoxical: First, whatever is free about the free market is itself the result of public and private regulation. It is the result of both general laws that regulate all markets and of specific laws that regulate different types of markets. And, it is the result of adherence to rules created by private organizations such as the New York Stock Exchange and Ameritrade, each of which promulgates rules for participants and enforces them by denying market access to those who do not comply. Without these regulations, the so-called free market is an impossibility.

Second, each market, at least in our contemporary world where strangers exchange things with each other, *requires a bureaucracy*. That bureaucracy, which consists of a complex collection of

¹⁴ Tamara Keith, "How Congress Quietly Overhauled Its Insider-Trading Law," <http://www.npr.org/blogs/itsallpolitics/2013/04/16/177496734/how-congress-quietly-overhauled-its-insider-trading-law>.

rules and standards of the sort described above, is supported by taxes, first those imposed by the government, but also those fees imposed by the exchanges, brokers and others who create the 'free market.' Only a fool would invest in a stock market that was free of regulation, have surgery performed by an unlicensed practitioner or consume food that did not meet minimum sanitary requirements. Hence, markets for stocks, surgery and food are far more regulated than the market for stationery or clothing. Indeed, one can plausibly argue that the closer a market is to the free market of orthodox economics textbooks, the larger the bureaucracy and the more complex the rules must be.

Farmers Markets. Farmers Markets are quite different in form and function from stock markets. Whereas stock markets are usually to be found at fixed locations such as Wall Street, engaging in market exchange does not require one's physical presence. In contrast, while a farmers market is also a physical place and time such as the corner of 3rd and Pine Streets on Wednesdays from 7:00 am to 4:00 pm, one must go there to inspect and purchase food products. One can see hundreds of buyers and sellers in a relatively well-defined physical location. And, one can quickly compare the prices and qualities of tomatoes offered for sale by Juan and Alice. Moreover, it is likely that if I go there each week, I will see many of the same buyers and sellers. Finally, at least in the US, prices are generally set by the seller, although near the end of the day, I might be able to negotiate the price on a few leftover tomatoes.

At the same time, what I will not see (unless I do a bit of detective work) are the bureaucracies that underpin the farmers' market. These include the government organizations that protect against fraud, support property rights, and enforce contractual arrangements; as noted above, these are common to all markets. But in the case of farmers' markets, other bureaucracies are at work as well. They ensure that the food sold is safe to eat, that scales used in the market give accurate weights, that sanitary rules are followed in handling the food and that trash is picked up at the end of the day. In larger farmers' markets, there may also be security officers and some sort of building provided (which requires maintenance, insurance, a mortgage and so on). Moreover, someone has to negotiate with property owners for the use of the land on which the market takes place.

Real Estate Markets. In contrast to both the stock market and the farmers' market, the real estate market only exists as an abstraction that has been made concrete; although one can find individual homes for sale, one cannot go *somewhere* to see the real estate market since that place does not exist. Buyers are usually invisible to each other and even sellers are usually not present when a home is examined by potential buyers. Instead, the real estate market is the result of actions taken by countless professionals that include estimating the 'market prices' of specific properties. Thus, since prices received in real estate sales are – and are required to be – public, as are assessed values for tax purposes, one can collect such prices and values and average them over some geographic area (a street, a neighborhood, a village).¹⁵ Moreover, one can put houses into classes (by size, type of construction, age) and compare the prices received within a class. Fine tuning can be done based on the quality of nearby schools, the convenience to downtown, the availability of various amenities in the neighborhood, and, more obviously, the quality of a given house. The result is a set of statistics that reveal the average price for, e.g., a three bedroom

¹⁵ Even defining the boundaries of such a market can be the subject of considerable debate.

brick ranch home in the Uptown neighborhood. Finally, prices are usually not fixed in real estate markets, but are instead subject to negotiation between buyer and seller (usually mediated by a realtor). And, realtors will often suggest to sellers means by which they might increase the price that buyers might be willing to pay – by updating the kitchen for example.

Here again, note that in addition to the usual legal protections, the real estate market has a number of issues that are unique to it; these require the creation and maintenance of specialized bureaucracies. They include public bureaucracies like the register of deeds offices where titles are filed when ownership of a particular property is transferred, required forms that explain according to fixed regulations what the terms of a mortgage are as well as what the interest rate will be, how much will be paid by buyer and seller in fees to various parties as well as required inspections and assessments to ensure that the property matches its description. Furthermore, government agencies that enforce zoning laws prevent someone from building a cement factory next door to the house I just purchased.

In addition, there are private bureaucracies such as multiple listing services that allow brokers (and more recently buyers) to learn of various attributes of properties available in a given neighborhood. Banks have bureaucracies that provide and process mortgages. Others provide insurance that the title to the property actually belongs to the seller. In short, here again it is a combination of both public and private regulation that permits the real estate market as we know it to exist. Buyers and sellers in nations that do not have these regulatory bureaucracies wind up taking much greater risks; they may even refrain from buying or selling out of fear of being on the short end of the stick.

Labor Markets. Labor markets are different from any of these. You or I can sell our labor on the labor market, but doing so is quite different from selling tomatoes or real estate. A few moments' reflection should make it clear that selling one's labor is hardly a choice for most Americans. While a very small number of persons are able to survive by theft from others, or by squatting in abandoned buildings, diving into dumpsters for food or growing their own in the wilderness and the like, most of us would reject this kind of life. On the other hand, a very small number of persons are sufficiently rich that they can live on the income derived from interest and dividends. While many people would doubtless envy these wealthy folks, clearly their ability to live on interest and dividends depends on the rest of us continuing to work to generate goods and services that they (and others) may purchase and on profits from the companies in which they invest. For the vast majority of us, it is imperative that we find a job, or create one for ourselves in an entrepreneurial manner. Moreover, our ability to find or create one that pays well is highly correlated with the kinds of skills we have been able to acquire. And, usually, we have had only a limited role in acquiring those skills. The skills themselves must in most instances be taught to us by others and our access to those others is limited by the wealth and income of our parents, by the neighborhood in which we live and by the quality of the education we receive.

In addition, labor markets are often highly skewed toward the buyer. If I am the owner of a business in need of workers, I will likely offer the minimum that the market will bear, i.e., only as much as is necessary to find someone who can accomplish the task at hand. Moreover, if I find that the cost of wages for such a person to be too high, I may decide either to automate the task or to forego hiring altogether. In short, while – in modern capitalist societies – most of us

are coerced into entering the labor market, those in need of workers rarely find themselves similarly coerced.¹⁶ This is especially true in periods of high unemployment.

Of course, there are exceptions to this rule. Some companies such as Costco pay premium wages. Others offer stock options. They do this so as to reduce labor turnover, enhance commitment to the firm and better satisfy the desires of those to whom they sell. Similarly, none of this is to suggest that workers cannot band together and form labor unions or professional associations, so as to attempt to drive up wages and increase job security. Such actions may well be effective, although in recent years decades of concerted action by workers have been undermined by legislators – often in thrall to corporations that generously underwrite their electoral campaigns – who have weakened workers' abilities to organize in such a manner. The creation of so-called 'right to work' laws are a case in point; they would perhaps better be described as 'right to work at low wages' laws. Nevertheless, even under the best of circumstances, unless one has a very valued skill that is in short supply, one faces an uphill battle.

Finally, labor markets differ from other markets in that they do not bring with them ownership of anyone or anything. When I sell my labor as a university professor, or when someone else sells their labor as ditch digger, we only sell a part of our selves. What part we sell is largely the result of custom and several centuries of (still ongoing) legal disputes between buyers and sellers of labor. Hence, in the early 19th century it was not uncommon for workers in many fields to be required to behave in certain ways even when not at work. The unmarried women who worked in the textile mills of Lowell, Massachusetts, for example, were expected to live in company dormitories. Many years later, the Pullman Company built a company town to house its workers and demanded adherence to a strict code of conduct from those who lived there. Ultimately, this resulted in the infamous Pullman Strike and the dissolution of the company town. Similarly, Henry Ford established a 'Sociological Department' within his company so as to ensure that his assembly line workers had 'the right' cultural background. This included evidence of thriftiness, good habits and good conditions at home. Being of British origin also helped.

Today, we see such private regulation as anachronistic, but this type of moral control has recently begun to slip back into vogue. For example, Meritain Health (a company that manages flexible spending accounts) requires that its employees not smoke even when off the job. Similarly, pharmacy chain CVS Caremark requires its employees to report a variety of personal health characteristics – body fat, blood sugar, blood pressure, cholesterol – to the company providing health insurance or pay a \$600 penalty. And, Michelin US has announced that those employees with large waistlines (40" for men and 35" for women) must pay an extra \$1000 annually for health care.

But as with the other markets noted above, labor markets remain regulated and those regulations require bureaucracies. They include public bureaucracies that regulate worker safety and health, the maximum number of hours and days per week that someone of a given age or gender can work in certain jobs, minimum wages, discrimination and sexual harassment in the workplace, among others.

¹⁶ Exceptions can be found in situations where highly skilled workers are in short supply. In those instances, employers may hire persons who are less well qualified than they wish.

In addition, nearly all private bureaucracies enforce rules concerning employer expectations about workplace behavior, dress, attitudes toward customers, use of company property for personal purposes and so on. These rules often extend to thick notebooks providing detailed instructions on expected employee behavior in seemingly every conceivable situation. Entire 'Human Resource Management' departments concern themselves with various aspects of employee behavior, compensation, benefits and status. Franchise businesses (McDonalds, Holiday Inn, Great Clips) provide yet another layer of bureaucracy, requiring that each franchisee and her employees adhere to a long list of rules and regulations. In each instance these rules define the workplace environment, making some jobs exciting and desirable and others boring and miserable.

Land Markets. Land markets constitute yet another type of market – one that only partially conforms to abstract models found in textbooks. While there is little debate that in contemporary societies land is subject to ownership and can be bought and sold, it has several characteristics that make markets in land quite different from those for manufactured or agricultural goods. First, land is obviously immobile. Whereas the buyer of my car can move it thousands of miles away should she wish to do so and have the wherewithal, the buyer of my land cannot do that. Thus, land of precisely the same quality – however defined – will bring a different price depending on where it is located.

In addition, in the short run the supply of land is essentially fixed. While in rare cases land can be 'reclaimed', as the Dutch have done with great success at the tip of the Rhine delta, this is a costly process that cannot be replicated in many places. Similarly, whereas (most of) my car can be recycled when its useful life has ended, land is not amenable to such short term recycling. The state of Michigan, where I live, was virtually denuded of forest a century ago. New growth in the Lower Peninsula is now visible, while a considerable portion of the (colder) Upper Peninsula is still scarred by that action. Correspondingly, most land that has been heavily contaminated by industrial pollutants, mined to depletion of desired minerals, or robbed of its nutrients for agricultural production cannot be recycled – at least not within the lifetimes of our great-grandchildren. In addition, as the high rise profile of nearly all the world's major cities attests, there is only so much land in city centers and no more can be created. Hence, skyscrapers are rarely built in rural areas, while they are common in city centers. And, of course, managing land requires both public and private bureaucracies charged with everything from protecting the environment (e.g., minimizing runoff from farms and mines, avoiding overgrazing of public lands, monitoring forest management), to limiting construction on flood plains, to requiring that dangerous or dilapidated buildings be demolished, to ensuring through zoning that steel mills are not constructed in residential neighborhoods.

Other Markets. Other markets may be similar to or differ from the stock, farmers, real estate, labor and land markets. And, of course, the details of market regulation – from who can enter the market, to what constitutes a valid contract, to how property is defined, to the special features of the economic exchange of a particular good or service – vary from place to place, good to good, jurisdiction to jurisdiction.

Commodity markets, such as those for coal, iron ore, petroleum, bauxite, pork bellies or wheat, have fixed locations. But like stock markets, one need not be present to engage in buying or selling. This is the case because the *relevant information* needed to purchase or sell a particular quantity of coal, oil or wheat can be summed up in one or a few measures. Hence, any lot of No. 2 red wheat is in principle and usually in practice the same as any other lot; US light crude oil similarly meets a set of agreed upon standards, such that any given volume of oil will have the same relevant characteristics (e.g., it will produce the same proportion of gasoline). Of course, bureaucracies of considerable size are needed to develop and maintain standards for wheat and light crude oil, without which a given sale would take much longer to negotiate. And, the markets themselves, such as the Chicago Mercantile Exchange, have complex bureaucracies to ensure that sales take place according to the standards and other rules.

Markets for other goods such as automobiles, computers, machine tools and the like, each have their own public and private bureaucracies that are necessary to the functioning of each of those markets. The same applies to services. And, the growth of Internet marketing over the last decade has spawned vast public and private bureaucracies with a wide variety of regulatory functions. Let's delve a bit more into some of the kinds of regulations that are commonly found in American society.

Market Regulation

Since markets come in many forms, they are regulated in many different ways. As noted above, in most nations, markets are regulated by property, contract, anti-fraud, and corporate laws. These, if you wish, form the basic framework for market transactions. The object of exchange must be clearly owned, the contract between buyer and seller must meet certain conditions, neither buyer nor seller can engage in activities deemed to be fraudulent, and if a party to the exchange is not a person, the group involved must have formal recognition by the government (i.e., the State). But many other regulations are designed to shape particular markets. Let us look at some examples.

- Foods are governed by regulations that prohibit sale of certain products regardless of price. While several hundred years ago *caveat emptor* applied even to food products, today all sorts of regulations specify what can be sold, under what conditions foods must be stored and displayed, how they should be labeled, etc.¹⁷ This includes requirements for refrigeration of certain products such as fresh milk, expiration dates on packaged goods and regulations that prohibit use of containers that may contaminate the product. And, finally, it includes product purity requirements; for example, I cannot (legally) sell peanut butter that contains more than a fixed proportion of insect parts. In creating and enforcing these regulations, people have (to varying degrees) been divested of the burden of determining if their food is edible. Of course, in less industrialized nations, even when such laws exist, they are sometimes widely ignored. Even in our own nation, scofflaws are occasionally found. Hence, more than 500 people became ill in 2010 when they consumed eggs produced by Austin J. DeCoster, one of the nation's largest egg producers, under conditions that violated numerous health requirements.

¹⁷ Neal D. Fortin, *Food Regulation: Law, Science, Policy, and Practice* (Hoboken, NJ: John Wiley, 2009).

And in 2009, the Peanut Corporation of America was closed after its products were found to contain salmonella; nine people died and 22,500 were sickened.¹⁸

In addition, we require that packaged food products be labeled as to net weight, ingredients and nutritional value. This provides more information to the buyer that would otherwise only be available to the seller, but it also requires a bureaucracy. On the one hand, NIST, the National Institute for Standards and Technology of the Department of Commerce has to develop standard 'reference materials' to which actual products can be compared. For example, it sells peanut butter that has been carefully nutritionally analyzed to companies who then use it to compare with and label the peanut butter they produce. On the other hand, public and private inspection agencies are needed to ensure that labeling is accurate and intelligible to buyers.

- Certain products may only be sold to certain people. For example, minors may not purchase guns, alcoholic beverages, and tobacco products, but also admission to movies not approved for them. Until 2011, when the US Supreme Court struck down the law, California minors were prohibited from buying violent video games. The assumption here is that those persons not yet adults are less likely to know how to use the products or services in question, or are more likely to be adversely affected by them or to do harm to others. Similarly, some products are not (legally) available to *anyone* as they are considered too dangerous or harmful for widespread use. Hence, much as I might like wish to do so, in most jurisdictions, I cannot culture the plague bacteria or own a nuclear bomb.
- Other products are regulated for purposes of safety. For many years toys painted with lead-based paints have been banned in the US. Pajamas must be made of fabric that will not burst into flames on contact with heat. Automobiles must have a wide range of safety features such as seat belts and air bags so as protect passengers in an accident. In most states motorcycle operators must wear helmets both to avoid personal injury and health care costs for the rest of us. Pharmaceuticals are regulated in numerous ways largely to ensure their safe use. Hence, only drugs that meet strict efficacy and safety requirements may be sold; in addition, many are only available with a prescription.
- Some products and services are regulated based on authenticity. When I buy a Napa Valley wine, I expect that it was in fact produced from Napa Valley grapes. A wine produced from the same variety of grapes (e.g., Chardonnay) that tasted exactly the same but was produced elsewhere would be inauthentic. Similarly, the term Coca-Cola™ is trademarked so as to prevent its use to label a beverage by anyone not licensed to do so by the Coca-Cola™ Company.
- Many products are only traded in markets because intellectual property laws exist. It is claimed that such laws promote innovation of various kinds. For example, if this book were not subject to copyright protection, anyone would be able to make a copy at will. The result would be that the market for the book would virtually cease to exist since no publisher would

¹⁸ Michael Moss and Andrew Martin, "Food Problems Elude Private Inspectors," *The New York Times*, 6 March 2009.

be able to recoup the costs of publishing. Instead, what the law permits is a legal monopoly for a given number of years. Similarly, for a specified number of years patented products may be sold or licensed only by the patent holder.

In recent years, intellectual property has been extended to cover software, genetic material, business processes and financial products among other things. But it is unclear whether such expansions of intellectual property actually promote innovation or merely serve to line the pockets of certain companies.¹⁹ Whatever the case may be, intellectual property makes possible the existence of markets that would otherwise not exist.

- Some items are actually legally blocked from sale on the market, even though they pose no problems with respect to safety or health. This include votes for public office, judicial decisions, scores on college entrance exams, prizes in sports competitions (although not necessarily the trophies), and admission to various professions such as law. In short, we have found collectively, usually by experience, that certain things are best exchanged because people *need* or *deserve* them, rather than via market exchange. If you are unconvinced, then ask yourself: Would you want judicial decisions to be based not on guilt or innocence but on ability to pay? Would you want sports competitions to be decided based on which team could pay the most? Would you want a market for votes for public office?²⁰
- Finally, markets vary with respect to space. Some markets are necessarily very local while others are global in scope. Five hundred years ago only very high priced and lightweight goods were part of a global market. Hence, European explorers searched for new routes to Southeast Asia in large part so as to find new and cheaper ways to get exotic spices to Europe. Today, container ships ply the seas moving millions of tons of cargo each year at incredibly low cost. The same can be said of ships carrying bulk commodities such as oil, grain and mineral ores. But the spatial scope of markets is also a matter of legal restrictions. Until the World Trade Organization (WTO) was established, most American markets were protected from and often largely closed to foreigners. Changing the geographic boundaries of those markets was a political decision made by WTO members. As with all political decisions, some benefitted while others lost. Hence, American consumers saw prices decline on many products, even as American manufacturing jobs were shifted overseas.

Indeed, markets may even be 'criminogenic,' that is, they may encourage criminal behavior. Consider the used car market.²¹ Although doubtless not all used car sales people engage in criminal or even unethical behavior, the very nature of the used car market encourages such behavior. The problem is fairly straightforward: The salesperson usually has information unavailable to the potential buyer about the history of the vehicle in question (although with the advent of online registries, more information is now available to prospective buyers). Was the

¹⁹ Economist, "A question of utility; Intellectual property," *The Economist*, 2015 Aug 08 2015.

²⁰ I should note that a few market enthusiasts have been promoting just that. See: Christopher Shea, "To Avoid Tyranny of the Majority? Sell Votes, Economist Says," *The Chronicle of Higher Education*, November 1 2013.

²¹ Harvey A. Farberman, "A Criminogenic Market Structure: The Automobile Industry," *Sociological Quarterly* 16, no. 4 (1975).

car in question owned by a grandmother who only took it out on weekends to visit her grandchildren? Or was it abused by someone regularly? Moreover, two vehicles of the same make, model, and year on the same used car lot do not have the same history. One may have never been in an accident, while the other may have suffered multiple accidents; one may have been neglected while another was serviced regularly. In most instances, the potential buyer will have difficulty answering these questions. When such differences in knowledge about the vehicles in question exist, the potential for undetectable criminal behavior on the part of the salesperson is present.

Nor is this problem limited to the used car market. The marine insurance industry also tends to be criminogenic.²² Ships fly flags of convenience often choosing the nation with the most lax rules. With large container ships, as many as 30 companies may together insure the cargo; this reduces the risks taken by any particular insurer. But, as a result, in cases of suspected fraud on the part of the shipper, there is little financial incentive to investigate. Moreover, refusing to pay a claim is likely to reduce the ability of that company to further underwrite marine insurance. Indeed, almost any market in which one party to an exchange is likely to know far less about the product or service than the other (or as economists would put it, where there is asymmetric access to information) is liable to be, to some degree, criminogenic or at a minimum fraudulent.

Markets, Contracts and Property Rights

As noted above, markets themselves are also dependent on contract law. But contract law is not fixed for all time. In the eighteenth century contracts were considered valid if judges found the terms to be fair and just (based on appeal to customary notions of fairness and justice). But by the mid-nineteenth century the validity of contracts was based on the convergence of the wills of the contracting parties. Today, some types of contracts are considered null and void – one cannot contract oneself into slavery or peonage – but, irrespective of the fairness of the contract, most contracts cannot be broken with impunity unless one can demonstrate that one of the parties entered into the contract under duress.

Much the same might be said of property rights, which are never absolute but always limited and in flux. In the eighteenth century property rights were such that traditional use rights were favored over industrial development. Streams could not be blocked for industrial purposes unless all the owners along the stream agreed to that use. Similarly, building a structure that blocked one's view was prohibited.²³ Today, property rights look considerably different. Although I can tear down my home, I cannot replace it with a cement factory, as zoning laws prohibit that use. Nor can I decide to open a restaurant in my home, for the same reason. But property rights are also limited in other ways – for example, by environmental restrictions, anti-noise laws, and nuisance laws among others. These laws usually protect the rights of 'third parties' such as neighbors who might be affected by an exchange, even though they are not parties to it.

²² Eeuwke Faber, "Shipping and Scuttling: Criminogenesis in Marine Insurance," *Crime, Law & Social Change* 28(1997).

²³ Morton J. Horwitz, *The Transformation of American Law* (Cambridge, MA: Harvard University Press, 1977).

The Ever Present Third Party

In the textbook version of the market, as well as often in everyday practice, there are two acknowledged parties to every economic exchange: the buyer and the seller. This is true whether one is seeking employment or hiring others, or purchasing/selling a good or service. Hence, when I decide to purchase or sell something, I usually don't usually worry about third parties. I am only concerned about the good or service that I am purchasing/selling. However, there are always third parties involved in every exchange; moreover, these third parties affect the exchange itself as well as its consequences.

Most obviously, third parties include all those involved in the enforcement of contracts including the legislators, police, prosecutors, courts and lawyers for defendants. While most people are honest, there are always those who are not; the law – if properly enacted and enforced – is designed to ensure that people adhere to the contracts into which they enter as well as to ensure that the contracts are entered into 'freely.' Moreover, in entering into a contract, the parties are usually aware of the legal consequences of not fulfilling the terms of that contract. Hence, there is an incentive to comply even on the part of those who are not totally honest. Indeed, in small societies where everyone knows each other but formal legal proceedings are absent, failure to adhere to the terms of exchange can make future exchanges with others difficult or impossible.

But this is hardly the limit of third parties' entry into exchanges. When a large company opens a manufacturing plant or office in a small community, it creates new jobs (although not necessarily all for residents of that community). However, in addition, by increasing the incomes of those employees, it increases the demand for housing, foodstuffs, clothing, schools and a host of other goods and services. Conversely, when a large company leaves a community, either because it is going out of business or because it can make greater profits elsewhere, not only do workers at that company lose their jobs. Often, many of those persons who depend on the expenditures of laid-off workers also find their incomes reduced or their small businesses bankrupt. Indeed, while many businesses collapse due to the incompetence or poor choices of the owner, many others collapse by virtue of decisions made elsewhere over which the owner of that business has no control. Such changes reverberate through the entire society although doubtless in small communities they are felt most by third parties.

Market exchanges also have third parties by virtue of any aspect of production or consumption that is not included in the price. Economists call these 'externalities' although it is not at all clear just what they are external to (other than the supply and demand equations). Consider, for example, the person who purchases a home and throws large parties until the wee hours of the morning. Or consider the homeowner who decides to raise ostriches in the backyard. The neighbors are affected third parties. Of course, anti-noise and zoning laws may prevent this kind of behavior, but that is precisely the point: They do so in an attempt to limit the adverse impacts on third parties to the exchange.

Yet another area in which third parties enter into economic exchanges relates to what is commonly referred to as environmental pollution. There was a time when companies were permitted with utter impunity to dump toxic chemicals into waterways as well as to allow them to leach into groundwater supplies. They were also allowed to spew smoke into the air with

impunity. Here, again, the contracts included those among sellers of land and companies purchasing that land and using it in such a manner as to produce or release certain toxic chemicals, as well as the companies themselves and those who buy their products. Even today, countless disputes are to be found regarding everything from pollution of groundwater supplies to fracking to airborne toxins. In nearly every case, these involve third parties, whose interests and concerns were not included in the initial exchange.

Similar problems with third parties emerge when I engage in the purchase of a wide range of products at the local supermarket. Consider my purchase of crackers. It would seem that the exchange was between the store and me. But many others are involved as well. If those crackers contain palm oil – the second most widely used edible oil in the world after soy – the oil may well have come from the ruthless exploitation of peasants halfway around the world. If they contain cocoa, the same may apply to the cocoa production. This is hardly visible to me or anyone else when we buy the crackers; it may also be invisible to the supermarket chain that buys from the manufacturer and even from the manufacturer who buys from a supplier. Since these and countless other ingredients are purchased in places far removed from where I live, the situation of those third parties may simply be invisible to me.

The same applies to all sorts of imported products – from cotton to coffee to t-shirts. Since these products are often imported from places with far weaker laws (or strong laws that are not enforced) with respect to the treatment of workers, our purchases may actually encourage further exploitation ranging from working in unsafe buildings (as demonstrated by the collapse of a garment factory killing hundreds of workers in Bangladesh in 2013) to working excessively long hours to actually receiving only a portion of what was agreed to in an employment contract.

Similarly, when I buy a diamond – admittedly, I don't do this very often – it may have been obtained by violence, a so-called 'blood diamond.' In today's world, we frequently have what business schools call supply chains. That is, we have groups of enterprises that are linked together via complex routes from sourcing the initial raw materials all the way to final consumption. Very often, those at the downstream end of the chain are oblivious to what might be happening to procure the materials further upstream. Thus, even when diamond retailers act in good faith, it is often impossible or difficult to determine whether harm was done to people somewhere further up the chain.

Finally, it is worth noting that third parties do not even need to be humans. When I buy a chicken, I have no direct way of knowing if it was raised humanely. When I buy a piece of furniture, I cannot tell whether it involved destroying irreplaceable forests. In these instances, the third party is the chicken or the forest. Of course, this is not to say that *our* laws are or even could be perfect in protecting third parties; even when they are adequate, they are not always appropriately enforced. But the very existence of those laws and regulations is testament to the impossibility of engaging in an exchange that does not contain third parties.

Put differently, in order to enter into any exchange, one needs to know what one is buying or selling. But there is no such thing as perfect or transparent information, since the amount of potentially available information about any particular object, service or situation approaches the infinite and is costly to provide. What one needs is always information *relevant* to the purposes

at hand; acting on that relevant information transforms it into knowledge. Price is but a small portion of the knowledge I need in order to engage in economic exchange. I also need to know about those qualities of the good or service in question that are salient to me as the buyer or the seller as well as to various third parties. But this knowledge is hardly easy to come by. That is the case because it is a moving target. Apparent qualities of goods or services may change over time: Remember that time you discovered that the producer had changed the design or composition of a particular product, even though it was apparently the same? Or when you discovered that, for reasons not entirely clear, the tastes of potential buyers changed such that what was once a highly valued product was no longer such? And, remember when you discovered that the workers producing those fashionable jeans you were wearing included young children, were paid extremely low wages for working extremely long hours, or worked under unsafe conditions? In each case, when information about an affected third party became relevant – to those directly involved in the exchange, but also to others not party to the exchange – it became actionable; it changed the terms of that exchange.

Of course, some would argue that the solution to these problems is quite straightforward: Let the market decide. But this argument is fatally flawed. Markets can sometimes grapple adequately with acute problems; they can rarely if ever deal with chronic problems. For example, if a particular product performs exceedingly poorly, it does not take long before the market for it evaporates. Those of us old enough to remember the Yugo, an especially inexpensive but poorly built car, saw it come and go with amazing rapidity. On the other hand, many chronic problems only become visible when we keep detailed records of a particular sort. Only when post-market surveillance of pharmaceutical products, automobiles and nursing home care takes place does it become apparent that what appeared to be a random or accidental event was, in fact, a disturbingly frequent occurrence. Economist Milton Friedman famously argued that even physicians need not be licensed as the market would quickly determine which were competent and which were charlatans. Yet, one must ask just how many persons would need to die in order for the market to produce a solution to such a problem.

In short, modern markets exist because certain legal guarantees work (more or less well) regulating the relations between buyer and seller, as well as between buyer, seller, and third parties, and because certain terms of exchange are non-negotiable by law. Hence, the very opposition between State and market is false. This opposition was the cause of numerous wars during the 20th century. But it is a false one. Without States, markets – especially modern markets – can scarcely exist. States set the framework and provide the security necessary for markets to be performed; when well-designed they ensure – usually with a high degree of certainty – that contracts are enforced, that fraud is not committed, that certain entities such as corporations can exist and that at least the most egregious offenses to third parties are avoided.

Put differently, in today's world it is governments that make markets possible in part by *designing* the structure of a given market and *defining and protecting* to varying degrees the rights of buyers, sellers, and third parties. What this means is that the paycheck you take home, whether large or small, is not *your* hard-earned money at all. Nor is the enormous wealth accumulated by a handful of people solely the result of *their* hard work and 'market forces.' It is largely a function of the way in which markets are *designed and regulated* at a particular point in time and space. Over the last 50 years, markets have been redesigned so as to create greater and

greater inequalities, to reduce the share of those at the bottom of the economic ladder and to raise the share of especially the top 0.1%.²⁴ Hence, “In the 1970s the average American CEO earned 25 times as much as the average shop-floor worker. Today he (and, occasionally, she) earns more than 300 times as much.”²⁵ Similarly, McDonald’s pays its employees in Australia about \$15 per hour, the sum that US workers are demanding, and still makes a profit. This can hardly be said to reflect the growing scarcity of skilled top managers or overabundance of restaurant employees; to the contrary, it is mostly the result of changes in the way that these markets are designed and regulated.

Prices

But if third parties are always involved (to varying degrees and with varying consequences) in market exchanges, then it should be clear that market prices are not merely the result of the interaction of supply and demand as suggested in introductory economics textbooks as well as contemporary common sense. According to conventional wisdom, if supply goes up relative to demand, then prices will decline; in contrast, if demand goes up relative to supply, then prices will rise. In theory, this logic is indisputable. But if markets are constructed (by customs, legal regimes, standards and technologies) rather than naturally occurring phenomena, then the textbook version of prices is misleading, if not utterly false. Let me explain.

Three hundred years ago, prices in the Western world were generally fixed based on the notion of a ‘just price.’ Such a price was what was considered the *fair value of the labor* involved in producing a given item such as a bushel of wheat or loaf of bread. Supply and demand had nothing to do with it. Today, of course, we no longer fix most prices in this way. Instead, we let prices fluctuate.

In markets for standardized commodities such as metal ores, coffee and pork bellies, the usual supply and demand argument tends to hold (although here, too, the markets are designed). Since all the producers are producing what is essentially ‘the same’ thing with little opportunity to differentiate among them, no one of them can raise or lower the price. There may be some difference in prices based on quality – the taste of a particular type of coffee or the concentration of metal in a given ore – but any commodity of the same quality will get the same price.

Of course, qualities, too, are something we create collectively. They are not fixed but change over time and space. In each case quality involves agreeing that certain of the innumerable qualities of a given commodity are important and others are not. Consider the case of coffee. What constitutes ‘good quality’ coffee varies from one place to another. Italians, Germans,

²⁴ Those at the very top are also able to pass on to their progeny huge sums of money thereby ensuring that the next generation of the top 0.1% will look very much like the current generation. See Economist, “An Hereditary Meritocracy,” *The Economist*, January 24 2015.

²⁵ Economist, “Executive Pay: Moneybags,” *The Economist*, October 25 2014. For more detailed data on particular firms, see Elliott Blair Smith and Phil Kuntz, “CEO-to-Worker Pay Ratio,” *BusinessWeek*, May 6-May 12 2013. Note also that the pension benefits difference between CEOs and the average worker is even higher. See: Carol Hymowitz and Margaret Collins, “A Retirement Toast,” *BusinessWeek*, January 12 2015.

Swedes and Americans all have somewhat different notions of good taste in coffee. More recently, organic, fair trade and bird-friendly have for a significant number of consumers also become quality characteristics of coffee. And, of course, what was considered good quality coffee in the US 50 years ago is no longer considered as such. However, the global coffee trade is largely in the hands of roasters who can blend coffees from various locations so as to produce a standard quality desired by some targeted set of consumers. Hence, much of the differentiation in coffees is created by the roasters who work hard to minimize differentiation among coffees they purchase and to maximize differentiation among the coffees they sell.²⁶

What this underscores is that prices are also about power, the ability to contract with suppliers and supply chain organization. Monopolies clearly have the ability to control prices by virtue of a lack of competitors. For many decades DeBeers controlled the world diamond price, because it had what was essentially a global monopoly on uncut diamonds. The same is true for oligopolies although the strategy used is somewhat different. In those instances prices can be controlled by watching a handful of large and visible competitors so as to set prices higher than would occur under open competition. For example, wireless providers can and do control prices. They do this by watching their competitors. Hence, Sprint watches Verizon, T-Mobile and AT&T to see what their pricing strategies are. Each of the other major wireless companies does the same. The minor ones, such as US Cellular and MetroPCS follow along for two reasons: They know that the majors have deep pockets and can match or surpass price discounts that they may offer. In addition, they profit most by keeping their prices only marginally lower than the big players. Both monopolies and oligopolies often manipulate prices they pay to their suppliers as well, attempting to keep those prices as low as possible without putting the suppliers out of business.

Finally, and more obviously, governments have the power to control or manipulate prices and often use it. They may do this by depressing prices for political reasons (as is the case for gasoline prices in Venezuela) or increasing prices for equally political reasons (as is the case for sugar in the US and gasoline prices in Europe). This shows that prices are not and cannot be the Archimedean point on which to hitch a complete theory of knowledge and human behavior. In short, price is as political, as much the product of human desires and actions, as all other parts of society.

Of course, supporters of the 'free market' will argue that all of the above simply shows that governments need to get out of the way and let the market do its job. But as I will explain in more detail below in the section on government, getting government out of the way merely means that someone or some other organization will have its way.

Monopoly

Monopolies occur when a single firm dominates a particular market, making possible price manipulation. Oligopolies occur when a small group of large firms dominate a market and are also able to manipulate prices. When Theodore Roosevelt was president, he spent a considerable

²⁶ For more on this issue, see Benoit Daviron and Stefano Ponte, *The Coffee Paradox: Global Markets, Commodity Trade and the Elusive Promise of Development* (London: Zed Books, 2005).

amount of time busting up the trusts (i.e., monopolies) of the day using the Sherman Antitrust Act of 1890 to accomplish the task. To Teddy bigness was itself a problem, as huge banks and corporations tended to interfere not only with the operations of the market, but with the operations of government. Hence, he broke up John D. Rockefeller's Standard Oil monopoly among others. But over the last forty years the US courts have drifted away from the letter and spirit of that law. In particular, they have been influenced by a group of economists at the University of Chicago Law School who developed their own theory of monopoly. Specifically, they have argued – successfully, if we watch the shift in court decisions and even in cases brought to court by anti-trust prosecutors – that there is nothing wrong with monopoly per se.²⁷ The key question for them is neither scale nor justice, but whether the monopoly is 'efficient.' In short, even if a company dominates a given market, there is no problem if that company contributes to 'wealth maximization.' Put differently, unless one can show that prices would be lower were the monopoly to be broken up, there are no grounds for an anti-trust suit.

On the surface this appears quite reasonable. After all, if consumers of the product are not harmed by the monopoly, and if a group of smaller firms could not do any better, then why bother to break it up. But this 'truth' has several major problems associated with it.

First, the owners and managers of large monopolies and oligopolies are often able to *change the rules of the game* or to *stretch the existing rules in a manner not available to ordinary mortals*. This can be done in many ways. One particularly well-documented case is how General Motors went around the US buying up streetcar companies so as to put them out of business and replace them with GM-manufactured buses as well as by automobiles.²⁸ This was highly successful, leading to the abandonment of excellent streetcar systems in numerous cities. More recently, it appears that Goldman Sachs used its vast resources to artificially raise the price of aluminum.²⁹ General Electric has been widely criticized for its aggressive (although legal) actions designed to reduce the US taxes it pays. And, according to a *Forbes* contributor, Apple pays virtually no taxes in any nation by running its profits through "an Irish holding company with no operations or employees...."³⁰ Indeed, one study suggests that ¾ of the 50 largest US technology companies use this approach to minimize or even eliminate their taxes.³¹

Similarly, companies may and do lobby for legal changes that benefit them. In the US large corporations have successfully lobbied for tax structures that allow them to avoid paying many

²⁷ For a brief summary of the transformation of antitrust law, see Nicholas Mercurio and Steven G. Medema, *Economics and the Law: From Posner to Post-Modernism and Beyond*, Second Edition ed. (Princeton: Princeton University Press, 2006).

²⁸ Bradford Snell, *American Ground Transport: A Proposal for Restructuring the Automobile, Truck, Bus, and Rail Industries* (Washington, DC: US Government Printing Office, 1974).

²⁹ The Economist, "Metal Bashing," *The Economist* 408, no. 8849 (2013).

³⁰ Lee Sheppard, "How Does Apple Avoid Taxes?," *Forbes*(2013), <http://www.forbes.com/sites/leesheppard/2013/05/28/how-does-apple-avoid-taxes/>. Apple is hardly alone in this respect. Walmart, among other large firms, uses similar tactics. See Jesse Drucker and Renee Dudley, "Wal-Mart Has Found a New Discount: Its Taxes," *Business Week*, June 29 2015.

³¹ Economist, "Minimise this," *The Economist*, July 27 2013.

taxes. The large oil companies have managed to maintain public subsidies for oil exploration operations despite huge profits. Archer Daniels Midland had successfully lobbied for and received a handsome 50 cent tax break on every gallon of gasoline produced from corn ethanol.³² This was done by asserting the alleged environmental benefits of making ethanol from corn. Not only are these benefits negligible at best, but the subsidy had the undesirable consequence of pitting food use of corn against fuel use. Congress recently voted to end the \$6 billion annual subsidy, but federal mandates for the use of 'renewable' fuels, will likely keep demand high anyway. Of course, such attempts to change the rules are not always successful. Hence, some years ago, Wal-Mart attempted to get itself recognized as a bank, but it failed in that attempt.³³

Another example is the work of American Legislative Exchange Council (ALEC).³⁴ ALEC's membership consists of a number of very large corporations and members of state legislatures. Nearly all expenses are funded by the corporate members. ALEC holds regular closed-door meetings at which corporate representatives discuss and disseminate to legislators their views on a wide range of issues. More importantly, they develop draft legislation for states, legislation that is often introduced and passed by friendly legislators. Since many of these legislators have little time or staff to develop legislation, they find ALEC's boilerplate saves them time and energy. Not surprisingly, ALEC supports limited government, free markets and federalism, especially when those policies support corporate interests. ALEC has supported bills that promote tort reform friendly to its interests, subsidies to private elementary and secondary education, deregulation of health insurers, limiting the ability of local governments to manage land use and promoting subsidies for private prisons. Most recently, ALEC has drafted legislation that has become the model for voter identification laws. Critics have pointed out that there is little or no evidence of voter fraud. These laws disenfranchise ordinary citizens – especially Blacks, Hispanics and young people. And, while those groups are far more likely to vote for politicians whose views are opposed to ALEC, denying them the vote undermines one of the most fundamental rights of our democracy and perhaps democracy itself.³⁵

Second, monopolies and near-monopolies are able to impose prices and other requirements on their suppliers and consumers in ways not envisioned or ignored by champions of the free market. These inflated prices are perhaps best understood as the equivalent of a tax. For example, pharmaceutical giants, mobile phone service providers, cable television providers and others are able to make huge profits by virtue of their ability to set the prices to final consumers. This is equivalent to paying a tax, except that in this instance the tax is paid to a corporation. Moreover, whereas at least some government taxes are progressive (those with greater incomes pay a larger portion of their income than others), taxes imposed by monopolies and oligopolies are often regressive (those at the bottom pay the largest share). The same can be said for subsidies and

³² Miguel Llanos, "\$6 Billion-a-year Ethanol Subsidy Dies -- but Wait There's More," http://usnews.nbcnews.com/_news/2011/12/29/9804028-6-billion-a-year-ethanol-subsidy-dies-but-wait-theres-more?lite.

³³ In Mexico it was successful.

³⁴ See <http://www.alec.org/>. Compare with <http://www.alecexposed.org>.

³⁵ If ALEC is skewed toward the right end of the political spectrum, it is apparently now being joined by the State Innovation Council (SiX) that will pour funds from firms more friendly to the left into state legislation. Both undermine democratic governance.

other policies that benefit certain types of businesses and people, such as far lower taxes on capital gains than on earned income and huge tax breaks for hedge fund investors. These are best seen as corporate welfare or negative taxes, i.e., reductions in the amount to be paid to support public goods and services of all kinds.

The same applies to those persons and companies that supply monopolies and near-monopolies. Monopolists are able to use their size to limit what they pay and to lock their suppliers into what are called supply chains.³⁶ For example, most large supermarket chains lock their suppliers into long term global supply chains, where farmers supply processors and packers, who in turn supply supermarkets. They do this by specifying particular qualities, packaging, and even manufacturing equipment. In recent years, executives at large supermarket chains have become expert at minimizing their costs by squeezing those further up the food supply chain. They may demand access to their suppliers' financial data. They may also dictate the price by determining just what level of profit will keep their suppliers in business. Over time, they have also tended toward consolidating their supply with just a small number of larger suppliers, thereby squeezing out smaller operators. They do this by pitting competitors against one another such that the firms with the lowest prices (and often the lowest wages) get to supply the monopolists.

Third, in the current, widely accepted view of monopoly the very notion of justice – admittedly a very messy term that must be applied with a considerable scope for judgment in particular cases – is replaced with a calculable efficiency rule that runs roughshod over the issues of concern in a particular case. Simply put, the argument now accepted in the courts is that a monopoly causes no harm if the outcome of the monopoly is efficient. Efficiency is defined as wealth maximization, the outcome that would produce the greatest degree of overall wealth. Thus, in determining whether a monopoly is acceptable, courts examine whether it maximizes the total wealth of all parties – not how that wealth is distributed.

There are several problems with this approach. First, it assumes that we all wish to be like King Midas – to maximize our wealth. Why that should be the end goal of justice is never explained. Furthermore, it assumes that there is a fixed point of maximum efficiency. Yet, as I have shown above, those who compete in any market are subject to the rules and regulations of that market. *Markets do not determine outcomes; those are largely determined by the initial rights distributed among the parties.* Those initial rights are defined and redefined differently at different times and in different jurisdictions as I noted earlier. Those rights determine just what is deemed to be efficient, that is, what will lead to wealth maximization. Claiming that efficiency can be used to determine the rights of litigating parties is an example of circular reasoning: Initial rights determine efficiency which is used to determine initial rights. Nevertheless, the courts have accepted this interpretation widely.³⁷

³⁶ Economists call this situation a monopsony rather than a monopoly. For my purposes here, the distinction is of little value.

³⁷ Mercurio and Medema, *Economics and the Law: From Posner to Post-Modernism and Beyond*. It should be noted that the cost/benefit analyses engaged in by many government agencies and the Corps of Engineers in particular, also engage in this form of circular reasoning since different distributions of initial rights will inexorably lead to different weighing of costs and benefits.

But this is merely the tip of the iceberg. In addition to the political power linked to monopolies and oligopolies, many, perhaps most, actual markets are structured by a complex system of interlocking directorates. Virtually every mainstream economics text – and most people's understanding of economic activity – assumes that each company is independent of all other companies. Hence, when I buy something from one company, I assume that it is not influenced by another company. Similarly, if I buy shares in the widget-producing ABC Corporation, I assume that it is a competitor– and not linked – to the XYZ Corporation. In point of fact, this is very definitely not the case, not only within the US, but on a worldwide basis. Many company directors sit on the boards of many other companies – including those that are direct competitors with each other.

The problem is compounded when one considers the relations between financial institutions (banks but also hedge funds and other forms of capital management) and companies that produce goods and services. In principle, these financial institutions are service providers to other businesses. Those services include (1) loans for new enterprises, facilities, or services, (2) safe places for short-term deposit of funds not currently needed by a given business, and (3) places for longer-term investment of funds not employed in a given corporation. But, especially over the last 30 years, banks, and more recently other financial institutions, have used their position to exert far more control over the corporate world. Rather than being the servants of corporate capital, they have become their masters, telling corporations how to invest and spend their money, often to the detriment of other stockholders.³⁸ For example, according to the General Electric website, their board of directors includes the chair of the management board of Bayer AG, the Chairman of the Board of Deere and Company, the former chair of ConocoPhillips, the Chairman of the Board of PNC Financial Services, and the former Chairman of the Board of JP Morgan Chase, among others.³⁹

This now global system of interlocking directorates asks directors to serve two or more masters. In some instances, this involves relations between financial and industrial firms, while in others it involves indirect control of one company over another. Regardless, as Louis Brandeis warned us a century ago,⁴⁰ it is replete with conflicts of interest. The best course of action for the ABC corporation, selling a marginally profitable division for example, may be detrimental to the XYZ corporation, or to the First City Bank. Hence, a director at ABC who also serves on the XYZ and First City boards may well argue against it. Or, alternatively, that same director may argue for a course of action that enlarges his or her overall earnings even as it impoverishes a given corporation.⁴¹

³⁸ Nor are these linkages confined to the corporate and banking sectors. Numerous university presidents now serve on the boards of companies whose CEOs serve on the boards of those very same universities. Put differently, for these university presidents, they are their boss's boss!

³⁹ <http://www.ge.com/about-us/leadership/board-of-directors>

⁴⁰ Louis D. Brandeis, *Other People's Money And How The Bankers Use It* (New York: Frederick A. Stokes Company Publishers, 1914).

⁴¹ For examples in the banking and corporate sectors, respectively, see José Azar, Sahil Raina, and Martin Schmalz, "Ultimate Ownership and Bank Competition," (Rochester, NY: Social Science Research Network, 2015). and José Azar, Martin C. Schmalz, and Isabel Tecu, "Anti-Competitive Effects of Common Ownership," (Ann Arbor: University of Michigan, 2015)..

In addition, our misplaced faith in the power of unfettered markets as well as the unwarranted confidence of macroeconomists in their models,⁴² allowed the banking sector to get completely out of popular control, resulting in a massive collapse and government bailout in 2009. Although some new legal requirements emerged out of that collapse, the fact that the biggest banks are too big to fail remains largely unaddressed. That means that they are implicitly backed by the US government in ways that other banks are not. Moreover, while banks were once service agents for manufacturing, commerce, and agriculture, today banks dominate the global economy. In the US banks account for an astonishing one-third of total corporate profits, much of it made not from loaning money to businesses to expand their production, but by speculating on the stock, commodities, currency, and derivative markets.⁴³ Importantly, such speculation rarely produces new things of value; it merely shifts profits from production units to bankers' pockets.

Price Competition

So common and widespread has monopoly and oligopoly become that business schools teach their students how to escape from the central feature of Adam Smith's free market: price competition. As taught in economics classes, through competition prices will be determined and the market will clear. Moreover, since the math doesn't work any other way, all competition is assumed to be *price* competition among buyers and sellers. Other forms of competition are deemed to be sufficiently rare or temporary to have little effect on prices. Put differently, all other differences in products, processes, management, marketing, and merchandising are assumed to be summarized in prices. Yet, business schools teach their students precisely the opposite: For example, Michael E. Porter, a management guru at the Harvard Business School, makes it clear that "A company can outperform rivals only if it can establish a difference that it can preserve."⁴⁴ Porter even goes so far as to argue that firms can use their concern for the environment as a means to compete.⁴⁵ For Porter and most business school faculty, the question is not how to satisfy the terms of an abstract mathematical model, but how to differentiate one's products, processes, management – indeed, one's entire firm – from others in the same industry. In short, business schools work hard to train students about how to *avoid* price competition. Price competition is considered to be highly destructive as it reduces if not eliminates profits.

To clarify, consider an example: If all the fast food restaurants within my neighborhood sold precisely the same kind of hamburgers, then my neighbors and I would likely go to the one that had the lowest prices. The others would have to lower their prices or find themselves without customers. But, in point of fact, things don't work that way. Fast food restaurants differentiate

⁴² For an insider critique, see Olivier Blanchard, Giovanni Dell'Ariccia, and Paolo Mauro, "Rethinking Macroeconomic Policy," (Washington, DC: Research Department, International Monetary Fund, 2010).

⁴³ Banks are not above engaging in illegal actions in order to enhance their earnings by distorting key interest rates in their favor. See, for example: Matthew Leising, Lindsay Fortado, and Jim Brunsten, "Here Comes the Libor Scandal's Sequel," *BusinessWeek*, April 22-April 28 2013.

⁴⁴ Michael E Porter, "What Is Strategy?," *Harvard Business Review* 74, no. 6 (1996)., 62

⁴⁵ Michael Porter, "Toward a New Conception of the Environment-Competitiveness Relationship," *Journal of Economic Perspectives* 9, no. 4 (1995).

their products in a wide variety of ways so as to reduce price competition. Thus, one stays open all night. Another grills rather than fries its burgers. A third sells its burgers in several sizes, with various extras available at no additional charge (lettuce, tomato, pickle, onion, sauces). Still another offers more comfortable seating as well as other menu items that complement the burger. Others offer 'meals' at a significant discount over buying individual items. In short, the owners and managers of these firms work very hard to reduce or even eliminate price competition. And, when, exceptionally, companies revert to price competition they are lambasted by the business press. For example, some years ago when McDonalds decided to cut prices for its burgers, they were lambasted for having "... transformed one of the great brands in American business into a commodity."⁴⁶

Moreover, if this is true of fast food restaurants, it is even more true of firms that offer more complex goods and services such as automobiles, insurance, computers and even tennis shoes. Hence, auto makers watch each other to determine what price to charge, and, on top of that, they differentiate their products. This allows them to segment the market, ideally maximizing their sales for each make and model by tailoring them to desires of particular demographic groups: Cadillac CTS Coupes for those who are young and wealthy, a Chevy Spark for a small family with moderate income needing basic transportation. In addition, various packages of extras are used to differentiate each car from others. Not incidentally, such differentiation also makes it difficult to determine which make and model offers the best deal.

Of course, despite the differentiation among Cadillac, Chevrolet, Buick and GMC, as well as differentiation within each brand, consumers know that all these vehicles are produced by the same company. In other industries this is not the case at all. Many companies deliberately avoid advertising the links among their various brands, since doing so would demonstrate that the apparent choice offered to consumers is largely illusory. For example, Coca-Cola owns hundreds of products including a variety of bottled waters (both pure and with flavors and vitamins) marketed under a variety of names.⁴⁷

All of this is quite different from the position taken by that great market advocate, Adam Smith. He famously argued that competition in the marketplace would benefit society as a whole, even if the individual competitors were entirely self-interested. However, for this to happen it was necessary that no single actor be sufficiently large as to dominate or manipulate the market. Put differently, Smith's competitors competed not with each other, but to ensure their place in the market. They didn't see each other as rivals but simply as other participants in the market. They were price takers who had no control whatever over the price they received for their goods. To ensure that this was the case, Smith railed on for about 100 pages in *An Inquiry into the Nature and Causes of the Wealth of Nations* about the evils of joint stock companies, what we would call corporations.

⁴⁶ Damon Brundage of NatWest Securities enthusiastically quoted in Greg Burns, "Commentary: McDonald's: Now, It's Just Another Burger Joint," *BusinessWeek*, March 17 1997., 38

⁴⁷ See Phil Howard, Chris Duvall, and Kirk Goldsberry, "The illusion of diversity: visualizing ownership in the soft drink industry," Michigan State University, <https://www.msu.edu/~howardp/softdrinks.html>.

Indeed, Smith rightly saw corporations as the leftovers of feudalism and not the advance of capitalism. As Thurman Arnold wrote some 75 years ago, “The ideal that a great corporation is endowed with the rights and prerogatives of a free individual is as essential to the acceptance of corporate rule in temporal affairs as was the ideal of the divine right of kings in an earlier day.”⁴⁸ The notion of shareholder democracy is an oxymoron.⁴⁹ It is no more democratic than it was to allow only property owners to vote in the early days of the American republic. By contrast, although hardly perfect, for higher education, law and accounting firms some form of employee governance is normal. And, some other nations (e.g., Germany) have legal frameworks through which workers are represented on corporate boards or participate in other ways in corporate governance. This is not to suggest that any extant forms of corporate governance fully address stakeholder governance; it is to suggest that there is nothing sacred about the current organizational structure of American corporations.

Furthermore, Smith never saw market competitions as zero-sum games. Markets would be places where exchange would ensure that both buyer and seller were satisfied, where the seller received adequate – but not too much – compensation for the item sold, and the buyer would pay the ‘market price’ which (at least over the long term) reflected what that item cost to produce. In short, this was a competition in which there would be many winners and just a few losers, mainly those persons who were unable to produce or purchase at the ‘market price.’ Moreover, new entrants producing more efficiently would often replace those who were forced out.

Of course, as Adam Smith warned we know that once large corporations enter the fray, the terms of the competitions change dramatically. In those instances, what begins as a market with many actors becomes one in which there are just a few. Indeed, the business press today –*Forbes*, *Fortune*, *The Economist*, *BusinessWeek*, *The Financial Times*, *The Wall Street Journal* – all promote the Smithian version of markets to some degree even while reporting largely about the price making activities and other strategies of huge multinational corporations.

The market for word processing programs is a case in point. Initially, there were dozens of word processors available with names like Volkswriter, DisplayWrite, Electric Pencil, Lotus Manuscript, EasyWriter, AtariWriter, WordStar, WordPerfect and Multimate. Many were produced by clever programmers working in their home offices. Some were excellent, while others were mediocre. But most did a reasonably good job of allowing one to produce a manuscript.

Today, of course, as is well-known, Microsoft Word dominates the word processor market, having a market share greater than 90%. In short, irrespective of the quality of these various word processors, Microsoft’s product captured most of the market. To what extent this was due to a combination of Microsoft’s deep pockets, ownership of the most widely used operating system (Windows) or ability to block competition by constantly updating its intellectual property is unclear. What is clear is that Microsoft is able to charge a rather hefty price for Word as it has

⁴⁸ Thurman Arnold, *The Folklore of Capitalism* (New Haven: Yale University Press, 1937), 185

⁴⁹ In addition, numerous companies now give greater rights to certain shareholders (often company founders) than to others. See Economist, "Shareholder Rights, Out of Control," *The Economist*, September 20 2014.

no real competitors. Moreover, what few rivals do remain price their products not based on 'market prices' but on the prices set by Microsoft. Put differently, Microsoft is a price *maker* and not a price *taker*; it can determine the maximum price that the market will bear and price accordingly.

Nevertheless, it should be emphasized that several very different things happen in highly oligopolistic or monopolistic markets. Consider as an example the case of Wal-Mart. Wal-Mart is an oligopolistic buyer and seller of goods. These are related to the four different kinds of markets in which Wal-Mart operates. They include Wal-Mart's relations to its competitors (Kroger, Target, small town retailers, etc.), its relation to the firms it buys from, its relations to consumers who shop in its stores and its relations to those who work there. Let us examine each of these four different markets in turn:

- *Competing retailers.* Wal-Mart has been quite successful in putting a vast array of competitors out of business. Most of these have been small town mom and pop stores that sold various kinds of goods from groceries to hardware to clothing. Others have been competing supermarket, clothing and hardware chains. Not all have been put out of business for a variety of reasons. Eliminating all of the competition would leave the company open to anti-trust action. Some smaller competitors are also places to unload unsold goods. Others are located in markets so small or so distant from suppliers as to not be worth the trouble for the company. Still others are located in high-rent city centers where sufficient retail space may be unavailable. In addition, some competitors address different market segments of little interest to Wal-Mart. And, in some places, Wal-Mart has encountered strong resistance on the part of local citizens. Nevertheless, Wal-Mart tries to put its competitors out of business.
- *Wal-Mart as buyer.* As the largest single domestic *buyer* of a wide range of goods from tomatoes to tennis shoes to tools Wal-Mart can set the buying price – something that it is impossible to do when no firm has market power – such that it maximizes its overall profits. They cannot demand too low a price or they risk putting their suppliers out of business; on the other hand, if they pay too much they will reduce their profits. Hence, they set prices such that they keep their suppliers in business allowing them a small profit, while protecting their own higher rates of profit. The only exceptions to this occur when Wal-Mart purchases goods from certain other large companies with products that it must sell in its stores in order to attract customers. Hence, companies like Coca-Cola and Proctor and Gamble are able to negotiate prices, while smaller producers are not.

In addition, Wal-Mart organizes its suppliers into supply chains that include not only its suppliers but many of its suppliers' suppliers as explained above. Wal-Mart is clearly the Supply Chain Captain in these chains. It is interested in optimizing the profits of the entire chain, but simultaneously its managers do their best to ensure that Wal-Mart is able to capture the lion's share of the profits to be made. Although not required, many suppliers feel obligated to locate representatives near Wal-Mart's headquarters so as to maintain good relationships and rapidly resolve concerns. Moreover, Wal-Mart vigorously negotiates with its suppliers to ensure that goods meet Wal-Mart's specifications, are delivered in ways that minimize Wal-Mart's costs. Wal-Mart even

examines the operations and account books of suppliers recommending reorganization to increase efficiency and determining what constitutes an acceptable level of profitability.

- *Wal-Mart as seller.* Similarly, as the largest domestic *seller* of a wide range of goods, Wal-Mart is also able to set the selling price for many if not most of them. Again, this would be impossible were it not for its market power. However, here too, setting the price too high may force some potential buyers to leave the market while setting it too low will reduce profits. Doubtless, some group within the company has calculated (using data from millions of sales) at precisely what price profits for a given item are maximized.
- *Wal-Mart as employer.* Finally, Wal-Mart is the largest single employer in the US labor market with a current roster of approximately 1.4 million employees.⁵⁰ Here, too, it is able to exercise its power. It is able to set the price of entry-level labor based on local unemployment rates, the cost of expected turnover (estimated at 45%), minimum wage laws and other factors.⁵¹ It is also able to minimize its labor costs by hiring large numbers of part time workers who do not work a sufficient number of hours to be covered by certain labor laws. Recently, Wal-Mart has announced a change in its policies including raises for many employees and creation of a career ladder. Just why Wal-Mart decided to make these changes is unclear. Perhaps it is concerned about its image among a considerable percentage of the public.

In short, in highly competitive markets with many buyers and sellers, it can be argued that both the vast majority of buyers and sellers come out ahead. They buy at and sell at the 'market price' since none of them has a significant effect on prices. In contrast, in monopolistic or oligopolistic markets, large firms are price makers; they can and do set the price – for what they buy, what they sell and what they pay workers. That is to say, the other party may have few other options, such that continuing to sell to or buy from the monopolist is the least worst alternative.

This is not at all an uncommon situation. Today, the top five food retailers control 60% of sales nationally.⁵² However, even fewer options are available in many small towns where there are only one or two supermarkets within a reasonable distance. This is equally true in city centers where what are referred to as 'food deserts' exist. These are areas where there is no place to buy food nearby. Most Americans who face this dilemma will shop at the closest store, even if the prices are higher or the quality is lower or both. It remains the least worst alternative.

⁵⁰ Henry Blodget, "Walmart Employs 1% Of America. Should It Be Forced To Pay Its Employees More?," *Business Insider*(2010), <http://www.businessinsider.com/walmart-employees-pay>.

⁵¹ Anthony Bianco and Wendy Zellner, "Is Wal-Mart Too Powerful?," *BusinessWeek*, October 6 2003.

⁵² Steve Wood, "Revisiting the US food retail consolidation wave: regulation, market power and spatial outcomes," *Journal of Economic Geography* 13, no. 2 (2013).

What Markets Cannot Do

There are also many important – indeed, essential – things that markets cannot do: Markets cannot take into account future generations as those not born have no opportunity to participate in today's markets. Thus, for example, if we use markets to divide the world's scarce resources to our mutual benefit, we systematically exclude those not yet born, perhaps condemning them to a life of penury. (We also exclude those who are deceased, but they tend not to care much.)

Similarly, markets cannot adequately take into account many elements of the physical environment. Solutions to many environmental problems and adaptations to those problems that lack straightforward solutions, require advance planning and collective approaches as the key resources cannot be exchanged in markets. Waiting for prices to rise and using scarcity as a means of inducing action will be inadequate, wastefully misdirected, and too late.

Nor can even the most well-constructed competitive markets adequately grapple with values far removed from efficiency; other values such as justice, love, care, or beauty are usually incorporated into the market to the extent that they are subordinated to efficiency. In some instances, that might be appropriate, but in many instances markets are poor substitutes for other means of realizing these values. And, markets are not particularly effective in distributing most public goods; these things are far better distributed in other ways – by need and desert.

Finally, markets cannot avoid the frequent need for rationing although many market advocates make that claim. Consider the case of health care. If we provide health care to all Americans – as every other industrialized nation and quite a few others already do – there is little question that there will be queues to get certain kinds of medical services. Priorities will have to be set based on the seriousness of a given malady. Hence, your broken leg might take precedence over my headache, an automobile accident victim's blood loss over your broken leg. (This is already the case in hospital emergency rooms.) Hence, medical care would have to be rationed. But the current system rations medical care as well: It provides care first to those who can most afford it and provides less care or none at all to those who have less to spend. Without question, that is a form of rationing. It is rationing based on ability to pay rather than the urgency of need for medical care.

The same applies to the provision of all other goods and services in short supply: They can be provided, for example, based on who is able to pay, who appeared first in the queue, who has the most urgent need, or who most deserves the good or service in question. In each case, rationing occurs although the form that rationing takes and who wins and who loses differs considerably among these alternatives. Hence, there are good reasons for not attempting to leave everything to the market.

Markets are Political

Furthermore, as opposed to the markets of elementary textbooks, actually existing markets are *political*. In theaters, we are expected to pay attention to what is happening on stage, especially to those with the central roles in the play. But the performance on-stage is only a small part of the production; stagehands, technicians of all kinds, musicians, directors, producers,

bookkeepers, managers, ticket agents and others must also perform for the show to go on. The performers – both on and off stage – are *directed*, and how that direction is performed determines in large part the success of the play. Similarly, we are led to believe that markets are performed solely by those persons who buy and sell in them. We are expected to pay attention to what is happening in the market – the price demanded and the quality of the goods.

But, much like the Wizard of Oz who told Dorothy to ignore the man behind the curtain, the politics of markets often goes on elsewhere. It goes on in the lobbying of firms over market design, over what shall or shall not be measured, over what standards shall prevail, over specific laws under review by national and state legislatures, in hearings on market rules by myriad government agencies, in law offices where firms work out strategies for legal compliance and in marketing and advertising firms attempting to convince us to buy a given good or service. We cannot do away with these decisions about market design as the conditions for markets are constantly changing due to new technologies, new marketing strategies, new forms of organization and new means of delivery of goods and services. But these are all political decisions. They determine what form a market shall have, who will be more likely to benefit and conversely who will likely lose, under what conditions a market will take place – even what can be bought and sold in a particular market. And, arguably, the most politically savvy thing that corporate market makers can do is to keep our eyes focused on the goings-on in the marketplace, such that the politics behind each market remains hidden. Only rarely do these goings-on include broader public participation as they should in a democratic society.

The debates of a decade ago over the definition of organic food and the promulgation of standards for it included considerable public input. Similarly, the current debate about so-called net neutrality (charging the same for all net-based services rather than having a fast lane for some content) has also included public input. But these mechanisms are yet flawed in that they allow the public only an advisory role and leave the decision making to experts.

Markets are Not Natural

There is also nothing natural about markets; they are made collectively by the actions of human beings. They are no more natural than my laptop, the movie theater down the street or the World Series. They are performed by the myriad actions of all participants according to a script. Modern markets, because they involve transactions among strangers and very long supply chains, require formal scripts – legal frameworks, private standards, technologies of various kinds – to maintain them. If properly enforced, those scripts are – and must be – highly coercive, especially with respect to labor markets. They largely determine the outcomes of market transactions.

In addition, since markets are *designed*, there is no particular reason why economic efficiency, a particularly fuzzy concept used differently in different contexts, must be the sole value to be optimized by markets. As the market designers who won the 2012 Nobel Prize, Alvin E. Roth

and Lloyd S. Shapley,⁵³ have demonstrated, markets can be and are designed in a wide variety of ways. Hence, we can and do design markets in which certain buyers (or sellers) are the winners. Assuming that we decide collectively that a market is the preferred way to address a problem, we can design markets in which values other than economic efficiency – environmental soundness, energy efficiency, sustainability, social justice or fairness, to suggest a few examples – are optimized, or in which a compromise is reached among a variety of values. And, while design experts such as Roth and Shapley have an important role to play, their expertise must be subordinate to the needs and concerns of *all* stakeholders.

The assertion that markets are the solution to all problems is analogous to the situation faced by Ptolemaic astronomers in the 16th century. They believed that the sun, stars and planets all went around the earth. Moreover, their predictions as to when a particular star or planet was to be found in a particular place were usually fairly precise. But as their ability to predict improved, they discovered errors in their predictions. Their solution was to build ever more complex systems so as to ensure that the earth remained firmly fixed at the center of their system. Ptolemaic astronomy was seriously wounded by Copernicus's assertion that the earth and planets went around the sun. But it was some time later when, with the aid of the newly invented telescope, Galileo demonstrated convincingly that the sun was at the center of the solar system.

Contemporary believers in the all-knowing, all-powerful market follow a similar pathway. Every time that a market fails, they conclude that in some way some outside force – a government agency, for example – interfered with the proper operating of the free market. For them, no evidence can possibly challenge their insistence that markets are the best answer to all problems facing humankind. As such, their solution to whatever the problem might be involves creating yet another market.

Conclusions

In short, while there is much talk about 'the market,' it is a contemporary myth. The only market that is guided by the 'invisible hand' is the one in the textbook; actual markets are guided by property law, contract law, anti-fraud law, corporate law and various types of regulatory law. They are also guided by customs, standards and technologies. But these are applied differently in each particular market. Hence, there are many kinds of markets, all of which are regulated by someone or some organization in varying degrees in one way or another. The notion that we should 'let the market decide' is best understood as an appeal to the status quo and to the existing distribution of power and resources. Put differently, it is a claim that the current regulation of the market in question is adequate, yields satisfactory results, and need not be challenged. And, as noted below, it may also be accompanied by the deliberate spread of doubt about changing the ways in which a given market is regulated (think of the battles over cigarettes and cancer, acid rain or climate change), so as to befuddle many of us, while continuing to allow 'the market to decide.'

⁵³ See, for example, Roth Alvin E. Roth, "What have we Learned from Market Design?," in *The Handbook of Market Design*, ed. Nir Vulkan, Alvin E. Roth, and Zvika Neeman (Oxford: Oxford University Press, 2013)..

Yet, markets never decide anything; any ‘market decision’ is embedded in a legal framework that surrounds, designs and organizes the market such that it produces particular kinds of outcomes. For example, in the US milk must be sold in containers that both prevent leakage of the product and will not bleed into the milk. The milk itself must be free of other liquids deliberately added and it must be pasteurized. The product must be labeled as to milkfat content as well. And, each container of milk of a given kind must be identical to each other container. Were the market not regulated in this manner, it is possible that something *called* milk would be available at a lower cost, but it would also be more likely to carry a disease, to be packaged in some way that allowed the product to mix with the packaging thereby injuring the consumer, to be watered down, to be mislabeled, and so on. Of course, we could wait and ‘let the market decide,’ since over time the firms producing dangerous products would see their sales decline by virtue of sickening or killing many people. But would you, dear reader, wish to be one of those persons?⁵⁴

Similarly, an appeal to the ‘free market’ is a contemporary myth, since *markets are only free when they are adequately regulated*. Without that regulation, people may freely sell things that they do not actually own; they may engage in outright fraud, making false claims for the items for sale; they may agree to contracts that are unenforceable. Moreover, the regulations needed for the used car market are quite different from those for the real estate market, while those for prescription drugs are quite different from those for paper clips. In short, while discussions of it may be found in many economics texts, the ‘free market’ is best understood as a convenient, even sometimes useful, normative abstraction, not a description of how actual markets work.⁵⁵

Furthermore, while it is often claimed that fully competitive markets produce the best quality goods at the lowest cost or are the most economically efficient, most markets are not fully competitive. There was a time when most markets were spot markets, that is, when most firms produced ‘for the market,’ making everything from screws to chairs to sell in highly competitive wholesale and retail markets. Today, however, all one need do is inspect the brand names on the thousands of products for sale in stores to know that many markets have just a few sellers (or buyers), who can and do watch each other to set prices.

In short, ‘the market’ is real, not because it obeys some natural laws of supply and demand, but because it is real in its consequences. It is the result of the actions of legislators, government officials, corporate managers, judges, prosecutors, lobbyists and market designers, as well as all of us who participate (and are often forced to participate) in maintaining its reality. Hence, even as our collective belief in the myth of the market has led to stagnant or falling wages, bank failures and government bailouts as well as an extraordinarily unequal distribution of income and wealth, there is nothing natural whatever in all this. Markets are *made real* by our actions – actions that among other things determine the distribution of income and wealth. Moreover, as stock market regulation illustrates, the closer we come to the textbook case of the free market,

⁵⁴ I leave to the side here the question of dairy subsidies. Without those subsidies, the price of milk would likely drive many farmers out of business.

⁵⁵ Note that some economists argue that the model is merely a simplification of how the world works. Yet, it is also implied (and sometimes stated explicitly) that the world *should be remade to work that way*.

the larger the bureaucracy we need to ensure that everyone follows the market rules. While in our complex industrialized societies we can hardly do without markets, we can safely abandon the myth of the market as a set of fixed mathematical relations, as something beyond our control, as a natural force.

Markets are one among several *means* for the distribution of goods and services. Indeed, in many instances, markets are the best way to distribute goods. But as noted above, many goods are better distributed by considering what one needs or deserves. Markets are not *ends* in themselves. Hence, we must ask two questions: Are markets the best means for distributing a given good? And, if so, what sorts of market relations would produce better, more just outcomes? I shall have more to say about this in the conclusions to this volume.

However, despite all the evidence to the contrary, the news media, many politicians and, to a lesser extent the economics profession work hard to give us all the impression that markets have some sort of volition of their own and that their performance sums up how well we are doing as a society. We are told in the press that the market responded to various events, that the market is delighted or depressed by some event, that the market is excited, unsettled, or otherwise has human (or perhaps superhuman) characteristics. Of course, use of this terminology to describe market actions involves at best the overly enthusiastic use of metaphors. In fact, changes in market values are the result of innumerable decisions made by buyers and sellers within a legal framework created by governments and firms that organize markets, a set of customary expectations about behavior of buyers and sellers, and the background of daily events of relevance to at least some of those buyers and sellers. And, markets tell us nothing about the many other indicators of the health, safety or welfare of American society.

But if market outcomes are determined 'behind the curtain,' what is the case for quasi-markets and competitions?

Competition

We all know that markets thrive on competition. So why devote a separate section of this volume to discussing competition? Aren't we talking about the same thing, but using a slightly different term? Moreover, Americans have always engaged in various kinds of competitions. Spectator sports such as baseball, football, and basketball would be rather tedious were it not for competition. Similarly, when students apply for entry to colleges and universities, they often compete based on the availability of seats at their college of choice. And, of course, businesses compete with each other for customers.

But today we can see competition lauded in all sorts of places, and much of it has nothing to do with prices, markets or sports. Hence, countries compete to produce the most engineers. Countries, cities and states compete to produce the best business climate. Hospitals compete based on recovery rates for various diseases. Schools compete to obtain the highest scores on standardized tests. Small children are encouraged to take part in all sorts of 'competitive sports.' CEOs compete to provide the greatest quarterly return to shareholders.⁵⁶ University professors compete for high scores on student evaluations and high citation rates for the papers they publish. So-called reality television show participants compete to survive in the jungle, become the male or female partner of choice, bake the best cupcakes, prepare the best meal or run the best restaurant.

This extension of competitions to a wide range of, even arguably most, aspects of social life over the last several decades has been applauded by market enthusiasts as a diminution of government and a source of greater efficiency. The claim is that through all these competitions we can ameliorate if not solve three problems:

First, consider the case of goofing off on the job. We all know that person (it is *never* us) who doesn't always pull her or his weight, who stands around the coffee pot chatting much of the time, who goes through the motions but does the bare minimum to get through the day. This is especially the case when the boss is not watching. One apparent solution to this problem is to reward people who do their jobs efficiently and effectively and to punish those who do not. In times past, manufacturing workers have been paid by the piece, while salespeople have been paid on commission. More recently, means have been developed to extend employee monitoring to nearly all jobs. This can be done by creating competitions and developing metrics that allow job performance to be measured in an apparently 'objective' way; put differently, metrics are seen to be analogous to prices – easily calculated and replicable indicators upon which action can be based. Many businesses, non-profits and government bodies now use this approach.

Second, consider the case of efficiency. We are confident that price competition enhances efficiency by promoting production of the highest quality goods for the lowest price. If a company produces a shoddy product or produces at costs far higher than its competitors, it will

⁵⁶ This was not always the case. The notion that companies had to maximize shareholder value above all other goals only gained acceptance in the 1970s. See: Jia Lynn Yang, "Maximizing shareholder value: The goal that changed corporate America," *The Washington Post*, August 26 2013.

be forced out of the market by low demand for its products. One need only look at the shoddy, often obsolete goods that were found in the former Soviet Union to see what happens when competition is absent. Hence, we are told, introducing competitions into areas previously off limits, such as schools, hospitals and other institutions, will improve efficiency and make us all better off. For example, hospitals are often now ranked by their readmission rates, allegedly allowing those in need of hospital services to choose the best hospital available.

Finally, consider the case of innovation. Competition, we are told, allows someone to build and sell a better mousetrap. It encourages individuals and organizations to invent new means of accomplishing a given task and/or invent new products. Although there may be some immediate losers in this process, it is claimed that ultimately we all benefit from lower prices and new kinds of goods and services.

But is this actually the case? Do competitions reduce goofing off on the job, enhance efficiency and promote innovation? Every time that we create a new form of competition, we need to do (at least) two things 'behind the curtain,' so to speak. First, we need to construct some sort of organization that will create, maintain and modify as necessary the rules of the game, as well as organize the competition and monitor all the persons and things involved to ensure that everyone and everything adheres to the rules. Then, we need to develop one or more metrics that will allow us to rate or rank those persons or things. In short, the logic of competition only works if its formal rules are respected; some 'authorized' group must create those rules. And, the more carefully one wishes to ensure that everyone plays by those rules, the more careful the monitoring must be.

Some insight can be gained by considering the case of major league baseball, a highly competitive sport. The Commissioner of Baseball is responsible for (among other things) creating, publishing, and revising the official rules of baseball, levying fines, suspensions and other penalties on those who do not follow the rules, training and providing umpires to judge the performance of players and teams on the field, promoting baseball as a sport, organizing tryout camps, and collecting statistics on the performance of teams and players. And, of late, we can add dealing with the recent doping scandals, an issue that becomes more complex as new, difficult to detect 'designer' drugs are produced.

Dozens of other organizations represent particular interests associated with baseball, including the Major League Baseball Players Association and the World Umpires Association. Each of these organizations has its own rules, bureaucracy, and metrics as well. Of course, if some group wishes to play baseball in a neighborhood park or someone's backyard, it can ignore the Baseball Commissioner. It can have games with eight innings and twelve feet between bases. It can even use broomsticks for bats. However, in so doing few persons other than the players themselves (and perhaps their relatives and friends) will consider their successes and failures. In sum, although major league baseball is clearly a competitive sport, successful competition depends on a bureaucracy with formal rules and means for their enforcement.

Now consider the case of competition among nations. In a world in which productive activities never spilled over across national boundaries, such competition would only be meaningful with respect to protection against potentially aggressive nations. Even if two nations shared the same

ends (say, prosperity and security) for their people, what would be served by competition? Would the competition itself bring prosperity and security? It hardly seems likely. But let's muddy the waters a bit more: In a world in which large corporations commonly operate across borders, just what end is served by competition among nations? Any technical, managerial, or other improvements made by Company 1 in Nation A are soon spread by that very same company to Nation B. With few exceptions, profits wind up in company coffers and, as the recent news reports of Apple and General Electric mentioned above make clear, those coffers will tend to be located in the nations with the lowest tax rates. In short, since there is no way to keep the benefits at home, competition among nations is at best a waste of time and energy, at worst a misguided redirection of tax dollars from real national needs. Either way, it is essentially a taxpayer subsidy to those companies that are sufficiently large that they can pit multiple governments against each other.

Moreover, instead of a race to the top, it creates a race to the bottom. By cutting taxes, enhancing certain kinds of infrastructure largely to meet company needs or offering free land or other amenities, countries more and more reduce the funds they have available for other purposes. Companies do comparison shopping to find the best deal. Rarely do the few jobs created lead to higher tax revenues. In fact, firms that pay high wages generally reside in high tax locales where they benefit from having other firms in the same industry nearby – think of Silicon Valley – as well as excellent infrastructure and cultural amenities for their employees including health care and education. They are rarely tempted to move by tax breaks, while those firms that hire poorly paid workers seek low tax sites and taxpayer subsidies.

This kind of wasteful and senseless competition also goes on within the US between states. Often, states will provide lengthy tax holidays to (large) companies that locate within their borders, on the assumption – often wrong – that such tax holidays or other subsidies will improve overall economic conditions in that state. In effect, what this amounts to is huge subsidies to the 'winning' corporations paid for by the state's taxpayers. For example, the state of Alabama and local communities contributed a package of incentives equal to more than that \$300 million in a successful attempt to get Mercedes to locate an auto assembly plant there. The subsidy was greater than the cost of the assembly plant and amounted to \$200,000 per job created.⁵⁷ Moreover, the net contribution to the US *national* economy of a company moving from, say New York to Texas solely to take advantage of tax breaks is either zero or negative.

Something similar might be said of competition among schools. There is currently a national obsession with the idea of making schools – from elementary schools all the way through universities – more 'accountable' for their achievements (or lack thereof). On the surface this appears quite a reasonable idea. After all, virtually everyone wants their children to be properly educated by competent teachers working in well-run schools. But, like most things, the devil is in the details. Setting up a single standard – say, a national or state test – is a common approach used. Let's have all the students take a common test to determine how well they are doing. Of

⁵⁷ Adam M. Zaretsky, "Are States Giving Away the Store? Attracting Jobs Can Be A Costly Adventure," *Regional Economist*, no. January (1994), <https://www.stlouisfed.org/publications/regional-economist/january-1994/are-states-giving-away-the-store-attracting-jobs-can-be-a-costly-adventure>.

course, designing such a test is not an easy task. But let's assume that competent people are identified and the test is developed and administered. Five problems emerge immediately:

1. Why should we assume that all students and all schools should aspire to precisely the same goals, especially once we pass the first few years of formal schooling? There are at least two reasons why we ought to be uncomfortable with a single goal. First, such an approach assumes that everyone will have the same capacity for (formal) education and the same life aspirations. Second, it tends to put a straightjacket on educational innovation (excluding those innovations that lead to higher test scores). There was a time when it was commonplace to beat students who failed to learn the assignments. Since, we have found that there are far better and more effective means of stimulating learning – usually through the creation of learning communities, rather than focusing on a single student. We accomplished this by experimenting with different approaches to learning, different ways of organizing schools and classrooms, different educational materials and so on. The obsession with competition to achieve test results puts such innovation at risk. After all, every innovation – especially if it requires challenging existing goals or metrics – risks lowering the scores in the competition. Put differently, those metrics, focused entirely on reading and mathematics, become ends in themselves, crowding out other subjects as well as other educational goals such as building good citizens, encouraging critical thinking and learning to work with others effectively.⁵⁸

2. Anyone in the business of manufacturing can tell you that the quality of the final product will be determined in considerable part by the quality of the workmanship and materials purchased to make the product. Auto makers can buy parts made from cheap iron bars instead of special steel alloys and employ poorly trained technicians instead of engineers to design their vehicles. However, incompetent workers or poor quality materials will make for lower quality vehicles. Something roughly analogous applies with respect to student intake. We know from hundreds of studies as well as personal experience that the quality of pupils varies considerably from one school or class to the next. Moreover, auto makers and private schools can and do reject, respectively, those workers and students that they find unsatisfactory. In contrast, public schools are required to accept all students within a defined geographic area and to use the school buildings and curricular materials with which they are supplied. Thus, even the same quality of teachers making identical efforts and using the same texts and classroom materials, will have a more difficult task with less qualified students than with more qualified ones. If required to teach children from families barely eking out a living, residing in dilapidated buildings or homeless, using outdated materials, the barriers to success may be insurmountable. This holds true whether we are considering children entering their first schools or high school graduates on their way to college. Part of this is due to the intellectual abilities of the student, part to the parental environment and neighborhood in which they grew up, part to parental enthusiasm about learning and willingness, availability and ability to help when the student is not in school, part to the quality of the buildings and materials provided and part to the (positive or negative) effects of peer group pressure. Moreover, in actual situations, largely because of the way schools are financed in our nation, the quality of both staff and facilities varies enormously across schools. Wealthy suburbs do far better at attracting good teachers and providing good facilities than do

⁵⁸ Diane Ravitch, *The Death and Life of the Great American School System: How Testing and Choice are Undermining Education* (New York: Basic Books, 2010).

poor inner city neighborhoods. By focusing on the results obtained in educational competitions, we gloss over these issues.

3. In addition, in order to administer a competition involving teachers, schools and students, a massive bureaucracy is necessary. The standardized tests must be designed and checked for accuracy. They must be kept up to date as knowledge changes over time. They must give results that are understood and accepted as valid by legislators, educators and the general public. They must be administered to the students. Rules must be developed for grading students, teachers and schools as well as for engaging in 'remedial' actions. All of this requires resources that might otherwise be spent more directly on education. Moreover, the costs will be felt most painfully by those districts that have the poorest funding; they will be forced to narrow the scope of the curriculum and to spend most or all of their time and money focused on test results.

4. Fierce competitions among educational institutions, especially when there are clear penalties for not performing at least adequately (however that is measured), encourage unethical behavior on the part of at least some administrators and teachers. For example, Atlanta teachers and administrators were recently accused of a deliberate district-wide rescoring of student answer sheets on standardized tests in order to raise scores. Similarly, it was recently revealed that officials at Baylor, Claremont McKenna and Emory universities inflated the average scores on admissions tests provided to US News and World Report, so as to improve their institutions' rankings in that magazine.

5. Finally, even if the problems raised above could be adequately addressed, we are still left with a serious dilemma: What policies should we develop based on the results of the competition? Should we penalize the schools, teachers, and students who fail to make the grade? Or should we perhaps provide additional support – both funds and other resources – to those schools, teachers, and students in recognition of the higher barriers they need to surmount? No metrics can be constructed that will answer these questions.

Many Americans are aware of these issues, although their concerns have been only marginally addressed by state or national governments. For example, a recent Gallop poll showed only 22% of respondents thought increased frequency of testing improved school performance and 58% rejected using test scores to evaluate teachers.⁵⁹ Yet, for a variety of reasons, politicians continue to see testing as a solution to educational failures.

Enthusiasts of competition have also argued that, since government offices often have no competitors in service provision, competitively outsourcing those services to the private sector will reduce costs, enhance efficiency of service delivery and eventually lower taxes. According to one source, "The federal money flowing to business rose 7 percent during his [Clinton's] second term and 72 percent under Bush, who outsourced a record amount of national-security

⁵⁹ William J. Bushaw and Shane J. Lopez, "Which Way do We go?," *Phi Delta Kappan* 95, no. 1 (2013).

and defense work The upward trend continued under President Barack Obama until leveling off in 2010.”⁶⁰

Consider that, according to one reliable source, the federal government currently competitively outsources between 75% and 95% of *all* its activities, largely to the private sector.⁶¹ Put in different terms, by 2008 three out of every four members of the federal labor force worked indirectly for the government as contractors or employees of contractors.⁶² The Defense Department outsources some 70% of its activities to private contractors.⁶³ Among the many contractors, one – Booz Allen – obtains 99% of its revenues from government contracts. Moreover, 76% of its employees have security clearances.⁶⁴ At the state and local levels, many government services are now outsourced as well. These services include, depending on the jurisdiction, everything from trash collection to sewage disposal to toll road operation. Similar issues surround other government services including those related to health, education, social welfare and policing, among many others. They pose a number of issues of concern.

First, more and more we find that government is not a service provider but an organization that monitors the services provided by others. This means that government officials are now at least one and often many steps removed from the services they are tasked to provide. Whatever expertise they may once have had has been sorely eroded as their jobs have shifted from direct service provision to monitoring the provision of services by contractors. Moreover, to monitor those services, government agencies must construct metrics of all sorts. However, constructing adequate metrics is hardly an easy task. It requires at the very least (1) an intimate knowledge of the (often changing) issues at hand, (2) an understanding of the limits of the metrics and (3) an ability to revisit and revise metrics as situations change and the limits of those metrics become obvious. In addition, it is nearly always foiled to some degree by the tendency of those who are measured to change their behavior so as to conform to the metric.

Second, each additional layer of competition opens new spaces for misunderstandings, fraud, negligence and the turning of policy goals to other ends. One might consider the situation as analogous to a game, usually called ‘telephone,’ which you may have played in kindergarten. The teacher lines the students up in a row and whispers something into the ear of the first student. That student then turns and whispers what he or she hears into the ear of the next student. And so on until the last student is reached who repeats out loud what she heard. Often, the final statement is completely unrelated to what the teacher initially whispered.

⁶⁰ Deborah Nelson and Himanshu Ojha, "Redistributing Up," *The Atlantic*, December 21, 2012 2012.

⁶¹ Lester M. Salamon, "The new governance and the tools of public action: an introduction," *Fordham Urban Law Journal* 28, no. 5 (2001).

⁶² Janine Wedel, *Shadow Elite: How the World's New Power Brokers Undermine Democracy, Government, and Free Markets* (New York: Basic Books, 2009).

⁶³ Such outsourcing creates massive opportunities for fraud, waste and inadequate oversight. The Office of the Inspector General of the Defense Department lists dozens of problems with contracting, delivery of goods and services and related issues.

⁶⁴ Drake Bennett, Caroline Savello, and Robert Levinson, "How Booz Allen Swallowed Washington," *BusinessWeek*, June 17-23 2013.

Something similar happens when a government agency (or a firm) becomes a source of monitoring rather than of service provision even if all the parties act in good faith. Consider the traditional and current models of government service provision. The traditional model looks something like this: After debate in both houses of Congress, a bill becomes a law. That, in turn, prompts the creation of some sort of guidance document by the appropriate government agency. After posting in the Federal Register for a comment period followed by revisions, the guidance document is used by government officials to provide the service to the appropriate recipients. Of course, some officials interpret the law to serve their own interests or otherwise engage in unethical or illegal behavior. But in the vast majority of cases in the American context, the transgressions have been few and relatively minor.

In contrast, the current situation looks more like this: A bill becomes a law. That, in turn, prompts the creation of some sort of guidance document by the appropriate government agency. The guidance document as well as agency-specific contracting rules are used by government officials to contract with some outside source (usually a firm or non-profit organization) to provide the service to the appropriate recipients. In so doing, the firm or non-profit may itself subcontract with others to provide parts of the service in question. Finally, the service is delivered to recipients. At each step along the way, things can and often do go awry. Moreover, the longer the chain, the more likely it is that things will go awry. For example, private bankers, who now provide all sorts of loans as part of government programs, have their own interests in mind as well; unless carefully monitored the programs they produce will look quite different from those proposed by Congress or developed by government officials.

It should also be noted that members of Congress very much like this form of outsourcing. It allows them to claim credit among constituents for making the funds available in their districts, encouraging those constituents to contribute to Congressional campaigns. And, at the very same time, it allows Congressmen to claim that they are working to reduce the size of government, since outsourcing services may actually reduce the number of staff persons directly employed by the government even as it raises the number indirectly so employed.⁶⁵

A personal experience will illustrate the problem in more detail. Some years ago I ran a large USAID-sponsored project to raise the incomes of poor farmers by promoting the production and sale of fruits and vegetables. The project operated in five low income nations. It was financed by a large competitively bid grant to Michigan State University to coordinate the project as well as to coordinate the activities of non-profits with similar smallholder projects focused on the same theme. Hence, USAID provided funds to MSU both to engage in appropriate activities as well as to coordinate the actions of the other organizations involved. An office had to be established in each nation, complete with accountant, secretary and other staff. In addition, an accountant at MSU had to examine the accounts for all funds expended in each nation (each, of course, in a different currency with fluctuating exchange rates). And, MSU secretarial staff had to maintain correspondence and coordination with each office. An administrative officer had to travel to each nation to establish the office and to ensure that the offices operated in accordance with both

⁶⁵ For a more detailed analysis, see Paul C. Light, *The True Size of Government* (Washington, DC: Brookings Institution Press, 1999).

MSU and USAID rules. What was true of MSU was equally true of the non-profits that were contracted to work in each nation. Furthermore, USAID had to establish a bureaucracy to develop performance metrics to monitor the success or failure of the project.

One day I received a phone call from Washington asking me to estimate the value of fruits and vegetables sold through the project. I asked what use that information would serve and was told that it would determine how successful the project had been to date. In turn, I noted that the farmers involved might have sold \$5 million in goods, but at the same time have lost \$2 million since they had sold below cost. The project officer at USAID – who had no particular competence in administering agricultural projects of this sort – agreed that I had a point, but insisted on having a number to insert into an internal audit report.

Furthermore, since each of the non-profits depended nearly entirely on the federal government – and mainly USAID – for their revenues, there was constant bickering among them as well as with our university over appropriate activities. In addition, the auditors in some of the overseas offices of USAID did not understand the rather complex accounting rules (mandated by Congress) that applied differently to universities, non-profits and for-profit organizations. More than once, an outraged auditor in a particular USAID field office had to be told politely that he didn't quite understand the complex and varied rules by which universities, non-profits and for-profits were expected to manage their projects. Moreover, given the large size of our project, USAID Washington decided to audit it after about three years. The audit required that the auditor stay in a local hotel for about a month. Out of the approximately \$10 million dispersed to that date, one receipt for \$129 was disallowed. Yet, the audit must have cost at least \$50,000 excluding the time needed by MSU staff to respond to the auditor's requests.

In short, not too surprisingly, the competitive contracting out of tasks that at an earlier point in time might have been accomplished directly by the government actually increased the bureaucratic bloat since accounting and auditing had to be done numerous times. It also increased the likelihood of misunderstandings. It reduced the competencies of AID staff to pursue the goals that Congress had set for it. And, perhaps most importantly, it created a class of allegedly private organizations whose existence depended nearly entirely on government grants and contracts.

What I have just recounted for USAID is equally true in the vast outsourcing of government services in health, education, policing, criminal justice, and, of course, defense. And, this occurs on a much larger scale than the relatively small sum granted to MSU for that project. Those companies and non-profit organizations that rely on government contracts become active lobbyists for increasing the size and scope of such contracts, even when such increases are of dubious value. And, at the same time government employees are deskilled such that they are no longer aware of the 'inside story.' Eisenhower recognized this when he warned the nation against what he called 'the military-industrial complex.' As he pointed out, a small group of firms benefits enormously from government funding of weapons – even for those weapons for which there is little or no need. Now, that military-industrial complex has been joined by prison-industrial, education-industrial, health care-industrial, research-industrial, foreign assistance-industrial and other complexes. Each of these outsourced programs requires the development of public and private bureaucracies to develop measures to monitor and audit each program. Each

tends to produce yet another lobby pushing for more funds for their pet program.⁶⁶ Each lures away some of the most competent government employees to work at higher salaries for contractors and use their insider knowledge to increase the size of government contracts. And, ultimately, all this is paid for by public funds – your tax money and mine! Furthermore, while we may use the Freedom of Information Act to obtain information from government agencies, there is no equivalent that applies to the thousands of government contractors.

Nor can we limit this to government services. Companies of all sorts engage in similar activities. On the one hand, they hold competitions to outsource all sorts of activities from janitorial and food services to accounts receivable to other firms that claim to provide the service at the lowest price. Each of these competitions requires that rules be drawn up, goals and metrics be defined and measured, contracts be let and audited, and services be evaluated among other things. Each requires that a new bureaucracy be developed. On the other hand, companies have initiated internal competitions among their employees by establishing metrics to measure their performance. These metrics go right up to the CEOs of large corporations, who are often rewarded (or punished) based on the quarterly performance of the company's stock.⁶⁷ In each and every case, they have had to establish new bureaucracies to develop and measure those metrics so as to appropriately reward and punish employees. In short, in order to establish competitions for private organizations, more and larger bureaucracies have been created.

The current situation at Sears provides an extreme, but clear case in point.⁶⁸ The majority stockholder and Chairman, Eddie Lampert, decided some time ago to divide the company into 30+ units, each focusing on a specific product (e.g., tools), function (e.g., human resources) or brand (e.g., Kenmore). The idea was that this internal competition within the company would boost profits and make the company more efficient.⁶⁹

To do this, *each unit* had to have its own president, chief marketing officer, board of directors, and profit and loss statement. Hiring or promoting such persons meant that personnel costs went up and bureaucracies multiplied. Top executives spent much of their time in endless meetings. In efforts to keep costs under control, middle managers were often underpaid. The result has been a marked decline in profits, infighting among units and a rapid turnover of top executives. Cooperation among units declined as each competed for a share of the pie. Moreover, by the first quarter of 2013 Sears showed a \$279 million operating loss. In short, introducing enhanced

⁶⁶ One particularly outrageous example is the Congressional mandate sought and received by private prisons that requires that the jail beds for 34,000 allegedly illegal immigrants be always full at a cost of about \$120 per prisoner per day! See: William Selway and Margaret Newkirk, "Full by Law," *BusinessWeek*, September 30 - October 6 2013.

⁶⁷ In the past only production line workers were subject to such measures, usually enforced by the speed of the assembly line. But as production has either shifted overseas or become automated to a great degree, production workers make up a declining share of the total labor force.

⁶⁸ Mina Kimes, "The Sun Tzu at Sears," *BusinessWeek*, July 15-21 2013.

⁶⁹ Alfred Sloan had done this many years ago at General Motors where it met with great success. However, GM divisions operate with considerable independence, whereas Sears's retail departments occupy a shared physical space.

competition led not to greater efficiencies, but to more bureaucracy and considerable internal confusion.

There are several ironies to this obsession with competition which should also be considered. These include a *decline* in accountability in both governmental and corporate activities, growing dissatisfaction among workers in all fields as auditing replaces trust, and 'solutions' that often involve adding yet another layer of bureaucracy in the name of competition and the market. Let us consider each of these briefly.

Declining accountability. The move toward developing metrics to measure the performance of everyone in every organization encourages precisely the sort of behavior that it is designed to reduce. In the halcyon days of industrial trade unions, working to the rules was a common behavior of protest. Today, it is manifested in encouraging everyone to pay attention solely to those things that are the subject of metrics. Hence, a police officer who is evaluated based on the number of traffic tickets issued or arrests made will spend little time engaged in other, perhaps more important, activities.⁷⁰ A physician evaluated based on the speed at which her patients whiz through the hospital will tend to reject patients whose illnesses require longer term care or summarily release patients as soon as they exhibit signs of recovery. An office worker who is evaluated based on the number of forms filed in a given period will be less interested in identifying errors that might slow down the flow of forms. A teacher who is evaluated based on the improvements in reading and math made by his students will spend less time on other subjects and teach to the test. At the limit, there will be a considerable incentive to fudge the data, to engage in fraudulent activities, to find all sorts of means to distort the evaluation in favor of the person or persons evaluated. Hence, as already noted, in Atlanta it appears that the Board of Education allowed and even encouraged teachers to change the test scores of students so as to make the district look better. In Detroit, police simply didn't report homicides so as to make it appear that the rate was declining. Doubtless, the same behavior occurs within firms, but their dirty laundry is less likely to be aired. That said, one rather public example is the obsession of CEOs with stock prices. At least in some instances, this has led them to ruin the companies for whom they work by deflecting attention from workers, communities, long-term stability of the company and other equally important unmeasured or inadequately measured goals.

Lack of engagement in work. Recent evidence from a Gallup poll suggests that some 70% of US workers are not actively engaged in their work. They simply go through the motions in order to bring home a weekly paycheck. Not too surprisingly, those workers directly serving customers are among the least engaged. Moreover, those firms in the top 25% with respect to employee engagement had "... significantly higher productivity, profitability, and customer ratings, less turnover and absenteeism, and fewer safety incidents than those in the bottom 25%."⁷¹ Gallup estimates that employee disengagement costs the US about \$500 billion per year. While admittedly direct evidence is hard to come by, it is likely that the obsession with formal

⁷⁰ Economist, "Policing: Don't Shoot," *The Economist*, December 13 2014.

⁷¹ Gallup, "The State of the American Workplace: Employee Engagement Insights for Business Leaders," (Washington, DC: Gallup World Headquarters, 2013), 9

accountability and metrics which reduce employees' ability to use their own judgment and undermine their self-respect and dignity contributes markedly to this problem.⁷²

The quixotic quest for solutions. Each time that a metric is found deficient, a competition doesn't seem to work quite as planned or persons or organizations are identified who are either gaming the system or engaged in outright fraud, there is pressure to identify a 'solution.' However, far too often the 'solutions' proposed involve adding another layer of bureaucracy. Additional security personnel will be hired. Greater monitoring of employees will resolve the problem. 'Safeguards' will be added to make it more difficult to cheat. Ethics training will be required so as to inform those ignorant of the immorality of not following the rules of the competition. And, all of this is done in the name of enhancing competition!

Moreover, most non-market competitions can be divided into two (sometimes overlapping) categories: On the one hand they may consist of rankings. Examples of rankings are the numerous rankings of universities nationally and globally, rankings of public elementary and secondary schools as to their average scores on standardized tests, ranking of cities as to crime rates, cost of living, employment, tax burdens or other criteria, rankings of companies by quality of services provided, performance in the stock market and ranking of products by quality or rankings of nations. Such rankings may be created by government statisticians (e.g., elementary and secondary schools) or by private organizations such as Consumers Union, US News and World Report or Angie's List.⁷³

On the other hand, non-market competitions can be designed to identify a single or very small number of winners. Examples would be high school valedictorian, employee of the month, Olympic gold medalist, Miss America, winner of the World Series, best hospital in the nation, most pleasant city in which to live and so on.

Such competitions, whether organized to rank or to identify one or a few at the top, are fundamentally elitist. They are *designed* to identify and reward 'the best.' And, quite obviously, *there is no society in which everyone can be the best.* There are clearly occasions in which these sorts of competitions are desirable and even necessary. Professional sports competitions are excellent examples. However, the fact that the winner of a professional sports competition is only the winner for this year means that the competition is renewed the following year. The same might be said of the Employee of the Month. However, mandating that people or organizations participate in non-renewable competitions as a part of their everyday lives means that inevitably there will be far more losers than winners. Not surprisingly, this obsession with winners tends to frustrate those who lose, especially when they lose through no fault of their own.

This said, there are other ways to organize institutions of all kinds. Consider the case of food safety as an example. When was the last time you saw a sign on a supermarket window telling

⁷² See also The Economist, "Making Pay Work," *The Economist*, May 25-31 2013.

⁷³ Of course, the quality of these various rankings varies considerably. See Economist, "How to Lie with Indices," *The Economist*, November 8 2014.

you: “Our food is safer than that of all our competitors?” Firms do not compete to determine how safe their food is. If they did, then we would have a single firm or small group of firms that were identified as having the safest food available. They would use that information in their advertising to consumers and thereby increase their market share. Other firms would be seen as suspect and would see their sales decline; only those who could not afford to do otherwise would buy from them.

Instead, what we have is what I have called elsewhere a filter, a boundary below which foods are considered unsafe and above which foods are considered safe.⁷⁴ Foods that pass through the filter may be sold on the market, while those that do not are barred from sale. Firms whose food does not pass are permitted to address the problem and try again.

Something similar may be said about families, churches and voluntary associations to name a few kinds of institutions that generally reject rewarding solely ‘the best.’ Families normally do not hold competitions among their children to see who gets the most love and attention or the most expensive gift. Church members generally do not compete to see who is the most pious. Voluntary associations rarely hold competitions to see who is most committed to the organization. And, pleasant workplaces promote teamwork and cooperation rather than pitting each employee against all the others.

In addition, proponents of the two sorts of competitions I noted above – where either there is one winner or all participants are ranked – fail to recognize that every human being, every institution, every family, every nation is considered worthy or unworthy based on a wide range of values. Even as we reward athletes who win competitions, we downgrade them if they are obnoxious, engage in criminal activity, take illicit drugs or fail to care for their families. Even as we praise charismatic politicians, we downgrade them if we find that they are merely following orders from the major contributors to their campaign or if they engage in, for example, sexual harassment.

In sum, while there are many situations in which competition is desirable, the notion that competition is *always* desirable, always leads to positive outcomes, always leads to widespread improvement, is flawed on several accounts. It confuses the largely anonymous market competition among relative equals so well described by Adam Smith with the ‘up front and close’ rivalry associated with monopolies and oligopolies. It presumes that those aspects of social life not amenable to markets are best managed by establishing competitions. It creates new forms of bureaucracy necessary to develop metrics, manage competitions and chose a few winners. It encourages people to work to the measure, to change their behavior such that it is largely focused on whatever metric has been selected for competition. This, in turn, discourages innovation. At its worst, as the Atlanta schools case illustrates, it encourages unethical or illegal behavior as people and institutions are judged based largely on how a given measure is constructed.

But where did this notion that competition is always desirable originate? It is undoubtedly linked in part to a particular (mis)interpretation of Darwinian evolutionary theory that emerged

⁷⁴ Lawrence Busch, *Standards: Recipes for Reality* (Cambridge, MA: MIT Press, 2011).

in the nineteenth century under the banners of ‘survival of the fittest’ and Social Darwinism. Herbert Spencer, arguably its foremost proponent, was even serialized in *Popular Science* and widely read around the world. The key to understanding the error that Spencer and others make is that for evolutionary biologists survival of the fittest applies to survival in a particular time- and space-bound environment. Everyone and every creature on earth lives in an environment that is constituted by the complex interactions between itself, other living creatures and the geological and climatic processes present at a particular time and place. The environment in which every organism finds itself is constructed ‘naturally’ by those complex interactions.

Ironically, Darwin developed his notion of ‘natural selection’ through careful observation of what he called ‘domestic selection.’ Domestic selection was defined as the breeding of plants and animals so as to produce those features most desired by human beings. Darwin observed that we humans started thousands of years ago to domesticate plants (by selecting those with the largest edible parts) and animals (by selecting those easiest to manage and/or providing the most meat, milk or other goods desired by humans). What Darwin didn’t notice as it was less obvious when he lived, was that today, nearly all of us live in environments that have been created largely by human design. Hence, ‘survival’ today applies to *built* human environments as well. Such constructed environments allow us to live far from places where food and clothing are produced, to live in both hot environments and extremely cold ones, in both extremely wet and extremely dry environments, even to live comfortable lives without knowledge of how to produce food, clothing or shelter. At the same time, ‘survival’ is directly linked to the various forms of air, water and soil pollution that we collectively produce as well as to particular ways in which our society is constructed. Hence, those persons least ‘fit’ to withstand certain kinds of pollution will become ill and even die, while those persons least ‘fit’ to thrive in a particular socioeconomic environment will find themselves consigned to poverty and hunger.

Furthermore, anyone who has taken high school biology knows that competition is only one of many evolutionary processes, and perhaps not even the most important. Cooperation is an important evolutionary survival strategy of all social animals – from ants and bees to chimpanzees and even to we humans. Other relations found in biology include symbiosis whereby two organisms of different species provide needed services to each other. The bacteria in our stomachs are absolutely vital for our digestion, and we provide them with a suitable home and nourishment every time we eat. And, of course, some relationships are parasitic; one organism gets its nourishment by feeding off another one. To the extent that all these and many more mechanisms can be found in the natural world, that world provides us with relatively little guidance as to how to live.

Furthermore, there are clearly many situations in which competition is likely to play an injurious role. I don’t want my children to have to compete for my affection precisely because one might prove better at it than the other! My wife doesn’t want to have to compete with other women for my affection, precisely because another might prove better at it. And, the lives of the elderly, the frail, the sick, and the handicapped are likely degraded by making them compete for care.

Similarly, while it is fine for the Michigan State University football team to compete with teams of other similar schools, it makes little sense for the MSU football team to compete with East Overshoe High School. Nor does it make sense for MSU to have its faculty compete with either

Harvard or East Overshoe State College to garner the most citations in certain journals, or to serve only the brightest or most well-qualified undergraduates. Nor does it make sense to have universities compete to see which can graduate students most rapidly; doing so encourages the devaluation of degrees even as it encourages administrators to urge faculty to let weak students slip through the programs offered.

In short, competition, when too widely introduced into human practices rather than confined to certain spheres, tends to turn each of us into isolates and undermines our collective security and identity. It tends to create winner-take-all societies which are inherently unstable.⁷⁵ The market-exchange relation described by Adam Smith in which the result of exchange is an equality, as well as countless other non-market relations, are replaced by various forms of competition in which there are always clear winners and (mostly) losers. Thus, advocating universal competition as a means to improve society is a myth. It is a useful way to guide behavior in some situations, but applying it rubber stamp-like in all situations creates more problems than it resolves.

But competition is often linked to freedom. Put differently, it is argued that competition in the marketplace or in market-like activities permits the optimization of individual freedom without the need for governmental intervention. Hence, it is necessary to inquire into just what we mean when we talk of freedom.

⁷⁵Robert H. Frank and Philip J. Cook, *The Winner-Take-All Society* (New York: Penguin Books, 1995).

Freedom

In recent years, freedom has been redefined. It is not (or is no longer) the freedom to live one's life as one wishes as long as it does not adversely affect one's neighbors, but rather the freedom to act in a particular and well-defined set of ways. One is free to be strategic, to be entrepreneurial, to be self-aggrandizing, to avoid an endless range of risks, etc. One is not free to while away one's time, or as Marx⁷⁶ put it, "to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, rear cattle in the evening, criticise after dinner, ... without ever becoming hunter, fisherman, herdsman or critic." Instead, one is driven to *exercise* one's freedom, to consciously and continuously manifest it in deliberate actions designed to better one's material position in life.

Perhaps this all is best described in the managerial notion of 'Freedom to Operate' (FTO). Although usually applied to companies in a modern capitalist economy, the metaphor of FTO can also be applied to individuals. We are each to be free to operate, to be operators, to calculate our life chances, to participate in the game of capitalism (however it may be played in different locales). We are not free to withdraw – at least not without paying a rather serious penalty. Indeed, it is not solely those who self-consciously decide to withdraw who are likely to pay a penalty, but even those who – of no fault of their own – find that they have lost in this game, who pay the penalty.

Hence, in the recent economic meltdown, a few lost their homes because they lied to mortgage brokers or bankers about their income. Many more lost their homes because greedy mortgage brokers or bankers used their FTO to put down false information about which they did not inform their clients. But still others lost their homes because the economy weakened dramatically and what had once appeared a perfectly reasonable investment suddenly became an enormous liability. Moreover, even those who didn't lose their homes – including the author of this book – saw their homes decrease markedly in value. Put differently, for many of us, our wealth declined markedly for reasons totally unrelated to the decisions *we* made – but very much linked to decisions made by the sometimes illegal and often unethical decisions made by others!

Moreover, the contemporary form of freedom we are told we have is all about freedom *to*. It is not about freedom *from*, which falls into the background or disappears entirely from view. The last two of Franklin D. Roosevelt's celebrated four freedoms are directly relevant here. He talked of freedom from want and freedom from fear. These he balanced against freedom of speech and freedom of religion. Roosevelt knew of what he was speaking. Without freedom from want and fear, freedom of speech and religion are hollow promises. The freedom which we have currently embraced is one in which we are virtually required to strive obsessively for income and wealth, and all the goods and services that they can provide, precisely because of the potential pain of fear and want.

All we need do is to look at those who live on the edge – sometimes working at two full time jobs and barely making ends meet. They engage in minimum wage jobs at McDonalds or Wal-

⁷⁶Karl Marx, *The German Ideology, Part One* (New York: International Publishers, 2004 [1845]), p. 53.

Mart where they are largely invisible to the rest of us. Or consider those who have failed – the very poor and homeless – to see why striving has become essential. They are the folks who only fit in the catchall category of ‘Not Elsewhere Classified.’ They do not participate in the current ‘work-shop’ society – a society in which success is measured by our ability to work and to shop. They are neither producers of things desired by others nor consumers of the cornucopia of goods and services offered in the cathedrals of commerce that we call shopping malls. Indeed, they are often invisible to the rest of us, confined to blighted neighborhoods and city centers. Several cities, among them Columbia, South Carolina, have even resorted to banning homeless people from the city center simply because they are homeless. Instead, they are to be corralled into certain neighborhoods where they will not offend the sensibilities of those who have homes.

In addition, the form of freedom we have embraced is largely one of loneliness. It is a freedom in which we are constantly driven to compare ourselves to others, and in so doing to simultaneously attach and detach ourselves from others. We attach ourselves to others in that their strivings become the measures by which we determine our own success or failure. But at the same time, the very need to compare – to compete – makes the formation of more permanent bonds with others more difficult or even impossible to pursue.

Moreover, what is lost in this obsession with freedom *to* is that the exercise of all freedoms requires the creation of secure and stable settings. For example, walking through a local or national park enjoying the scenery requires not only that we have the freedom *to* visit that park. It also requires that we have freedom *from* dangerous vehicles, thieves, paths that are sufficiently uneven to cause us to fall, rockslides and other natural events of which we might not be aware. Moreover, park authorities often provide other services to make our stay more pleasant, including toilets, water fountains, and perhaps food services. Only when these taken for granted amenities – freedoms *from* – are present can we exercise our freedom to enjoy the park.

Similarly, to use a commonplace example, consider eating at a restaurant. Eating out can be an enjoyable experience *if and only if* (among other things) (1) the food is of the kind desired and is properly cooked, (2) the service is within the bounds of what is generally expected by the clientele, and (3) the restaurant itself meets expectations about cleanliness, décor and demeanor of the staff and other guests. Importantly, none of these things are under the control of the prospective diner; they are established by others – the owner, the manager, the staff – and by the enforcement of the legal framework within which the restaurant operates. As such they generally guarantee us freedom *from* unsafe food, filthy restaurants, kitchens and dining rooms, boisterous drunken guests, fire and electrical hazards, and myriad other things. Together, they allow us – providing that we have sufficient funds to pay for the meal – the freedom to eat in that restaurant.

In short, real freedom requires not merely autonomy but security. And, that autonomy and security comes not from what we do for ourselves, but from what others do for us and what we do for others. Freedom in some absolute sense is a fantasy. But freedom that demands that we incessantly strive for material goods, always living with the fear of losing whatever we may have, is not freedom at all. Of course, full security, like full autonomy, is also impossible. Reasonable people may argue over how much autonomy and how much security are needed. However, in a wealthy nation such as ours, we can afford to provide much more security than we currently do. Instead, we have been dismantling so-called ‘social programs’ paid for collectively

out of tax dollars and putting them on the shoulders of individuals, the vast majority of whom are ill-prepared to deal with them. Hence, we now individually bear most of the risks and costs associated with higher education, old age and, especially for those at the bottom of the economic ladder, medical care. Meanwhile, of course, those who have accumulated vast wealth by whatever means, have seen their taxes rates decline, their fortunes increase and their political clout enhanced. They have also developed a wide range of means by which they minimize the taxes on their huge fortunes. For example, they keep billions of dollars in assets in so-called 'freeports.'⁷⁷ Others hire armies of usually secretive – the very wealthy would call them discreet – tax-avoidance experts to manage their wealth taking advantage of obscure twists and turns in tax law only available to the super-rich.⁷⁸ Hedge Fund owners seem to be particularly fond of using complex reinsuring schemes to avoid taxes on their earnings.⁷⁹

The current situation in Greece should give us pause. The vast majority of Greeks played no role in the collapse of the Greek economy. But they have been paying the piper. For most Greeks, security has vanished. One consequence of that is the rise of the Golden Dawn party, a fascist group. It blames the entire crisis on foreign immigrants (although it claims otherwise on its website) and makes clear its opposition to democracy. Its members have also been accused of a variety of crimes including the murder of immigrants. Similarly, in other European nations where austerity has been introduced from above, the result has been an increase in extremism of various sorts.

While nothing this extreme has occurred in the US to date, we had similar events during the Great Depression, when many frustrated Americans were openly sympathetic to the Nazis. In each of these instances, freedom was threatened if not completely undermined by the lack of security.

In sum, mandated freedom *to* is not freedom at all. This kind of freedom erroneously assumes the existence of a fantasy world in which all decisions are made by isolated, atomized individuals. Yet, when we have only the freedom to strive, to be entrepreneurial, to make myriad life-changing decisions for which we are ill-prepared, we are not free but burdened. Only when those freedoms *to* are balanced by freedoms *from* insecurity, illness and other social ills can we begin to exercise our freedoms – freedoms created by us collectively so as to allow us to express our individuality.

⁷⁷ The Economist, "Über-warehouses for the ultra-rich," *The Economist*, November 23 2013.

⁷⁸ Brooke Harrington, "Inside the Secretive World of Tax-Avoidance Experts," <http://www.theatlantic.com>.

⁷⁹ Zachery R. Mider, "Hedge Fund Execs Beach Their Tax Bills," *BusinessWeek*, February 25 - March 3 2013.

Free Trade

Closely related to the concept of freedom defined above is that of free trade. Every mainstream introductory economics textbook recites the same mantra: By opening the world to free trade, we are all better off, since countries, regions, and companies can use their 'comparative advantage' to specialize in the things they do best (read: most cheaply and efficiently), and exchange those things (or services) for those produced by others who also do what they do best. So what is there to dispute? It all sounds quite reasonable, even unexceptionable.

But let's do a thought experiment. Consider a world in which there are only small producers of undifferentiated goods. In such a world there will be considerable pressure to keep all prices and profits down, since anyone who attempted to raise the price they charged for their good would soon find that buyers would be scarce or non-existent. Why pay more for a widget from Alice, if one can buy the same widget at lower cost from Bill? Indeed, in such a world the only ways that a producer of a given good could improve her lot would be either by coming up with a more efficient way of producing the good in question (reducing the cost per unit) or making a significant improvement in the product such that people would be willing to pay more for it. Furthermore, since competition would be fierce, few producers if any would have sufficient resources to invest in any sort of innovation. Moreover, once an innovation was developed, others would discover or steal or borrow it driving the price down once again. And, the treadmill would start all over again. In addition, the producers in such a world would have little or no incentive to invest outside their country. After all, doing so would require even more capital and would entail more risk since one would have to deal with a different legal system and local customs.

Now let's consider a different world, one in which producers are large and in which the goods they produce are highly differentiated. By this I do not necessarily mean a world of monopolies in which there is only one producer of a given good, but rather a world in which there are several producers of not quite commensurable goods, e.g., a toaster which is chrome and toasts two slices at a time vs. a toaster that is red and toasts three slices at a time. If you live in the United States, you have probably noticed that this to some extent approximates the situation in which you find yourself each time you enter a large store or search the web. Note that in such a world a producer can set a price somewhat higher than the average and still sell a sufficient amount to make a substantial profit. If a sufficient number of people want a red toaster that toasts three slices and are willing to pay somewhat more for it than for a simple steel toaster that toasts two slices at a time, then a company can profit by producing it.

Moreover, such a world has one other important feature: Those industries that are highly capitalized are able to act differently from those with low capitalization. On the one hand, the highly capitalized firms could and do invest outside their country of origin, something that small firms rarely if ever attempt. On the other hand, they would be able to pay higher wages (and benefits) than those less capitalized. Wages in the two toaster factories would likely be about the same, but in highly capitalized industries where wages were a small percentage of total costs, there would be far less pressure on firms to keep wages down. This is clearly the case in high technology industries such as pharmaceuticals and high-end information technologies as well as

in banking. It is certainly true of their highly skilled workers, but it is also generally true of those at the bottom of the job hierarchy in those industries.

But what happens if we join these two economies together at the hip, so to speak? Well, to a large extent that is precisely what we have today in much of the world. It is what some observers used to call a ‘dual economy.’⁸⁰ On the one hand, we have producers of basic commodities – coal, corn, iron ore, coffee, cocoa, tea, rubber – as well as producers of undifferentiated goods – nails, screws, common machine parts – who compete fiercely with each other to sell their inputs to those who make highly differentiated goods. For example, a producer of screws might try to sell them to hardware chains and to manufacturers of automobiles. However, those purchasers of screws will nearly always choose the cheapest supplier. Indeed, in large part due to the structure of commodity markets, over the last several decades the prices received by producers of most of these products have declined each year.⁸¹

On the other hand, we have producers of differentiated products (breakfast cereals, automobiles, television sets, mobile phones), who often produce using basic commodities and machine parts as raw materials for production. For example, cereal manufacturers buy vast quantities of largely undifferentiated grains; similarly, auto manufacturers buy vast quantities of screws, bolts, rivets and other standard products. They tend to do quite well. Furthermore, many of those who produce differentiated products have discovered what is a secret no longer: With thousands of small to medium sized factories worldwide competing for business, they can outsource the production of many of their differentiated products and get them produced at rock-bottom prices even as they keep profits high. Arguably Nike has taken this approach to its logical conclusion: They produce hundreds of high-priced styles and models of shoes by outsourcing *all* of their production to hundreds of factories that compete with each other to supply Nike at the lowest cost.

Suddenly, what looked like free trade in our introductory economics textbook is not quite what it was cracked up to be. Everyone is not better off. Some producers of undifferentiated commodities – usually the small ones with little capital – compete with their compatriots worldwide to deliver at the lowest prices, while other producers of differentiated commodities are able to set the price based on what the market will bear.

Continue this over time and several disturbing things start to happen: First, in some parts of the world there is increasing poverty as prices for undifferentiated commodities and wages are forced lower and lower. Second, as more and more goods are outsourced to firms in nations where wages are low, middle class wages in industrial nations stagnate and the middle class as a whole starts to shrink. As is all too well known, the well-paid American factory jobs of the past have disappeared; they have not been replaced by anything nearly as lucrative for workers. Third, as the middle class shrinks, the market for products sold to them shrinks as well. After all, workers must be paid well in order to purchase consumer goods. Finally, some people become

⁸⁰ Robert T. Averitt, *The Dual Economy* (New York: W. W. Norton, 1968).

⁸¹ Oil was until recently a marked exception, because industrializing nations such as China, India and Brazil are now consuming much more of it. However, with a slowing of growth in China and fracking technologies, oil prices have declined rapidly.

fabulously wealthy, because they were able to take advantage of this before its more perverse effects kicked in.

But ultimately, this kind of global economy in which there is free trade, but with a very tilted playing field, is unsustainable.⁸² Indeed, one of the great paradoxes of most forms of capitalism is that it simultaneously increases the wealth of a small number of persons, but needs large numbers of consumers who have the wherewithal to purchase mass-produced goods. Henry Ford understood this well, paying his workers a wage sufficiently high that they could afford to buy his automobiles. But the form of globalization that we instituted with the GATT and World Trade Organization appears to be one (admittedly, a debate rages on whether and to what degree) that tends to concentrate wealth in fewer and fewer hands, thereby undermining the purchasing power necessary to keep that form of capitalism afloat.

Hence, we find that the consumption of luxury goods has increased dramatically, not only in the US and Europe, but among elites in China, parts of Latin America, and India. But at the same time, far too many Americans find themselves dependent on food stamps. Many of these persons have full time jobs or even work two or more jobs, but simply cannot obtain sufficient income to feed themselves and their families. They are now in direct competition with millions of workers in other nations who are paid even lower wages. While official statistics suggest that unemployment has declined, millions have simply dropped out of the labor force, giving up on the possibility of finding a job. Furthermore, it appears likely that companies that laid off relatively low wage workers during the Great Recession are unlikely to hire back many of these workers. Instead, they will send those jobs overseas to places where labor costs less, or automate away those jobs entirely. And, while automation might in some instances create other jobs, those other jobs require ever more sophisticated skills – skills often costly and difficult to obtain.

A few nations have managed to avoid (some of) the free market rhetoric and have done quite well. When I was a child back in the late Middle Ages, the words 'Made in Japan' meant junk. Japanese goods were cheap, of poor quality, of little value. Today, Japanese companies turn out high quality products and produce them in factories around the world. Toyotas are produced in Kentucky, among other places. But this hardly happened by virtue of Japanese adherence to free market principles. It happened because Japan's Ministry of Trade and Industry promoted an industrial policy that encouraged the production of high value and quality products and discouraged the production of those of low value or quality. In short, Japanese officials set the rules of the Japanese markets such that the nation would progress from a low income to a high income nation. While over the last 20 years Japan has faced some major economic problems, it is unlikely that levels of living would have improved so fast over the last half of the 20th century were they to have praised the virtues of the free market. Something similar took place in Taiwan and Korea, allowing those nations to progress from utter poverty to middle income nations.

But, perhaps no nation has handled these issues better than has China, at least to date. Although China has certainly embraced a form of capitalism, Chinese leaders have not fallen for the free market rhetoric. China initially embraced massive foreign investment, putting to work a huge

⁸² For the moment, let's leave out all the issues surrounding climate change and industrial pollution which also have an impact on sustainability.

portion of its population in low wage manufacturing for export while investing in massive infrastructure projects – from railroads to highways to port facilities. Chinese products flooded the US market, initially with cheap clothing, more recently with various small appliances and even industrial goods. American consumers, with stagnant wages, saw their purchasing power increase somewhat as the price of these imported goods declined relative to their American-made counterparts. But within a decade, American manufacturing was essentially devastated. One need only drive through parts of Detroit, Chicago, and other major US cities to see vast numbers of abandoned factories and warehouses.

Importantly, for the vast majority of Chinese workers, employment at low wages constituted an *improvement* in their extremely low levels of living. Moreover, China simultaneously encouraged the production of cheap consumer goods, thereby beginning to build an internal market and providing incentives to workers. The result, now well-documented, was unprecedented annual rates of growth of 10% or more. Indeed, for many products, China has now priced itself out of the market and has been replaced by Vietnamese and Cambodian workers, among others. But the Chinese government has used this as an opportunity to follow the Japanese lead and invest in and promote higher wage, more technologically advanced industries. Hence, Chinese-made Lenovo laptops (once made by IBM), sophisticated construction equipment, and even supercomputers are taking their place on the world stage. And, the Chinese government is making heavy investments in higher education and research so as to assure that China can once again be among the wealthier, more innovative nations of the world.

This is not to suggest that China is without problems or that this project is guaranteed to succeed. In particular, China suffers from considerable centrifugal force as the provinces attempt to increase their autonomy from the central government. Moreover, the Chinese rate of economic growth is slowing, leading to increased unrest among those who previously had been the staunchest supporters of the current regime. And, widespread corruption remains a serious problem.

But China is the exception rather than the rule, since it has done reasonably well in the new global economy by virtue of its vast state intervention. In contrast, most of the nations of Africa, Asia, Latin America and elsewhere have had far less desirable results as free trade has expanded. In particular, those nations with poor infrastructure and ‘free markets’ have found themselves consigned to the production of low value primary products such as grains and metal ores or of equally low value consumer goods.

It is also worth mentioning that official US attitudes toward free trade changed markedly with American industrialization. For most of the 19th century the US was opposed to free trade while Britain, the major world power of the day, was very much in favor of it. At the same time, the US did not recognize most intellectual property rights (patents, copyrights, trademarks) granted elsewhere. Britain had much to gain from free trade, including opening of the rest of the world to its manufactured products. In contrast, doing so would have dealt a severe blow to the fledgling American manufacturing sector. Hence, understanding that threat, the US did its best to avoid free trade.

Today, the situation is quite different. As a result of the creation of four international *bureaucracies* (as well as a host of regional agreements), there is enormous pressure on all nations to support free trade. The World Trade Organization (WTO) was put in place to create a space for what is called free trade; whether by design or by accident, it has taken trade rules out of the hands of democratically elected governments and invested them in a bureaucratic entity. The International Monetary Fund (IMF) was established ensure stability in the international monetary system as well as to pressure nations that fail to live up to the rules to enact the 'necessary reforms.' The World Intellectual Property Organization (WIPO) was established to ensure that intellectual property rights are expanded and treated the same everywhere. And, the World Bank, initially created to help post-war Europe, has morphed into an organization that disciplines low income nations to ensure that they follow rules set elsewhere.⁸³

Similar issues apply to the dozens of regional trade agreements which now govern trade between groups of nations. Many, such as the North American Free Trade Agreement, allow companies that believe they have been wronged by government action to sue and collect damages from the offending nation. Companies have brought suit (either directly or through their home nation's government) against nations that enforced environmental laws or discouraged cigarette smoking. Such suits are usually settled by a special court, the proceedings of which are often secret. Companies win about half the time, thereby overriding local laws. The current concerns about the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership are centered on these issues.⁸⁴

Yet, each of these agreements establishes a powerful bureaucracy – *a bureaucracy that designs markets*. It is essentially a creation of the elites of the world's richest nations and the large companies within those nations; poorer nations and you and I had little say in designing them. Moreover, the WTO's dispute settlement process is such that poor nations have to spend considerable sums to challenge decisions that they find inequitable. Hence, most disputes have been among the wealthier nations. And, when a small, poor nation does successfully challenge a WTO decision, it is often the case that the wealthy nations simply refuse to abide by it.⁸⁵ The IMF and the World Bank are able to force compliance through the strings they attach to their money-lending. And a network of interlocking agreements has the consequence of creating and locking most of the world's nations into a system of economic relations that is quite difficult to change and is beyond any popular control.

⁸³ For one of many critiques of the World Bank, see Goldman Michael Goldman, *Imperial Nature: The World Bank and Struggles for Justice in the Age of Globalization* (New Haven: Yale University Press, 2005).

⁸⁴ Peter Coy, Brian Parkin, and Andrew Martin, "In Trade Talks, It's Countries vs. Companies," *BusinessWeek*, March 24 - April 6 2014; Economist, "Investor-State Dispute Settlement: The Arbitration Game," *The Economist*, October 11 2014.

⁸⁵ One example is the suit brought by the small nation of Antigua against the United States with respect to online gambling. The US has simply has ignored the decision in favor of Antigua. In contrast, it is obvious that Antigua would have been unable to ignore a decision in favor of the US. Antigua has responded by receiving permission to violate US copyright laws, but it is unlikely to resolve the issue. See Annie Lowrey, "Caribbean Nation Gets an International Go-Ahead to Break U.S. Copyright Laws," *The New York Times* 2013.

In sum, the myth of free trade erroneously presumes that all parties to the exchange have roughly equal capabilities and are merely trading so as to do what they do best. It also assumes that capital never crosses national boundaries. But *each day \$5.3 trillion dollars* move across national borders.⁸⁶ That means that any large corporation can shift its operations to those places that offer the lowest wages, lowest taxes, least restrictions on repatriation of profits or perhaps weakest environmental laws. Of course, smaller businesses do not have that option. As Jack Welch put it cynically when he was CEO at General Electric: “Ideally you'd have every plant you own on a barge to move with currencies and changes in the economy.”⁸⁷

The supermarket sector provides a clear example of this process. Twenty years ago, very few supermarket chains operated across national borders. Today the large chains do just that. In so doing they have often acquired or put out of business their much smaller competitors domestically and in other nations. They have also often substituted products produced elsewhere at lower cost to the chains for those produced locally. Profits, instead of staying in that nation, now go to stockholders in the rich world.

Thus, in point of fact, free trade – as currently constituted – benefits some people in some nations, and the firms in those nations, far more than it does others. The so-called level playing field appears to be tilted in favor of the elites of wealthy nations. That free trade will benefit all is a myth in that (1) it must be created by putting in place a powerful international bureaucracy including the WTO, IMF, WIPO and the World Bank, and (2) the rules established by that bureaucracy design and define the international markets and thereby determine which firms and nations will benefit and which will lose.

⁸⁶Bank for International Settlements, "Triennial Central Bank Survey. Foreign exchange turnover in April 2013: preliminary global results," (Basel2013). This is actually lower than it was at the 2007 peak.

⁸⁷Quoted in The Economist, "Welcome Home," *The Economist*, January 19 2013.

Individuality

Doubtless in an obvious sense we are individuals. Our current notion of individuality can be traced back at least as far as philosopher Thomas Hobbes (1588-1679). Hobbes took our individuality as his starting point and argued that we needed a 'social contract' that would provide for government and allow us to avoid a 'war of each against all.' Moreover, he concluded in his well-known work, *Leviathan*,⁸⁸ that only a monarchy could bring order to the world. Since Hobbes wrote this in the middle of the English Civil War, it is hardly surprising that Hobbes would have been obsessively concerned with order in his work. Other, later philosophers such as John Locke (1632-1704) and Jean-Jacques Rousseau (1712-1778) adopted the same notion of individuality, although their conclusions were far friendlier to democratic regimes. Indeed, one historian has remarked that Locke's notion of the individual was enshrined in the American constitution, especially the 'due process' clause.⁸⁹

In addition, for most of the last two centuries mainstream economists of various persuasions have built their theories on what is usually called methodological individualism. In other words, they assume that individuality is a starting point for purposes of analysis. What this means in practice is that in attempting to understand behavior economists generally start with the notion that each of us is entirely autonomous and has our own preferences, desires, wants and needs. Each of us determines how we value various goods as well. Furthermore, mainstream economists will also usually argue that in a perfectly functioning market, the competing wants and needs of each of us are best fulfilled.

Survey researchers, pollsters, and marketers often take a similar view. Each of the readers of this book has doubtless received numerous questionnaires or surveys, whether by mail, telephone, email or in person, requesting answers to a series of questions by choosing among a set of fixed options. These are then analyzed statistically to determine (within certain probability limits) who is likely to win the Presidential election, how many consumers prefer a particular detergent or what percent of the population supports or rejects gay marriage. Each of these surveys assumes that the answers of each respondent are independent of those of the others. Put differently, each assumes that the respondents are autonomous individuals.

But what do we mean when we talk of individuals, individuality, or individualism? In what ways are we individuals? You are not me. I am not you. Clearly, each of us is born with a particular body into a pre-existing world at a particular point in time and space. We have absolutely no choice in the matter. Hence, I cannot – much as it might please me – be Pharaoh of Egypt. I cannot be a girl scout. I cannot be a native speaker of Cantonese.

Most clearly, our bodies are given to us soon after conception. To some degree we can and do modify them through diet, sport, exercise, gait, decoration, concealment, makeup, and the like. Modern medicine has even made possible surgical procedures that allow one to change one's gender, facial features or make other 'cosmetic' alterations. In addition, to some degree, clothing has long been a means of both distinguishing each of us from others (think of the special

⁸⁸ Thomas Hobbes, *Leviathan* (London: Andrew Crooke, 1651).

⁸⁹ Richard Schlatter, *Private Property: History of an Idea* (London: Allen and Unwin, 1951).

vestments worn by the pope) as well for minimizing those distinctions within a group (uniforms of all sorts). The genetic makeup of our bodies and the physical environment in which we grow up (both in the womb and afterwards) makes us strong or weak, thin or fat, tall or short, as the case may be. In short, although we can make some alterations, we cannot escape our bodies. They are not merely part of us; they *are* us.

Furthermore, as infants we are born into the world totally helpless. Without the continuous support of others we would soon die. And, these others not only provide us with food, clothing, and shelter but with a name, a language to speak, mannerisms and gestures with which to express ourselves, a history and tradition of which we become a part, a moral outlook, prejudices, opinions – indeed, our very means of understanding and acting in the world. Initially, we have no choice whatever in this matter.

It is only long after the fact, years after acquiring a language, a worldview, a modicum of ability to make our way in the world that we can begin to object. Hence, every child to one degree or another will challenge or rebel against *certain aspects* of her or his parents' dictums. But this is always done in relation to what those very same parents (and other relatives, friends, acquaintances, and even enemies) have taught us. It is impossible for anyone to reject *entirely* what she or he learned as a child.

Moreover, even as adults our constitution as social beings is such that we must live in the company of others. This is not merely a matter of having neighbors, or of walking down crowded streets filled with strangers. Others provide us with recognition, praise, abuse, status, correction, and support. In complex societies such as ours, they provide us with the food we eat, the shelter we inhabit, the clothes we wear, the physical infrastructure we employ daily and the innumerable technological gadgets that have become commonplace in contemporary society.

There is essentially no way to escape from these interactions with others. Even thieves congratulate each other on a 'job well done.' The ancient Greeks understood this well when they made banishment a punishment – one of the most severe punishments meted out by ancient justice.⁹⁰ Indeed, Socrates saw banishment as so awful a punishment that he drank the hemlock and died instead. And, the poet John Donne understood it well when he wrote in 1624 his famous lines:

No man is an island entire of itself; every man
is a piece of the continent, a part of the main;....

Of course, there are plenty of examples of hermits, of outcasts, of recluses, of vagabonds, living at the edges of society. Such persons may reject the company of others, but they cannot reject more than a small fraction of what they learned in their childhood. For the most part, they cannot reject their language, their gestures, their habits. Those who find themselves in such circumstances may endure, but they suffer – and know they suffer – from the scorn of most others. Such a life always remains an option, but it is one that few of us – even the most committed survivalist – would embrace.

⁹⁰ The modern equivalent is solitary confinement.

Therefore, rather curiously, the individualism that is held so dear by so many of us is not an *input* to society as social contract philosophers (Hobbes, Locke, Rousseau) thought it was, but is rather an *outcome* – one of many possible outcomes – of the very process of growing up as a human being. For this reason individualism takes different forms in different nations. American individualism is not the same as French individualism which is different again from Dutch individualism. Furthermore, in some nations individualism is frowned upon, rejected, to be avoided if at all possible. North Korea is one such nation. Of course, even there, differences remain among individuals; no socialization process is ever so thoroughly effective that it completely wipes out individuality.

None of this is to suggest that individuality and individualism should be discarded. But it is to recognize a paradox central to human life: individuality emerges from, develops in response to, and is forever dependent on society and especially upon government. Government not only puts restrictions on individuality, but also enables it by creating circumstances in which individuality can be expressed.⁹¹ Hence, failed and weak States block individualism as much as authoritarian States do. They do so by their failure to protect individuals. In contrast, strong democratic States such as ours simultaneously tell me that possession of heroin is prohibited by law, but that I am free to decide who my friends shall be. It tells me that I may decorate the interior of my home as I please, but also that I may not do the same (without permission) to my neighbor's home. It tells me that I can drive my car anywhere as long as (1) it conforms to accepted standards for highway vehicles and is appropriately licensed, (2) I remain on public roads and avoid traveling on other people's property and (3) I am a licensed driver and obey the traffic laws. I may use my cellphone to contact my wife, but only if I punch in the number in a certain way and pay my monthly bill. Individuality is never complete precisely because of this. It is always limited by traditions, standards, laws and technologies that encourage the expression of individuality only in ways that are socially acceptable at any particular time and place.

That said, traditions, standards, laws and technologies – the rules we live by – are themselves subject to change, largely based on changing circumstances and the enormous variety of individual practices. Indeed, customs, standards and laws are themselves the product of endless and always evolving debate over how people should act in an ever-increasing range of circumstances. Some of these traditions change very slowly, while others change comparatively rapidly. For example, when I was a child growing up in New York City, my mother would only go to Manhattan if she was wearing a dress and white gloves. Jeans were reserved for the garden. Similarly, my father would always wear a suit and a hat; the hat was nearly invariably a fedora. On entering a public building, he would usually remove that hat. Nearly everyone else did the same. These were not the sum of myriad individual choices, but were instead social norms that were well-understood by New Yorkers of the day. Today, these norms are only honored in the breach.

The same argument applies to occupations. In many societies in the past and a significant number today, one's occupation was decided at birth. But most contemporary Americans decide

⁹¹ Mark S. Weiner, "The Paradox of Individualism," *The Chronicle of Higher Education*, April 5 2013.

at some point in our lives what occupation to pursue. We may do this consciously or have it forced on us by the need to make a living. Either way, the range of choice among occupations is not of our making. It is handed to us. Hence, no one in the eighteenth century grew up wanting to be a computer programmer. And, few people today would be likely to grow up expecting to pursue a career in watch or camera repair; persons with those skills would have great difficulty finding such a position. Even in a world in which one's occupation is of considerable importance in defining one's role in life, the range of possible occupations is handed to us by society. At a given point in time and space, society provides a given division of labor, determines what kinds of occupations are available, sets the job requirements, and determines how much we will be paid for our work, among other things. This is equally true for ditch diggers and for entrepreneurs.

In short, the individual and society are not two ends of a spectrum. Nor is society made up of atomized, autonomous individuals. Individuality and society are always in the process of emerging simultaneously through the endless interactions we have, the ways in which we engage with other people and things. These interactions both open and close doors to our future behavior; they simultaneously constrain and enable us to do whatever we might wish to do. Even things that might be considered utterly individual – the placement of books on my desk, the choice of clothing that I wear – are constrained and enabled by the possibilities present (or absent) in our society.

So how is individuality produced? Consider the following example. Fifty years ago most public colleges and universities did not charge tuition. These costs were borne by the various states. At most they demanded a nominal annual fee, and students were usually required to buy books and other curricular materials. Some states provided academically solid students with a small stipend to cover these costs. The result was that most students graduated with little or no debt. Often a job each summer between academic years was sufficient to cover living expenses.

In contrast, today total student loan debt is greater than consumer debt, totaling over \$1.3 trillion. As a result of that, students (1) tend to work long hours during the school year – hours that would otherwise be devoted at least in part to academic work – and (2) graduates are obsessed with finding ways of paying off what is often a crushing amount of debt. But this is merely the tip of the proverbial iceberg. Numerous commentators have noted that (3) students are taking longer and longer to finish their undergraduate degrees, and (4) students have become very career oriented, asking not whether they are receiving a broad, general education that will turn them into competent citizens, but whether their path through college will provide them on graduation with a job that pays well enough to pay off the loans they have acquired. This should come as no surprise since student loan debt is virtually impossible to write off; even bankruptcy does not forgive it.⁹² Moreover, politicians such as Governor Rick Scott of Florida have pushed this further by arguing that majors such as anthropology are of little use to society and should be discarded while engineering and science are central to the nation's future.

Given that we have imposed the cost of education on individual students over the last several decades, numerous articles have been written to advise them as to the likely future earnings

⁹² Peter Coy, "Debt for Life," *BusinessWeek*, September 10-16 2012.

across fields. What these articles share in common is a belief that everyone is 'rational' and calculating, that each of us is fully in charge of our future. Prospective students are presented with the notion that they should be able to make informed decisions with the data that are available, whereas in fact those data are often quite misleading, if not simply outright wrong. The assumption is that current earnings information is a good predictor of future earnings and reflects a simple supply and demand model. In fact, occupations come and go. Those that are well paid today may be poorly paid tomorrow. It is even possible that those occupations that are poorly paid today may be well paid in the future. So the problem one has here is that the data that are provided are at least as likely to mislead as they are to inform.

If you are not convinced, let me provide some examples. Until the late 19th century thousands of people were engaged in typesetting, taking individual letters from a drawer to assemble texts. These were skilled jobs that paid well and allowed considerable freedom on the job. The invention of linotype – huge machines that produced whole lines of printable text from molten lead – drastically reduced the need for typesetters. Then, linotyping itself was replaced by offset lithography and computerized typesetting. The International Typesetters Union was founded in 1852, but in 1986 it closed its doors due to a lack of members. Today, there are only a handful of jobs as typesetters or linotypists still available.

Similarly, learning the necessary skills to become a machine tool operator would have made good sense until the 1960s, but since then almost all machine tool operators have been replaced by automated machine tool operation in which engineering and computer skills rather than machine tool skills are necessary.⁹³ The result is that those highly trained persons are no longer employed in those jobs. If you were beginning a career five years before that technical transition, and believed the available data, you would have made a huge mistake.

The same might be said about contemporary computer skills. When I was a graduate student in the early 1970s, we were advised to learn Fortran (a computer language) and to program wiring boards, skills that today are nearly useless. Those in the forerunners to what are now usually called Computer Science programs were encouraged to learn 'machine language,' so as to write programs suitable for the scarce availability of both random access memory (RAM) and hard disk space. This involved the tedious task of writing very specific instructions that could be executed directly by a computer's Central Processing Unit. Today, software is usually written in C#, Java or Object C (which, using another program, is then 'compiled' into a form readable directly by the hardware). In addition, it is far less bound by either RAM or hard disk space. Today, few people bother to learn machine language. Moreover, the easier aspects of programming have been automated; many of the lower level jobs no longer exist.

Yet another more recent example of unexpected shifts in the job market concerns petroleum engineers. Until just recently, oil prices were high and oil companies were offering six figure

⁹³ See: David F. Noble, *Forces of Production: A Social History of Industrial Automation* (New Brunswick, NJ: Transaction Publishers, 2011).

salaries to newly minted engineers. Now graduates of those same programs are finding that, with low oil prices, companies are actually laying off engineers.⁹⁴

The same argument that informed prospective students can make competent decisions about their futures based on available salary data also assumes that the sole or single most important measure of career success is income. Yet, we all know that people choose occupations for many reasons; income is just one of them. People also choose based on their values, aspirations and abilities, role models provided by others, love for (or discomfort in) the great outdoors, a need to be a member of a team, a desire to make the world a better place, the quest for prestige or power, a desire to travel and a host of other goals.

Put differently, as a result of these changes in the ways in which college is financed, the views and behavior of college students have changed dramatically. Students find themselves forced to make choices between perpetually being in debt and engaging in an occupation that may not be the most personally fulfilling to them or the most useful to society. In the name of choice and individual responsibility, we have restricted choice and undermined the ability of students to be responsible citizens.

Two specific examples, one positive and the other negative attest to this transformation. On the one hand, Davidson College, a small but relatively well-endowed liberal arts college in North Carolina decided in 2007 to stop encouraging student loans and instead to give grants to students in inverse proportion to their ability to pay tuition, room and board.⁹⁵ One surprising result was that the mix of majors changed; since students did not have to worry about huge debt burdens on graduation, far more students opted to engage in education that would prepare them for jobs that would serve the larger society – as social workers, teachers and ministers – as well various forms of volunteer work.

On the other hand, one need only look at the staggering debts incurred by medical students to see the opposite effect: Medical students tend to desire to get into the highest paying specialties so that they can pay off the \$170,000 average debt that they have accumulated during their medical education and the additional \$20,000 debt they accumulated as undergraduates.⁹⁶ In contrast, there is a shortage of physicians who wish to be general or family practitioners, since these fields pay relatively poorly. The result is that our medical care system has become fragmented, with an ever-widening gulf between the generalists and the specialists.

In sum, specific (public and private) policies promote or restrict certain forms of individualism by widening or narrowing the range of choices that are available to most persons. Of course, one can always find the rare Horatio Alger story of the boy who made good despite incredible odds,

⁹⁴ Zain Shauk, "Grads Hoping for Oil Job Riches Are Worried," *Bloomberg BusinessWeek*, no. 4414 (2015).

⁹⁵ Laura Mueller, "N.C. College to End Need-based Financial Aid Loans," http://usatoday30.usatoday.com/news/education/2007-03-19-davidson-loans_N.htm.

⁹⁶ Figures are median debt, 2012. See American Association of Medical Colleges American Association of Medical Colleges, "Medical Student Education: Debt, Costs, and Loan Repayment Fact Card," (Washington, DC: AAMC, 2014).

or of the girl who struggled and eventually became CEO of a major company. But these are the rare exceptions, the residual cases. They perpetuate the myth that we are all autonomous individuals, forgetting that whatever autonomy we have is the result of particular child rearing practices, the wealth and education of our parents, educational requirements for particular occupations, the community in which we live, opportunities offered by society and the myriad circumstances into which we are born and required to live in a world that we did not make.

But if individuals and individualism are produced through society, that is, through a group with shared goals, ways of living, technologies, plans and desires, then we must also ask how those groups come into being. It is clear that there was no time in the remote past in which fully formed individuals came together and determined that it was time to create a community or society. Even as we express our individuality, we do so in relations with others. From the day we are born, those others literally tell us who we are and how we should live. They tell us what is to be valued. We may disagree, take another path, reject what we are told, but we can only do so in relation to those others. Paradoxically, whatever we hold dear, whatever actions we decide to take, are only meaningful in relation to those others. Hence, as social beings we constantly express our need for community. Only a handful of sociopaths lack any regard for others whatever.

It appears that there are several different and sometimes overlapping ways in which we express our common goals, plans and desires, ways in which community is created. Among them, we can (1) promote our common affinities, (2) coalesce around our shared involvements or (3) sum up and 'average' our individual views as often expressed as 'public opinion.' These, if you wish, are three different ways of expressing some notion of community. Let me briefly examine each.

Common affinities. Since we are not fully autonomous, we always share affinities with others. These affinities are highly differentiated; they are often emotionally charged as well. First and foremost there are shared affinities associated with families. Indeed, as is the case for all other primates, we begin life in a family, a family that cares for us to a certain age. We remain in contact with that family to varying degrees over our life course. Of course, these common affinities vary. The details of family life as well as its quality vary enormously from family to family. Anthropologists have identified hundreds of forms of family organization across societies. Some, like ours, tend to live in so-called nuclear families, while others live in large homes with dozens of relatives. Who is and who is not included in family relations varies from one culture to the next. Hence, I am not even sure who my third cousins are, while in other societies, third cousins might be parts of 'the family' as well.

But, especially in large societies such as ours, common affinities extend far beyond family relations. These other common affinities include friends, neighbors, colleagues at work and members of various organizations. Importantly, even as we share common affinities, we do not do so as equals across all situations. Quite obviously, small children rarely share in important family decisions. But just as small children do not have standing in important debates, so standing varies across the various affinities we may have. Hence, in our society were the parent of an adult friend of mine to die, I would not normally be expected to take charge of the funeral

arrangements. Those would be left to the immediate family, the surviving spouse and children. Indeed, even making suggestions about those arrangements – the casket should be open or closed, the body should be interred or cremated – would likely be seen by my friend’s family as interference in their decisions. Were my parent to die, the same would be true of my friend’s participation in those funeral arrangements. Similar unwritten ‘rules’ apply to marriages, child rearing, love-making and a wide range of other activities.

That said, when problems emerge, we often appeal to personal affinities. For example, at one time or another we have all become involved in family feuds where a family member vows, for example, not to speak again to other family members. Resolving such disputes often involves conversations aimed at convincing one or more family members that they have misconstrued the situation, that someone is truly sorry, that a compromise solution is necessary or the like. Disputes may also be resolved or diminished by noting that ‘we are all members of the same family.’ Similarly, disputes among friends may be ended by noting that ‘we have all been friends since....’ This is not to suggest that the outcomes of these feuds are always positive; in many instances they end in the departure, the ostracism of family member or friend.

Furthermore, common affinities always include *emotional* ties. Such ties involve the intimacy of relations that we have with such persons as well as with various things. Hence, I know my wife not merely as someone I can recognize walking down the street or as someone having strong opinions about various things or someone who drives a car or occasionally cooks exotic dishes. I also know her in far more intimate ways, as lover, companion, care giver, mother and friend. Some of these intimate relations that we share cannot even be put into words.

The same applies to things. There is a huge difference between a sea green 2014 Toyota Prius and *the* 2014 Toyota Prius that I own and drive. The former is known only in the formal sense, at a distance, while the latter is known in terms of its idiosyncrasies, its flaws, the sound of its engine, etc. The same applies to a protractor as compared to *the* protractor once used by my father as a child. The former is a fully exchangeable, marketable thing, a mere tool for drawing angles, while the latter is suffused with emotional attachments.

That is why we may cry on the death of a family member or friend and why celebrating a friend’s or relative’s birthday is enjoyable. It is also why virtually everyone keeps mementos of some sort or another. In both instances, these people and things connect us to others. We form a community through those shared common affinities. We are emotionally attached by them. We know that we are from a given family, peer group, neighborhood, village, city or nation.

The very fact that we share these common affinities explains why the intrusion of someone not sharing them may be either a cause for celebration or a threat. A stranger may be welcomed with a grand display of hospitality. Indeed, in most societies it is common to welcome strangers by engaging in one of the most intimate activities of life – sharing a meal; and the meal will often be in the form of a feast rather than everyday fare. Alternatively, the stranger may be seen as particularly gullible, worthy of actions that would be seen as disgraceful if engaged in with a member of the group. Hence, it may be fair game to cheat the stranger by selling shoddy goods or overcharging. Or the stranger may be seen as a danger to the community who must be

watched if not forcibly removed from the scene. In such instances, violence and even death may result.

As little as two hundred years ago, identifying common affinities was relatively unproblematic. One would be born and live in a relatively isolated village, knowing all the persons who lived there and easily identifying the occasional stranger. Yet, one of the continuing dilemmas of living in an ever smaller world is the need to develop ways to expand our notions of common affinities. During much of the last several centuries we have attempted to expand our affinities so as to include entire nations. For that reason, I can cross the entire United States with relative ease. I can pick up my household and move from place to place across a vast territory knowing that even as there are local differences, laws and customs will not vary radically across the nation.

But there is a downside to nationalism as well. Nationalists may come to assert common affinities by emphasizing differences. This can create divisions where there were few or none before. Nearly every nation has at one time or another persecuted one or more minorities in various ways. At the extreme, those who did not conform to some idealized notion of common affinities were systematically killed. This is perhaps best exemplified by Hitler's rise in Nazi Germany. In other instances efforts were made to stamp out the offending culture and to force its members to share the dominant one. Hence, in the US and Norway, among many other nations, attempts were made to force native peoples to abandon their 'aberrant' ways and to conform to the dominant culture. In France, efforts were made over several centuries to eliminate local language such as Breton and Provençal and their corresponding cultures. The current clashes in the Middle East and Africa emphasize this continuing dilemma. There, colonial powers often allied themselves with particular groups and put their allies in charge over regions containing many other affinity groups. The consequences of those decisions are still played out in clashes between Sunnis and Shias, Turks and Kurds.

Shared involvements. But affinities are not all that we share. We may also share certain involvements of various sorts. These may be about religious beliefs, spectator or participant sports, current affairs – civil rights, gun ownership, the state of the environment – or some other issue. Such involvements arise across the political spectrum. Moreover, they may be about very local issues – who the next preacher will be in our church, resident parking on State Street, whether a given team should have won a local tournament – or about issues understood as of global importance – the spread of nuclear weapons, the missionary zeal required to save souls abroad, rising sea levels. What all these involvements share is that acting alone is inadequate. The actions required to address these shared involvements require associating with people whom we may well have never met and acting *collectively* with them.

Of course, some shared involvements emerge from personal affinities. You may be a member of the Catholic Church because you were raised Catholic. You may be a great football fan because everyone in your family valued football. You may be a member of the Masons or Elks because your father was. Many other shared involvements emerge from personal concerns. Some of these are *reactions* to the personal affinities from which we emerged. Hence, I might change or abandon religion as a consequence of being forced to pursue one by my parents. I might decide

never again to watch a football game because I was obliged to sit through endless games by my parents or friends.

Still other shared involvements do not emerge directly from personal affinities. They are choices that we make to become involved. We are frustrated by the lack of resident parking in our neighborhood, by the failure to grapple with animal welfare, by the lack of spiritual attachment in our lives, by the corruption we see in City Hall or by the vast amount of energy from non-renewable resources that we consume each day. In short, we make fairly well-defined choices to become involved in a particular group or in actions to create one where none existed before.

Importantly, these shared involvements are or rapidly become part of our identity. Some are a consequence of where we were born. So we may have certain shared involvements because we are from Mayville. Others have to do with our gender, race or ethnicity. Yet others are linked to our class or status. Some shared involvements encompass entire nations and cross national borders, while others are limited to a small area or a small network of persons scattered across the landscape.

Living in Mayville, we may become involved in a group that attempts to improve the quality of inadequate public schools. As members of a particular racial group, we may band together to promote racial equality or one that supports claims of racial superiority. We may join a church so as to find like-minded individuals such that we can support each other's beliefs. We may join an exclusive country club so that we can avoid the hoi polloi.

Yet other involvements are national in scope. For example, living together in a democratic society, we value citizenship in this way. The vast majority of us believe that certain kinds of activities must be engaged in collectively. This includes defense against common enemies, protecting national parks for the scenery and beauty they provide, recognizing certain persons or events with public monuments, providing highways to transport people easily across the landscape, social security for the elderly and disabled, and ensuring that the world we leave for our children and grandchildren is at least as good as if not better than the one into which we were born.

In addition, the degree of fervor that each of us express about a particular involvement will vary. For example, some persons will see animal welfare as a lifelong passion. Others will feel it is worth contributing funds to organizations promoting welfare. Still others will sympathize with 'activists.' And, yet others will be utterly indifferent to the issue. The same applies to religious commitments. Some will be fervent believers, adhering to every aspect of religious ritual and attempting to convert others. Some will attend services regularly, but do little beyond that. Some will only attend services on certain holidays. And, some will be members in name only, without actually practicing that religion. Clearly, no one could be equally involved about every shared involvement at once; hence, we must choose how much time and energy we will invest in each.

Moreover, even as these involvements are part of our identities, our identities are not fixed; they are constantly in flux. I am not the person now that I was 20 years ago. And, should I live another 20 years, I will surely have changed again. Put differently, we have the ability to modify, re-examine or even reject shared involvements. This is often the direct result of participating in

conversations about these involvements and, through discourse, changing our views. Hence, Ronald Reagan shifted his shared involvements from what is usually called the left end of the political spectrum – he was a strong supporter of Truman in 1948 – to the right over the course of his life. In making these changes in our identities we may expand the scale of the communities with whom we share involvements or we may diminish them.

Furthermore, acting on shared involvements necessarily involves a division of labor, but one that is quite different from that found in personal affinities. In most instances, the person who is most competent will be asked to articulate those shared involvements both to community members as well as to outsiders. Competency will be defined in a somewhat ambiguous way including understanding of the issues at hand, personal experience with those issues, expression of charisma, ease of working with others and ability to quickly respond to criticism by those defending another view. Hence, we would expect leaders of a group concerned about the impact of wetlands removal on the flooding of New Orleans after hurricane Katrina to understand that issue, to have personal experience with its negative consequences (perhaps a house destroyed), to be able to relate those experiences to others easily, to be able to work with other victims of the flood and to be able to respond to those who claim it was merely an accident of nature. Similarly, we would expect a minister in a given church to be able to inspire the congregation, have an encyclopedic knowledge of sacred texts and be able to explain church beliefs to outsiders.

Moreover, as with shared affinities, shared involvements also invoke emotional responses. Consider the case of the recent Supreme Court ruling on gay marriage. Members of groups that argued for gay marriage celebrated in the streets, while the members of groups opposing it were angry and frustrated. While the antagonisms between these two communities did not turn violent, there are times when such shared involvements can turn violent. Sadly, such is the case for the disputes between Shi'i and Sunni Muslims in several nations. But, as we shall see, both shared affinities and shared involvements are also quite different from public opinion.

Public Opinion. While in democratic societies (and even in others that are not particularly democratic) people often express their opinions in public, not all of those expressions of opinion become public opinion. There are several reasons for this. First, many of our opinions are about specific events that are of little consequence to more than a few others. Hence, when someone bumps into me walking down the street and doesn't apologize, I might well give my opinion of him in public. Similarly, I might provide an opinion to acquaintances about the terrible traffic on some highway and what ought to be done about it. Or I might publicly give my opinion of someone who has just engaged in a heroic act. Or I might proclaim that the new Widget 3400 computer is the best that I have ever used.

In addition, I might voice my opinion about any number of things without appealing to any shared involvements or affinities. This is the case when I rail on about the shoddy construction of the product I just bought. Or when I tell the bus driver that by slamming on the brakes for no apparent reason he nearly knocked me down. Such opinions in public are commonplace and even necessary for life in any society. They are usually expressed as personal, yet 'objective' evaluations of the situation at hand.

Of course, sometimes ‘opinions in public’ are morphed into ‘public opinion.’ However, for that to happen, the opinions of many people need to be standardized and summed up. This almost always requires that standard questions be posed and standard responses be collected, summed and analyzed. It also requires that personal affinities and shared involvements be either discounted or dismissed entirely. Hence, a pollster might ask if I vote Republican or Democrat. But it is of little interest to the pollster if I vote Republican because my family has always voted Republican or because my friends are all Republicans. Similarly, I might be opposed to the construction of a dam over the Scenic River because I belong to the Pristine Rivers Association, while others are opposed for different reasons (e.g., they are personally negatively affected, they are concerned about species loss, their fishing spot will be eliminated). What counts for pollsters are my ‘preferences.’ Given a particular set of options, which one do I prefer? Pollsters may later correlate those answers with various sorts of demographic information about me, but that is always done with respect to the ‘preferences’ among which I was asked to choose. Hence, they may discover that middle income women with children living at home are less likely to vote Republican or that upper income, rural residents are more likely to be opposed to dam construction on the Scenic River than others.

Such public opinion polls can be quite useful, but they also can lead to enormous confusion and even erroneous results. Pollsters and social scientists are well-aware of the fact that the wording of questions, the order in which the questions are asked, the gender of the person asking the question and many other factors influence what is labeled as public opinion. Moreover, public opinion can also be created out of whole cloth by asking certain kinds of questions. An amusing example was well-documented about 35 years ago.⁹⁷ In a national opinion poll of university faculty two much respected survey researchers asked if the respondents were in favor of US intervention in the conflict in Rhodesia. At the time tensions were high between the minority white government and the majority black population. However, the pollsters failed to ask on which side of the dispute the US should intervene. Despite that, faculty answered the question. Similarly, were I to ask a random sample of Americans whether they support greater democracy in the Langerhans Isles, the recent actions of a long deceased politician or enjoy the novels of Pablo Picasso, I would likely get responses from many if not most people. Quite obviously, the answers to these questions, while examples of ‘public opinion,’ hardly reveal much about those surveyed (except perhaps their ignorance).

The questions asked may also lack salience for the respondents involved. Put differently, in responding to a given survey, I may well give answers that are literally ‘off the top of my head.’ I may not have thought much about or have been completely unaware of the issue. I may not have discussed it with others sufficiently to have a deeply held opinion. Or perhaps the issue is of little or no importance to me. This contrasts markedly with the emotional, debated and situated commitments involved in both personal affinities and shared involvements.

Furthermore, since the questions in opinion polls are standardized, it is possible to leave out the opinions of some persons because the questions asked simply didn’t address them. For example, recently I was quite annoyed by constant video advertising on a flight. I voiced my opinion in public to the flight attendant – loudly so that other passengers could hear me as well. Several

⁹⁷ Serge Lang, *The File* (New York: Springer-Verlag, 1981).

days later I received an email from the company asking me to complete a survey about my satisfaction with that very flight. I decided to do so; after all, here would be an opportunity to express my opinion in a way that might actually have some influence over future policies. But the questions (all with answer boxes to check) asked about the politeness of flight attendants, the comfort of the seats and the ease in boarding. There was not even a place to insert a comment about something not already preformatted in the survey. To put the matter bluntly, they heard what they wanted to hear rather than much about passenger satisfaction.

While these are relatively trivial examples, it is not uncommon to find that surveys about national and international issues exclude certain questions or response categories. Sometimes this is deliberate as the pollsters have an axe to grind; more often it is because the designers of the survey have had different experiences and share different concerns than a significant portion of the persons answering the survey. In short, since the persons queried are confronted with standardized questions and answers, they may not find their particular view represented at all. They may choose the answer that best approximates it, that they believe the interviewer or analyst wishes to hear or the one that suggests that they actually have some knowledge of the subject. Or they may be so frustrated that they throw up their hands and leave the boxes blank.

Moreover, what I just noted about summing of results to produce public opinion also applies to purchasing a particular good or service. When I make that purchase I provide an opinion in public as to the value of that item. I may not always use my voice when I make my purchase public, but handing the money or credit card to a merchant, walking into a physician's office or attending a particular university makes a statement in public about my opinion of that good or service.

Furthermore, the same problems that exist with respect to public opinion exist with respect to the purchase of goods and services. Some years ago two very well-known economists, Paul Samuelson and Amartya Sen, debated this issue. Samuelson had argued that when someone bought something it revealed that person's preferences, while Sen argued that it did not.⁹⁸ Sen clearly won the debate by noting the following: First, the purchaser may have been utterly indifferent to the choices posed and simply chose one to get on with the business of life. Alternatively, a potential buyer might have foregone the choices offered and purchased a third item at a different time and place. Second, as social animals buyers often make purchases that reveal not only their preferences, but the preferences of others as well. For example, my wife may decide to purchase sugar-free ice cream not because she prefers it, but because she knows that I am diabetic; I may return empty soda bottles to the supermarket even though the cost exceeds the deposit to be returned, because I see it as socially desirable or because there is social pressure to do the environmentally friendly thing.

Moreover, each product or service has a bundle of potentially desirable attributes; knowing that I bought the item says little about which of these attributes met my preferences. In addition, since some objects cost more than I can afford, even though I would prefer that object, I don't

⁹⁸ This was a virtual scholarly debate, taking place by Sen publishing a paper that challenged one published earlier by Samuelson. See Amartya Sen, "Behaviour and the Concept of Preference," *Economica* 40 (New Series), no. 159 (1973).

purchase it. To clarify, consider that I wish to buy a new car that gets good gas mileage, has an excellent repair record, seats four comfortably and is red among many other things. In shopping I may find that no car has all the attributes that I desire and is also within my range of affordability, so I must settle for something somewhat less desirable than what I would prefer. Moreover, the car may also have costly attributes included in the base price that to my mind are a waste of money, such as leather upholstery or fancy wheel covers.

Nevertheless, much as in opinion polls, when all the purchases of a given good or service are added up, they provide data that are used by marketers and others to gauge demand for a particular product. Indeed, market analysts and companies producing a particular good or service pay a great deal of attention to such information. That said, what they measure is not likely to be the sum or average of the personal preferences of buyers. After all, in purchasing a manufactured product or a standardized service, one can only choose among the products or services offered. In such a situation, we often settle for the best among those options offered, none of which are what we would have liked to purchase. One might argue that such analyses are ‘good enough’ for the purposes at hand and, indeed, sometimes they are. But they can mislead as well; each year thousands of products enter the market and are rejected by consumers. The Apple Newton, New Coke and McDonald’s Arch Deluxe are just a few.

Furthermore, the demand for LG washing machines or Verizon phone service as measured by purchases has at least two further limitations: First, it is usually not the result of careful consultation between the would-be buyer and other would-be buyers as to the reputation of the product or service and of the firm offering it.⁹⁹ It is, and in most instances only can be, a decision based on an examination of the product or more likely – since the product is packaged and the service is only visible when performed – the advertising claims made by the vendor. In some instances these are on product labels, in other instances on advertising brochures or websites, and in yet other instances they come as product warranties. The problem is compounded with complex products or services which have properties that are difficult or impossible to verify. This includes, among many other things, many services performed by medical doctors, insurance policies, organic food products, environmentally friendly coffee and fair trade crafts. In an increasing number of instances, producers attempt to address this problem by having their product or service certified. However, this merely shifts the problem from the trustworthiness of the vendor to that of the certifier.

In short, public opinion surveys and consumer behavior in the marketplace are linked in that both involve *preformatted choices among which people are asked to choose*. Both tell us something about the persons involved, but *solely as disinterested individuals with opinions and preferences that come from we know not where*. Attempting to insert personal or emotional ties is rejected as egotistical, irrelevant, ideological, as beyond the ‘public’ world of opinion. Emotions in surveys are distilled into a series of choices from ‘strongly agree’ to ‘strongly disagree.’ Emotions in the marketplace are distilled into decisions as to whether to purchase a given product or service or not. In both instances, what we have are snapshots of the world taken at a particular time seen through a particular lens. As in still photography, the narrative does not unfold as the situation

⁹⁹ New internet services such as Trip Advisor attempt to approximate a conversation among potential and actual buyers.

changes, but must be added by whoever is interpreting the photo; the narrative is fixed in the response categories or the purchase decision.

In addition, both public opinion and markets share many of the same strengths and problems. On the one hand, they may be useful ways of distilling a wide range of views and perspectives into a manageable number of categories, thereby making them useful in public and private policy making. On the other hand, they may exclude concerns of some groups of persons. From the perspective of the person asked to choose, they may have the wrong set of preformatted choices. They may provide public and private policy makers with misleading information about public opinion or a product. They often ignore the importance of personal affinities and shared involvements or reduce them to symbolic links between a product for sale and a potential buyer (e.g., shoes with a sports team, cosmetics with a famous actress). And, of course, in both opinion polls and market actions, they tend to treat each person as an atomized, autonomous individual.

Moreover, over the last three or four decades the formation of community via public opinion and market behavior has come to dominate, even to overwhelm other forms of community. The hypothesized rational actor of economics has been *made real* by attempting to reorganize society so as to exclude other forms of community. While public opinion and its equivalent in the marketplace are desirable, even necessary forms of community, their dominance has had the effect of isolating and atomizing many people. Such persons, whether the residents of run-down neighborhoods in Detroit or the owners of multi-million dollar homes, may erroneously believe that their opinions in public and behavior in the marketplace are the *only* possible or permissible form of community. Therefore, they tend to see each encounter with others as a confrontation among wills. What counts is whether their view is supported in the encounter. The role of personal affinities and shared involvements is eclipsed by that of individual, atomized opinion.

The situation is made worse by the profusion of mobile phones and internet connections. For better or worse, the internet atomizes those who use it, especially if they begin with little understanding of other forms of community. Using Facebook and other sites one can have thousands of 'friends.' One can engage in behavior that would be negatively sanctioned if performed elsewhere. One can even create entire personas that exist only in cyberspace.

On the web, opinions can be expressed and norms can be violated with scant fear of reprisal. Yes, it is true that personal affinities can be maintained even at a distance through video services, and social movements can use the internet and mobile phones effectively as was demonstrated dramatically during the 'Arab spring.' However, this is eclipsed by the thousands of sites that promise you a 'personalized experience' in return for a considerable amount of your personal information and often a bit of your cash as well.

Americans, who tend to be disposed toward individual opinion and market exchange, are often shocked if they go to China for business or academic reasons. Despite more than a half century of communist rule, Chinese society remains very much Confucian in character, that is, very much a society where personal affinities are extremely important. Hence, it is not at all uncommon to have a seemingly endless progression of banquets, toasts, and other activities so as to emphasize the hospitality of the hosts. Most Americans, this writer included, see this as rather

exhausting especially on an extended visit. In contrast, I suspect that Chinese visitors to the US are astonished by how much they are left alone to fend for themselves.

In short, individuality is a myth when it presumes that each of us is an isolated, atomized and fully autonomous being. It is a myth when it defines community *solely* as the sum of public opinions and market decisions, ignoring the importance of shared affinities and shared involvements. Ironically, these twin aspects of the myth of individuality tend to promote loneliness, alienation, isolation, meaninglessness, even despair as well as, with considerable irony, high levels of conformity. They deny us the ability to participate fully in society. They make us falsely believe that *all* social problems are merely personal troubles. And, in some instances that isolation is so painful for some that they are willing to grasp at any shared affinity or involvement that will give meaning to their lives, even those that share violence against those who do not support their views. The attraction of a few Americans to the self-proclaimed Islamic State is only one among many such incidents.

Entrepreneurship

Closely related to individuality is entrepreneurship. But can one challenge the notion of entrepreneurship? After all, according to the conventional wisdom, each of us is individually in charge of our future. For example, the Bill and Melinda Gates Foundation, in its radio advertisements, website and brochures argues that 'every person deserves *the chance* to live a healthy, productive life' [my emphasis]. The implication is that, given a certain minimum set of starting conditions, by hard work and strategic thinking we can each get the opportunity to make it. Life, from this perspective, is a game. But the great game of life is not a game like any other. Unlike every other game, from chess to football to Monopoly, this is a game that we *must* play. We have no other choice. The rules of this game, we are told, are fixed and beyond our control. The key is to get the initial preparation necessary to play the game: a decent education, a lack of dread diseases, adequate nutrition, decent housing. If we get these 'starting conditions,' then we can play the game that life has put before us. And, if we fail it is mostly likely due to our lack of ambition.

But wait. Something odd is going on here. On the one hand, economists such as the late Gary Becker tell us that we are all entrepreneurs of ourselves. We are in charge of our 'human capital.' We invest in ourselves by obtaining an education, making friends strategically in a manner that allows us to network at some future point, so as to get the plum job or make the profitable investment, marrying someone who will boost our social position, avoiding criminal behavior that will require us to incur high costs in money, property or freedom, carefully calculating the risks we face in all human endeavors. The return on this investment is the growth that we achieve in building our human capital. From Becker's perspective, that is simply the way the world is.

But on the other hand, there are innumerable programs to teach people how to be entrepreneurs! Starting in the 1960s, psychologist David McClelland popularized a theory of motivation known as Need for Achievement (N-Ach). McClelland concluded that business people, managers and entrepreneurs had high N-Ach while most others did not. Soon afterward, various programs were developed to teach people to have a higher N-Ach. Not surprisingly, the schools tended to attract those who already had that need, creating a kind of self-fulfilling prophecy.

More recently, hundreds of programs to promote entrepreneurship have emerged. The latest terminology used to describe these programs is 'accelerators.' Y Combinator, founded in 2005, is an example. *The Economist* explains:

It started as a summer programme and the roots still show, with courses running for three months, about the length of an academic summer break. Teams all join at the same time, in batches. Applicants are rigorously screened and the best invited for interview. For the latest batch 74 were selected from a field of more than 2,600. Those lucky few get paid between \$14,000 and \$20,000 to attend. In return they have to hand over about 7% of their firm's equity.¹⁰⁰

¹⁰⁰ The Economist, "Accelerators: Getting up to speed," *The Economist*, January 18 2014., 8

Participants will typically work twelve or more hours per day. Some will forego sleep entirely. Others will avoid contact with friends and family for the duration of the course. Of course, some participants do well and find financing to turn their dreams into realities. But the vast majority of people fail. Either they don't get into the program – only three percent do – or they never find the financing necessary to create a new business. Other would-be entrepreneurs pursue more formal programs for which fees are charged. Hundreds of business schools offer degrees in entrepreneurship. Yet, the share of jobs created by companies less than a year old has been declining at least since the 1990s.¹⁰¹

In addition, more subtle approaches are embraced by the children's media including films such as *Kung Fu Panda*, *Turbo*, *Planes* and *Ratatouille*. Each of these films and many more promote entrepreneurship, risk taking, confidence in one's ability to do anything. The message they promote among children is that entrepreneurship is the central theme in life.

Yet, we hardly live in a world in which most of us are self-employed entrepreneurs, as was (arguably) the case in the 18th century when Adam Smith was alive. To the contrary, most of us work for organizations of one sort or another and most are large – big companies, big governments, big non-profit organizations. Furthermore, the very definition of entrepreneurship gets complicated when one attempts to measure it. The *Global Entrepreneurship Monitor* reports that in 2014 12.7% of Americans were engaged in 'early stage entrepreneurial activities.' At the same time they note that only 3.7% of Americans were owners or managers of new businesses that paid wages or salaries.¹⁰²

Another way to look at this question is to ask how the US compares to other nations. According to the Organization for Economic Cooperation and Development – the club of wealthy nations – the US falls near the bottom of the heap. They ask how many new businesses with paid employees are started each year and divide that by the number of companies.¹⁰³ Indeed, Hungary has a start-up rate that is nearly twice that of the US.¹⁰⁴

New companies are responsible for somewhere between two and three percent of all jobs. In contrast, according to the Bureau of Labor Statistics, in 2013 nearly 40% of us worked for firms employing over 1000 persons – a proportion that has been rising for decades.¹⁰⁵ To some extent this is merely the result of growing bureaucracies, but it is also the scale advantages associated with bigness. One could make automobiles in one's garage, one at a time. Indeed, a little more than a century ago that was often the case. But virtually no one could afford to buy them. Although it might be argued that the auto *companies* are too large, large auto *factories* are not

¹⁰¹ Mark Glassman, "Job Creators No More," *BusinessWeek*, February 10 - 16 2014.

¹⁰² <http://www.gemconsortium.org/key-indicators>

¹⁰³ Organization for Economic Development and Cooperation, "Entrepreneurship at a Glance 2012," (Paris: OECD, 2012).

¹⁰⁴ Nicole Allan, "The Real Drivers of Growth Aren't Small Businesses -- They're New Businesses," <http://www.theatlantic.com/magazine/archive/2013/11/small-business-tall-tales/309533/>.

¹⁰⁵ http://www.bls.gov/web/cewbd/table_f.txt

some sort of perturbation; they are a necessary part of the industrial landscape (at least if one wishes to continue to manufacture cars).

So what is going on here? As I see it, there are two interrelated issues that need to be unpacked. First, the very idea that *everyone* should aspire to be an entrepreneur privileges a market view of the world. Hence, we often praise people like Bill Gates, Mark Zuckerberg or Warren Buffett who have made billions, while virtually forgetting others who have made arguably far greater contributions to society through public service, the arts, caring for others, preserving natural beauty and the like. Proposing that everyone should be an entrepreneur both obscures the diversity of life options in front of each of us, and presumes that we must participate in a game, the rules of which are fixed and immutable and in which there are just a few winners and millions of losers.

And, while markets are clearly useful and important means for distributing *some* goods, they are rather poor means for distributing *all* the goods of life. As the Beatles famously noted, 'money can't buy me love.' But the same applies to a variety of goods we cherish: care, inspiration, friendship, conversation, celebration, respect and trust among others. Indeed, trying to buy these goods instead of earning them often leads to disaster.

In addition, even those persons who self-consciously identify themselves as entrepreneurs often create their own businesses not because they wish to enhance their income, but because they have other non-market values that they wish to pursue, such as the pleasure of being one's own boss. My local hardware store owner is an entrepreneur, but he doesn't have any interest in running a vast chain of hardware stores. The same applies to most small businesses; their owners are usually happy with steady work at a pace that they can define, a comfortable income and time to spend with family and friends.

In fact, one study notes that on average entrepreneurs earn roughly 35% *less* than do employees in similar lines of work.¹⁰⁶ Furthermore, entrepreneurial activity is inversely related to GDP; nations in sub-Saharan Africa have far more entrepreneurs not because Africans are naturally more entrepreneurial, but because there are few other options open for earning a living. And, not surprisingly, right after the Great Recession the number of entrepreneurs in the US rose markedly.

Clearly, not everyone is equally talented. Hence, even given the same opportunities, some will succeed at being entrepreneurial while others fail. Moreover, not everyone is equally self-motivated or has the interpersonal skills needed to convince others of the viability of a new enterprise. Others will fail at entrepreneurship (or never even consider it), but will excel in other ways.

Second, those who claim that we are all entrepreneurs of our selves obscure the fact that markets are *made*; put differently, the rules, even in the game of life in a world of markets, are not cast in stone. They are set, as noted above, by social norms, standards, technologies and legal

¹⁰⁶ Barton H. Hamilton, "Does Entrepreneurship Pay? An Empirical Analysis of the Returns to Self-Employment," *Journal of Political Economy* 108, no. 3 (2000).

frameworks that we collectively construct (as well as by choice architects as explained below). They may be fair or unfair, just or unjust, legitimate or illegitimate. Those legal frameworks and norms that structure markets largely determine outcomes. Hence, as Malcolm Gladwell¹⁰⁷ notes, a careful look at the situation reveals that Bill Gates is not a self-made man, but rather someone who received a great deal of help that the rest of us normally do not receive. Among other things, he was born into a wealthy family, sent to a private school that had – in 1968! – a computer club. In the eighth grade in 1968 he was learning programming. In addition, Gates and his classmates were granted access to free computer time by a small local company in exchange for testing programs. He even sneaked out of his home at 3 a.m. each night to program on a computer at the University of Washington.

Was Gates a math wiz? Probably so. Did he have entrepreneurial drive? No question about it. But thousands of others in his generation didn't have the opportunities that he had. Hundreds more had the opportunities but lacked the math or entrepreneurial skills. And, doubtless, many more had both the opportunities and entrepreneurial skills, but decided that developing software was not the career they wished to pursue. Gates was born into a society that rewarded entrepreneurship, that provided a stable business climate, that provided a reasonable level of security for its residents and that was not torn by civil war or revolution. This, combined with the life his wealthy parents could provide him and his own skills (most of which were acquired from interactions with others), allowed him to become one of the world's wealthiest men. But no matter how much money Gates and his foundation spend, they will never be able to provide all the poor people in the world with even a small fraction of the opportunities that he had growing up in Seattle.

So are there other ways to organize ourselves that don't depend on chance? While our ancestors certainly sometimes pondered the meaning of life, they hardly saw life as some sort of game of chance. For Socrates, the good life required self-examination; the unexamined life was not worth living. Following the appropriate moral rules – the virtues – would also lead to the good life. And, although both Western (Aristotle) and Eastern (Confucius) philosophers might have disagreed about just what virtues should be pursued and how they should be ranked when conflicts occurred among them, following the virtues did not merely provide one with a chance; it ensured that one had a good life. Even if that life came to a tragic end, it would have been a life worth living.

Hence, while there is hardly anything wrong with having entrepreneurial ambitions, the notion that all of us must at all times be entrepreneurial produces a society that is quite distorted. At any given point in time, most of us will not have either entrepreneurial drive or opportunities. Insisting on entrepreneurship guarantees that most of us will lose. It is a myth, and like all myths, it yields absurd results when pushed to its extreme.

¹⁰⁷ Malcolm Gladwell, *Outliers: The Story of Success* (New York: Little, Brown & Co., 2008).

Transparency

What a peculiar term! After all, something that is transparent is nearly invisible. I want my eyeglasses to be transparent so that I can ignore them. I want the glass on my picture frame to be transparent so that I can look through it and see the picture behind it. I want the inner workings of my refrigerator to be invisible such that they do not bother me. But proponents of transparency surely do not mean that people, firms, or governments should become invisible. No, by transparency they mean that it should be possible to 'look through the windows' and see what is going on. On the surface, this appears to be a perfectly reasonable idea. If I put money in the bank, shouldn't I be able to determine that the bank is solvent? If a government program claims to do something, shouldn't I, as a citizen, be able to determine that it really does what it claims? The answer, like the answer to most such questions, is yes and no.

To pursue the window metaphor, let's say that we want to find out if the First Bank of Solid Rock is in fact solvent. And, let's say that I look in the windows. Likely, if the bank is similar to most big banks that I know, the windows will be large. Inside we will see lots of marble pillars in an overly large – and largely empty – lobby, elegant chandeliers, and well-dressed bankers. So, given the solidity of the marble, the bank must be solvent....

So here is the first problem: Every bank, including the ones that are not solvent, tends to look like this. It is part of the image of solidity that banks wish to portray to their customers (whose money pays for the marble lobby). Therefore, I need to go beyond mere appearances to answer the solvency question. I can conduct an audit, or more likely have some competent auditors conduct an audit for me (and everyone else who invests in that bank).

However, until not long ago, each bank had its own accounting system. Accounts were kept on paper and rows of clerks sat from morning to night transcribing the bank's accounts. An audit in such circumstances meant that a team of competent (we would hope!) persons pored over samples of the bank's books and attempted to estimate the debits and credits on the bank's balance sheet. The problem was that since each bank had a different accounting system, it was extremely difficult to compare across banks. Furthermore, banks, like all organizations, had good reasons for keeping certain kinds of information – for example, information that could be used by competitors – private, secret.

After the 1929 stock market crash, the US began to require banks to employ a set of accounting rules such that they were each auditable by the Securities and Exchange Commission. This meant that banks had to rearrange their practices to make them (a) more easily audited, and (b) more comparable with respect to the results of the audit. Put differently, banks had to become sufficiently similar in their practices that they could be audited.¹⁰⁸ Moreover, it was only those aspects of banks' practices that were auditable that became 'transparent.' The rest of their actions remained quite opaque.

¹⁰⁸ More recently, we have all been subject to such auditing with highly problematic consequences as noted below.

In recent decades the notion of transparency has spread to all sorts of organizations – governments, corporations, non-profits. It has even spread to the actions and practices of individuals within organizations. But it would be a mistake to believe that it has always led to a revealing of more of what goes on inside such organizations, or even revealing the actions of individuals. Instead, it has often led to the creation of a systematic ‘persona’ of transparency, a particular set of documentable and documented actions, practices, activities of organizations and of individuals, that present an image – to be accepted or rejected with little discussion – of the organization or person in question.

To complicate matters further, the sheer size of many organizations that need to be audited, made transparent, is such that only the ‘the big four’ accounting firms are capable of undertaking the task. These include PriceWaterhouseCoopers, Deloitte Touche Tohmatsu, Ernst & Young, and KPMG. No other firms are large enough to perform such audits.

In one of the most well-known of instances, Arthur Anderson certified an audit of Enron, and soon afterwards the firm collapsed. Anderson went out of business as well, leaving thousands of Anderson employees jobless even though most had no part in the Enron scandal. But, more recently, in 2008, Lehman Brothers, the fourth largest investment bank in the US at the time, declared bankruptcy despite an audit by Ernst & Young that suggested the firm was in solid financial health. The problem, as numerous business publications have noted, is that auditing firms depend for their existence on the fees paid by the very firms that they are auditing. In the Lehman case, some \$50 billion of ‘off balance sheet transactions’ helped to make the company look far from bankruptcy.

But this is not to suggest that audits are quite straightforward and that accounting firms should be able to discover fraud, misstatements or other misconduct or errors. Despite working with numerical data in which the math can be checked, the very term ‘accounting’ reveals some of the problems involved. Accounting involves telling a story, providing an account of some particular set of events. For example, we might say that the XYZ Corporation’s losses in the last quarter were caused by some particular event and are not likely to occur again or we could say that those losses are an indication of weaknesses in the company. Despite the fact that the data are numerical, accountants must (1) decide which data to include in the audit and (2) construct a story that explains the patterns noted in those data. Hence, even were the accounting firms paid by some organization other than the one they are auditing, those very same firms might erroneously include or exclude certain data or construct the wrong story.

So what might we learn from this? We could argue as many already have that the solution lies in more transparency, in better and more thorough audits. But more audits mean more bureaucracy, more people engaged in checking rather than producing goods and services that we desire.¹⁰⁹ Indeed, no matter how hard we try, we will never achieve complete transparency in large financial, industrial and commercial companies or in government agencies. There are several reasons for this. First, just as I don’t discuss my sex life with my students or children, every social group – from families to companies to governments – *necessarily* keeps certain

¹⁰⁹ For more on transparency see David Frum, "The Transparency Trap," *The Atlantic*, September 2014.

information to itself. Put differently, the self that I display in this book is not the one that I display to my grandchildren, to my students or to my wife and is different in turn from the one that I display in the supermarket. This may sometimes be a matter of deliberate concealment, but more often it is the way that we display our selfhood.

The same is true of all groups. Part of what makes a group is those bits of information and knowledge that only the initiated know. Becoming a Mason requires that one learn the rituals unique to Masons and not reveal them to the uninitiated. Working as an engineer for General Motors requires learning which aspects of work can be discussed with outsiders and which cannot. Being a member of the Board of General Electric or a street gang in Detroit requires that members of the in-group keep certain knowledge from others. Similarly, being a member of a particular family involves not revealing certain internal conflicts or disgraceful behavior by certain family members; doubtless, everyone reading this book has also kept certain information about themselves even from their closest family members. In addition, of course, individuals and groups may keep certain information and knowledge to themselves because they know that it is unethical, unauthorized or illegal.

Importantly, as a result of both the ways in which all social groups are formed and the ability to lie or deceive, no audit, no inquiry, no investigation is likely to make any organization fully transparent. In short, full transparency is yet another myth. While it may be desirable to have certain information and knowledge publicly available, it is impossible to have complete knowledge of what goes on inside an organization. No amount of checking, auditing, certification or other action will produce complete transparency. However, there are other ways to improve the situation. In particular, we can build institutions that promote and reward socially desirable behavior. But how might that be accomplished?

To answer that question we need to make a short detour to discuss the importance of trust (about which I shall have more to say later). When I open a joint checking account with my wife, I implicitly trust that she will use the funds therein for the benefit of both of us. When a friend or colleague undertakes a task for me, I trust that they will do as requested. And, when I am invited to friend's house for a party, I don't expect that he will find it necessary to count the silverware after I leave. In short, as noted in the Oxford English Dictionary, trust involves having confidence in a person or thing and acceptance 'without investigation or evidence.' This, in turn, implies that checking, auditing, monitoring, certifying and the like are (at least implicit) evidence of *distrust*.

Of course, there are certain interactions where the stakes are so high that we insist on audits. Hence, we expect that bank deposits, the qualifications of medical personnel and food and drug safety, among many other things, will be subject to audit. But in recent decades, under the banner of transparency we have begun to audit everything and everyone. Hence, instead of trusting teachers to educate our children, we have begun to audit their actions. Instead of trusting government employees to work for the public good, we monitor their outputs. Instead of trusting grantees with foundation funds, many foundations require regular, detailed reports on progress toward narrowly defined goals. Indeed, we go even further, substituting the intrinsic rewards associated with 'being trustworthy' with extrinsic (and usually market-based) rewards such as

monetary compensation. Hence, many of us now pay our children to get good grades. We give bonuses to teachers and others who perform above average.

We do this because we have come to take the myth of individualism far too seriously. After all, if you and I are atomized, autonomous individuals each seeking to ‘maximize our personal utility,’ or ‘build our human capital’ as mainstream economists would say, then it follows that we should distrust everyone and everything we come in contact with in every interaction. Every person is a potential thief, cheat, liar, goof-off, or the like solely out for him- or herself. Every thing that is offered to us is potentially of shoddy construction, poorly made, non-functional, even dangerous. From this perspective, there is no room for trust; checking of one sort or another is a necessary and continuous part of life.

And here is the rub: While it is certainly true that some persons will cheat, lie, steal or goof-off, and that some things will be poorly made, non-functional or dangerous, the vast majority of persons and things are not that way. Most Americans have learned since birth that honesty, trustworthiness, and related values are worth pursuing. And, we trust that most others have as well. This, in turn, suggests that we need to ask in which kind of society we wish to live: Shall it be one in which individual isolates, each out to maximize their personal gains, use complex systems of checking and audit in an attempt to ensure that they can always pursue those gains? Or shall it be one in which individuals who are connected in numerous ways, through personal affinities and shared involvements, trust each other in most places most of the time?

It is important to emphasize that neither approach is perfect. We will always discover rogues, thieves, people who failed to do what they claimed to do. Both trust and checking have their limits. But checking everyone and everything is both costly (in terms of time, money, creation of huge bureaucracies and destruction of individual and collective identity) and no more likely to resolve the problem than is trust. And, while trust is imperfect, developing societies in which trust is the norm relieves us of the burden of constantly worrying about those few who might cheat, lie or steal. I shall have more to say about this in the concluding section of this book.

Science and Technology

There are many myths surrounding science and technology. I shall note four of considerable importance here. First, there is the myth that science is about truth with a capital T. That, in turn, is associated with a counter-myth, that science is largely a matter of opinion. A third myth is that technologies are neutral in their effects on society, and specifically, that they have no impact on the distribution of goods among the members of a given society. And, a final myth is that technical innovation is always a function of market incentives. But let's look carefully at each of these myths in turn.

Science as Truth. Nearly every day a newspaper, broadcast, web page or magazine reports the latest scientific advance in enthusiastic terms. We are told that scientists have discovered how birds flying in formation hardly ever hit each other on landing. We are informed that the ice sheets in Greenland are melting faster now than fifty years ago. We learn that a gene has been discovered that codes for a particular disease. The reporters who recount these findings usually have been swept up by the understandable enthusiasm of the scientists whose work yielded new knowledge.

But if you pick up a biology or chemistry or physics textbook that is ten years old and compare it with the current ones in use, you will quickly note that many of the facts described in the older text have been proven false in the decade since it was written. Indeed, a 50 year old textbook will simultaneously exclude many facts that are widely accepted among scientists today, even as it contains a very significant number of false statements. For example, a 50 year old biology text would say nothing about fields such as genomics, proteomics, metabolomics¹¹⁰ – fields that make up a significant portion of contemporary biology. At the same time, such a text would include rather simplistic or erroneous views of heredity. If this is true of older texts, then surely it must to some inestimable degree be true for current texts as well.

Moreover, the problem is exacerbated by the tendency of scientists to categorically state new findings as the Truth. After all, they believe that they have just solved a complex puzzle and they are quite enthusiastic about it. However, to a persistent interviewer, most scientists will quickly admit that certainty in scientific findings is impossible. Science is always based on statistical probabilities informed by careful observations. Moreover, since observations must be based on a question (a hypothesis), new questions can and do force scientists and the rest of us to modify what are accepted as truth. Of course, over time some findings turn out to be robust – the earth goes around the sun – and are rarely the subject of doubt. Other findings – cold fusion – are dismissed as new evidence shows their implausibility.

In addition, science is so organized as to reduce the likelihood that erroneous findings will be considered valid. This is done in several ways. First, findings must be positively reviewed by others in the scientific community before they can be published in any reputable journal. Second, findings must fit with other previously existing evidence or be so compelling as to bring the older evidence into question. Finally, the findings must confirm a widely accepted theory or

¹¹⁰ These fields of science examine the molecules involved in heritable traits, proteins and life-sustaining chemical transformations in various organisms, respectively.

provide an alternative that appears much more promising to others in the same field. These are fairly high hurdles.

However, each of these validity checks can go awry. The reviewers may know too little about the research question to provide useful criticism. The collection of the data may have been flawed in one way or another that is not obvious to reviewers. And, adherents to a widely held theory may be overly favorable to results that support that theory. In short, scientific Truth is a myth. Scientists can never assert anything with absolute certainty.

Science as opinion. Scientists are forever changing their views. They often disagree among themselves about matters that are unsettled. As such, some would have it that although scientists make truth claims, they are merely opinions. Some go even further and argue that scientists are all ‘interested’ experts who have something at stake personally when they make a claim about the world. Their work is dismissed as mere ‘opinion,’ – expert opinion to be sure, but opinion nevertheless.

But this view is as problematic as the one that asserts that scientists produce Truth with a capital T. While in principle *all* scientific findings are subject to challenge, most scientific findings are nearly impossible to challenge. This is the case because any given finding is always part of a network of findings; the network supports the validity of any given finding. In those instances, were a given finding to be dismissed and replaced by one that contradicted it, a wide range of facts would have to be reframed or abandoned.

Consider the case of the solar system. Nearly every scientist in the world (and most other people) these days take it as true that the earth goes around the sun. Were some scientist to attempt to challenge that claim, she would have to implicitly challenge thousands of other claims about the nature of the universe. Hence, we can say with great confidence – but never with complete certainty – that the earth goes around the sun.

Consider also something more contentious: the case of climate change. Initially, the notion that climate change was occurring and that it was largely the result of human activities was skeptically viewed by many in the scientific community. After all, it was assumed that climate was such a large scale phenomenon as to be impervious to human activity. Moreover, fluctuations in the weather, even over decades, were well-known. Several years of heated debate ensued during which a wide range of measures and time frames were examined by thousands of scientists around the world. Although a few scientists still hold either that climate change is not occurring or that it is not related to human activities, the vast majority now agree that climate change is upon us and that it is in large part the result of human production of excess greenhouse gases. Indeed, the billionaire Koch brothers, who have considerable stakes in mining, paid a well-known scientist, Professor Richard Muller of the University of California Berkeley, who was a skeptic about climate change to ‘prove’ that such a claim was erroneous. To their dismay, after evaluating the vast amounts of data on the subject, he came to agree with the majority of scientists: no other explanation seemed plausible.¹¹¹

¹¹¹ New York Times, "Dr. Muller's Findings," *New York Times*, November 4 2011.

While most of the skeptics about scientific findings are individuals for whom those findings are discomforting – my grandfather could not believe that anything could be millions of years old – in the last half century or so, the deliberate spreading of doubt has become all too commonplace. Perhaps the best documented early case of this concerns the tobacco industry. As is now all too well known, studies conducted by the industry itself as early as the 1960s had shown that tobacco use was directly linked to cancer (as well as being addictive). However, the industry did its best to spread doubt about that among members of the scientific community as well as the general public.

Importantly, in most instances the tobacco industry did not deny the existence of a link between smoking and cancer. After all, it would have been very difficult to prove that such a link did not exist. Instead, it promoted doubt by funding research that would call into question the growing consensus among both scientists and the public that smoking increased one's chances of contracting lung cancer. It did this by pursuing the occasional anomalous finding or the study that yielded equivocal results. And, since science can never issue pronouncements of absolute Truth, it was always possible to quibble with details in scientific papers.

Much of this research was conducted at public universities. For example, until the industry's demise, central Kentucky was a major region of tobacco production. Hence, the industry funded the construction of an entire building on the campus of the University of Kentucky to house the Tobacco and Health Research Institute. Although no one knew at the time, the Institute tended to fund projects that would cast doubt and confusion on findings that the industry found threatening.

Their message was also spread by virtue of the press's desire to air 'both sides of the issue.' In short, by making it appear as if there was a controversy, they could and did get newspapers, radio and television to spread doubt and confusion for them. Since controversies, however concocted, also help to increase audience size, the press was more than happy to oblige.

More recently, these 'merchants of doubt' have challenged a wide range of otherwise settled scientific findings in an effort to undermine public concerns and to slow the development of policies that might address those issues.¹¹² These include acid rain, the relationship of chlorofluorocarbons to the then growing hole in the ozone, Rachel Carson's warnings about the ill effects of pesticides on wildlife and us and, of course, global warming. They have been helped in their spreading of doubt and confusion by a variety of organizations including the Heritage Foundation,¹¹³ the Competitive Enterprise Institute, the American Enterprise Institute and the Cato Institute.

¹¹² Naomi Oreskes and Erik M. Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming* (New York: Bloomsbury Press, 2010).

¹¹³ Although the Heritage Foundation began as a kind of conservative think tank, in recent years it has become integrated with Republican Party policymaking. However, this appears to have weakened its intellectual arguments rather than strengthened them. See: Molly Ball, "The Fall of the Heritage Foundation and the Death of Republican Ideas," *The Atlantic*, September 2013.

And, not surprisingly, when shown to be spreading unnecessary doubt, they framed their response in terms that conflated markets with freedom: Smoking is an individual choice. Global warming can be resolved by merely developing markets for carbon. Environmental problems can be best dealt with not by regulation, but by letting market competition lead to new technologies that would resolve the problem.

At the same time, they – often the same persons or organizations – have promoted certainty where none exists. Hence, Reagan’s Star Wars Initiative was rejected by the vast majority of physicists as an impossibility. But proponents, insisting without evidence that the Soviet Union was developing such a weapons system, argued that it was both possible and necessary. Of course, the companies that received contracts to engage in research to develop such weapons were delighted by this.

Finally, these promoters of doubt have done their best to argue that their opponents were not engaged in ‘sound science,’ but were producing ‘junk science’ instead. In so doing, they revealed that their objectives were not about science at all as the scientific community is about reasoned debate over evidence, not about calling your opponents names. Instead, they were promoting doubt so as to further their own interests and commitments to the ‘free market.’

In sum, the notion that science is merely opinion is a myth. While science cannot produce Truth, it is the result of careful experiments, review by peer scientists, examination of both data and results, accumulating evidence and the drawing of (always tentative) conclusions. In addition, well-established scientific claims are difficult to challenge, since their validity is incorporated into so many other findings and even everyday practices. For example, challenging the germ theory of communicable disease would require rejecting more than a century of research in bacteriology as well as our common practice of isolating or avoiding people with such diseases. But what about technologies?

Technologies are neutral. Some would have it that technologies are neutral in the sense that their development and diffusion across the landscape are simply part of the growth and development of human societies. Unfortunately, some people and organizations may be hurt as a result of the introduction of new technologies, but this is seen as merely an unfortunate side effect of a natural process.

Yet, a more careful examination of the process of technology development and marketing shows otherwise. Just as is the case for customs, standards and laws, technologies are (re)distributive instruments. Consider the case of road traffic. As little as a century ago, American drivers of carriages or automobiles would usually pass each other by keeping to the right. This was the accepted custom. Somewhat later, as auto traffic picked up, laws were passed and drivers not keeping to the right risked being fined. But as faster automobiles were developed, this proved inadequate. Hence, new technologies – center barriers – were installed on many streets and highways. Just as those violating the custom risked being yelled at, as those violating the law risked a fine, those wishing to cross the center barrier found their path blocked. In short, the very same technology that prevented accidents also restricted crossing the street and enforced traffic rules.

What applies to simple technologies such as center barriers on highways also applies – arguably even more so – to more complex technologies. A few examples should suffice to clarify the point: My smart phone is a really handy gadget. It allows me to send or receive calls, but in addition it includes email, text messages, internet access, games of all sorts, a camera and even a flashlight. But this technology requires that one follow a wide range of ‘commands.’ The use of the word ‘commands’ is not accidental. Failure to push certain virtual buttons in a particular order ensures that the phone will fail to operate properly.

At the same time, there are numerous problems associated with the widespread use of smart phones. These include (1) difficulties in operation of the phone for those with poor eyesight or eye-hand coordination, (2) intrusion into one’s daily life activities as people feel obliged to frequently check their email or look up the latest sports’ scores on their phone, (3) a shift from direct personal contact to the mediated contact provided through email and text messaging, (4) a lack of service in certain rural areas, (5) attempts by phone companies to discontinue land line service in sparsely populated areas, (6) increased auto accidents as a result of texting while driving and (7) discarded smartphones that can spread dangerous pollutants through the environment. Each of these consequences of smart phones – and others I shall not discuss here – have complex (re)distributive effects. They redistribute such goods as access to communications, highway safety, and social relations of all sorts.

None of this is to argue that new technologies are necessarily problematic. It is to argue that they are not neutral in at least two ways. First, certain technologies are perhaps better rejected as their human, social and economic costs do not exceed their benefits. Debates over various forms of energy – nuclear, hydroelectric, wind, solar, fossil fuels – often revolve around what shall count as benefits and what shall count as costs as well as who shall benefit and who shall pay the costs. Second, they can be modified so as to change their redistributive effects. Cell phones can be made simpler with larger virtual buttons for those with handicaps. Their use can be modified by the installation of hands-free Bluetooth technology in vehicles. Procedures can be developed to ensure that discarded phones, which contain numerous toxic compounds, are recycled safely.

In short, the neutrality of technology is a myth. Technologies only approach neutrality when displayed in museums. They are always built to serve some human purpose or another. Even Rube Goldberg’s contraptions serve the purpose of providing a humorous view of the modern world. When in use, technologies create both new opportunities for some to act as well as new burdens that may sometimes be placed on others. Put differently, technologies are means – like laws, norms and standards – for (re)ordering societies.

Innovations are responses to market incentives. But are they? There is little doubt that in certain specific cases innovations are responses to market incentives, but many innovations – perhaps the vast majority of them – are part of a human desire to experiment in order to learn more about acting in the world. Indeed, since there were few monetary rewards associated with innovations prior to the development of patents, arguing that monetary rewards are the major or even sole source of innovation simply excludes most of human history.

Consider the invention of the airplane. Hundreds of flight enthusiasts from all over the world attempted to develop flying machines. Some of their efforts were dismal failures while others

were moderately successful. It is doubtful that many of them had monetary reward in mind when they attempted to fly. Indeed, although Americans celebrate the Wright Brothers as the originators of viable aircraft, many other nations each claim their favorite. Hence, Brazilians claim Alberto Santos Dumont, the British claim Horatio Phillips and the French claim Clément Ader. None and all of these claims are in some sense correct. The first flight by the Wright Brothers was a little noticed 12 seconds long. The issue was and remains how long a powered machine had to stay in the air before it was to be considered as a flight.

But this story also illustrates that few if any of these pioneers of aviation were in it for the money. None foresaw the development of an aircraft industry – let alone the development of huge firms such as Boeing and Airbus. None saw the airplane as a potential engine of war as it became during the First World War. Instead, they did it largely for reasons of status, prestige and honor, because they enjoyed tinkering or the thrill of flying or to merely demonstrate that it could be done.

Jonas Sauk's development of the polio vaccine provides another example. Sauk was interested in finding a means of preventing polio and eventually developed the vaccine technology necessary to do that. Thanks to him, polio has been nearly eradicated globally. And, Sauk clearly did not do it for the money. No patent was ever issued on the vaccine.

The same may be said about much software. From its inception, thousands of programmers have engaged in software development simply because they enjoyed it. Today, there are thousands of programs which are 'open source,' freely available to anyone who might wish to use them. This includes entire operating systems such as Linux, browsers such as Firefox, all sorts of games and many rather obscure but essential programs written for use by other programmers.

Put differently, while there is little doubt that monetary reward can stimulate innovation, the notion that it is the sole or even the major source of innovation is a myth. As in all human endeavors, people respond to a wide range of incentives, ranging from curiosity to honor to glory to prestige to, of course, money. Attributing all innovation to monetary rewards is not merely inaccurate; in many instances it provides perverse incentives by stifling innovations for which no market exists or is likely to exist in the foreseeable future.

In sum, scientific research is not about producing absolute truths, but it does provide us with a (necessarily fallible) approach to action; it cannot be dismissed as mere opinion. In turn, new technologies are responses of individuals and groups to the opportunities offered in a complex and ever-changing world. But technologies are never neutral in that their consequences may be distributed in many different ways, depending on social choices made by those who design, build and control them. And, innovations rarely emerge solely for economic rewards; a wide range of human motives – desire for prestige, the urge to do it first, curiosity, tinkering – serve to advance innovation.

Choice

For the last thirty odd years we have been told that what makes American society wonderful is the cornucopia of choices that it offers. For example, I can go to my local supermarket and find fruits from around the world, a huge array of greeting cards, hundreds of different shampoos, half a dozen brands of vitamins and so on. Choice, it would seem, is wonderful – a positive addition to our lives with no downside. Or is it?

Choice is an extraordinarily ambiguous term. It can refer to (1) the act of choosing, (2) the options among which we choose, (3) that which is chosen and (4) the abundance of variety from which to choose, among other things. Hence, we might say that ‘Sarah chose to hold her wedding on Sunday,’ or ‘On winning the contest, I could choose among three prizes,’ or ‘Superclean was my choice of soap’ or ‘Wal-Mart offers a wide range of choices to its customers.’ Each of these meanings says something quite different about choice.

But of most importance here is the way in which, whether deliberately or not, choice is used to mask other issues. Specifically, there are three issues that I wish to bring to your attention: choice architecture, planned choices, and the overabundance of choices. Let us examine each in turn.

Choice architecture. Two well-known proponents of choice, Richard H. Thaler and Cass R. Sunstein,¹¹⁴ in their best-selling book, *Nudge*, popularized the term ‘choice architecture.’ For example, suppose that you wanted to buy a home in Suburbville and you were informed that you could choose any home you wished as long as it had two bedrooms and was 1500 square feet in size. Or, alternatively, suppose that you were told that you could attend any university you wished to attend, as long as its name began with the letter ‘C.’ While I have given extreme, even absurd examples, this is what choice architecture is all about. That is to say, it is about the options within which one may (or must) choose. Thaler and Sunstein give some examples of choice architecture that most of us would consider very positive. For example, they note that if, when applying for a driver’s license one were given an opportunity to opt *out* of organ donation in case of a deadly accident, far more organs would be available than if one were given an opportunity to opt *in* as is currently the case in most US jurisdictions. In both cases one’s freedom to choose is respected, but in the former case the societal results are much better, i.e., more people who need them have organs available. As someone with a transplanted kidney, I am particularly keen on this idea.

But by choosing their examples rather carefully, Thaler and Sunstein give the impression that setting up choice architectures is a largely technical, apolitical activity. In point of fact, however, choice architectures are often highly political. Furthermore, they are commonplace in everything we do. Many are built into the physical infrastructure of our lives. And, we rarely have much to say about the design of those architectures. A few examples will suffice.

¹¹⁴ Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions about Health, Wealth and Happiness* (London: Penguin, 2008).

First, consider the myriad forms that we fill out over our lives. Some are produced by government agencies, while others – probably the majority – are created by various private entities. With the exception of social surveys, in most instances we are *compelled* to fill out the forms as there are sanctions for not doing so. This is clearly the case for filing income taxes, completing census forms, applying for bank loans, obtaining various kinds of insurance and other services (e.g., phone, cable television, internet access) and so on. The forms require us to make choices, to fit into the categories that are provided by the forms and built into them by choice architects. Most of the time, most of us are able to determine into which categories we fit. But, invariably, situations arise when either we find all the options to be distasteful or where no categories fit our situation. People who have no permanent home address, no phone number, ambiguous gender, no knowledge of their birth date, no credit history or no proof of identity are among the many persons who *regularly* encounter this problem. For them, the choice architecture is not merely a minor difficulty, but a calamitous one: they are excluded from the recognized categories. Hence, they are unable to obtain a job, disability benefits, adequate insurance, a bank loan or some other desired and even necessary good or service.

Second, consider some of the grand structures common throughout the Western world that build on ancient Greek style. In the US this would include the Capitol, the Supreme Court, the New York Stock Exchange and many other impressive structures. Until not too long ago, access to these buildings was virtually impossible for people confined to wheelchairs. It required political agitation by them to get a law passed – the Americans with Disabilities Act (42 USC 126) – requiring that the physical architecture be changed so as to permit them to make the choice to enter those structures. Put differently, choices are often embedded in physical objects such that creating new options is difficult and costly.

Third, consider the supermarkets and supercenters where you likely choose and purchase at least some of the material goods that you consume. The typical supermarket contains about 40,000 SKUs (Store Keeping Units, i.e., different products and sizes of products), while supercenters such as Wal-Mart have as many as 150,000 SKUs. Anyone entering these establishments, if they have sufficient funds, may purchase any of the items in the store. However, these items are not there by happenstance. Unlike smaller stores, large chains are very calculating about what they put on their shelves. Since rapid turnover is one of the keys to profit – profit on each item is generally rather low – only items that sell with a certain rapidity are provided with shelf space. Moreover, supermarkets generally charge suppliers for shelf space at so much per linear foot. That generally keeps suppliers of new products, especially those by smaller, local firms off the shelf as the ‘slotting fees’ are simply too high for them to pay. At the same time, the very large producers of goods that ‘must’ be in the store as most customers will expect them to be there (think Coca-Cola) will often pay lower slotting fees or none at all. Thus, the apparent cornucopia of products in a typical supermarket is selected by choice architects; the choices with which you and I are confronted as customers are the result of other choices made by all but invisible persons who remain behind the scenes.¹¹⁵

¹¹⁵ Our voices may be considered indirectly by choice architects, but only insofar as unsold products are removed from the shelves. For more on slotting fees and supermarket choice, see Nina Tiecholz, "The World According to Sam," *Gourmet*, June 2005.

Consider also the enormous array of electronic equipment that has become commonplace in many American households. In the past using a television for the first time involved merely plugging it in, connecting the antenna, and turning it on. Today, the entire process of setting up a television (especially if one has a cable or satellite connection) has become quite complex involving numerous and often arcane choices. In addition, cable subscribers are forced to choose among a number of 'packages' which usually contain both the stations one desires to watch as well as others one never watches. While there is no question that the number of stations among which one may choose has increased substantially, you and I have had no opportunity to participate in designing the choice architecture either for the hardware or for the station packages.

Yet another issue of choice architecture is the provision of men's and women's toilets in various public places. On the surface this may seem unexceptionable, but there are quite a few persons for whom this binary choice is inadequate. They include hermaphrodites, transgendered persons, persons with ambiguous genitalia and others who are unsure of their gender. This problem could be easily resolved by changing the choice architecture. In Denmark and other nations, it is now commonplace (especially in newer buildings) to have a single unisex washroom with many sinks and mirrors as well as fully enclosed individual toilet stalls which may be used by anyone regardless of gender. Alternatively, one might have rooms with one toilet and one sink that can be used regardless of gender.

Finally, consider all those automated telephone answering systems that are so common today. The better ones allow you to quickly address a question, either by entering information or by talking with a representative of the organization. But, quite often even in the best organized systems, none of the choices will apply. The designers of the choice architecture of the automated system never considered that you might wish to choose another option – one not included in the decision tree built into the software.

But so far I have only discussed choice architectures as they apply to consumption. Our contemporary society distinguishes sharply between production and consumption.¹¹⁶ Production is epitomized by working; consumption by shopping. As I noted above, we live in a 'work-shop' society. Both working and shopping involve choice architectures. But choice architecture in the realm of production is quite different from that of consumption. A century ago Frederick Winslow Taylor,¹¹⁷ a brilliant engineer, developed the notion of scientific management. His system of time and motion studies became the basis for assembly line production around the world. What Taylor did was to design a choice architecture (based on allegedly scientific findings) that not only specified what tasks were to be completed as part of assembly line and other routine physical work, but precisely how those tasks were to be completed, i.e., in what period of time and with what motions. Put differently, followers of Taylor did not merely tell people that their job was to attach a particular piece to an automobile chassis, but through time and motion studies they planned in detail how that job was to be done 'efficiently.' As a result of

¹¹⁶ That said, all production involves consumption of raw materials, while all consumption produces wastes.

¹¹⁷ Frederick Winslow Taylor, *The Principles of Scientific Management* (New York: Harper, 1911).

micromanagement, over time, worker frustration with assembly line production grew, offset in part by higher wages, but nevertheless exploding in numerous places such as the Lordstown, Ohio strike of 1972.

Today, much US manufacturing is now done overseas. What remains is more and more automated. Hence, many of the most repetitive tasks are performed by robots. Assembly line workers constitute a decreasingly percentage of the US workforce. But Taylor's approach has been extended in ways that even he could not have foreseen: Specifically, the current obsession with audits and accountability nearly invariably creates a workplace choice architecture that is determined by some external authority – top management and/or key shareholders – and it must be followed above all else. Hence, a kind of New Taylorism has developed that extends far beyond assembly lines.¹¹⁸ Data entry personnel are expected to type in information at a particular pace. Physicians are expected to see so many patients per hour. Teachers are expected to teach in such a manner that students will do well on standardized tests. Judges are told precisely what sentences to mete out for particular offenses. University researchers are expected to generate a specific minimum number of publications per year, often in specific journals that are deemed central to a given field of research. Police officers are expected to follow increasingly detailed rules of behavior in their interactions with the public. CEOs are expected to show rising corporate earnings each quarter. Even growers of particular fruits and vegetables are expected to plant, fertilize and harvest according to a formula developed in processing plant and supermarket boardrooms. In each instance, decisions about the 'right' choices are made elsewhere. Judgment is not entirely eliminated – one must still determine if this is the kind of situation that demands a certain action, but the choice architecture is such that the range of acceptable choices has been narrowed greatly. The result is both suppression of innovation and, arguably more important, the growth of a new form of authoritarianism and reverence for authority. Of particular importance, these choice architectures undermine another form of choice that is common to human action: planned choices.

Planned Choices. A rather important part of being human is the ability to plan and to coordinate plans with others as well as with things. We do this as individuals and as members of organizations large and small. For example, consider the case of food purchase and preparation within our family. My wife and I will prepare a grocery list together. I will usually go to the store and bring home the items on the list. Although this discussion is entirely between my wife and I, our success in fulfilling that plan requires that other persons act as expected – the truck driver knows how to get the chicken from the processing plant to the store and the stock personnel know how and where to put it on the shelf. In addition, it requires that a wide range of things act as planned: My car must get me to the store. Electrical current must be provided to the store. The chicken processors must slaughter and prepare enough chicken to distribute it to the store. And so on.

Of course, as Robert Burns told us, "the best laid plans of mice and men often go awry." Both people and things might not behave as expected. Hence, I need to be able to choose to do things

¹¹⁸ The Economist calls this process 'digital Taylorism' and also voices concerns over its development. See The Economist, "Digital Taylorism; Schumpeter," *The Economist*, 2015 Sep 12 2015.

differently should that be necessary. Therefore, if my car does not work, I need to find another way to the store or to put it off until the car is fixed. If the store where I usually shop is out of chicken, I need to be able to choose to purchase something else or to go to another store. Put differently, regardless of how carefully drawn my plans may be, there are always contingencies that may cause me to alter my behavior, reinterpreting the situation in which I find myself so as to bring the plan to (what I hope will be) a satisfactory conclusion. Moreover, no one engages in a single activity; we are always enmeshed in multiple social networks and multiple plans with multiple persons and things.

Yet, choosing to pursue one plan also means choosing not to pursue another. As economists note, there are always opportunity costs to such decisions. Hence, if a death of someone close to me occurs, if I must take someone to the doctor, if my daughter shows up unexpectedly, or any of a thousand contingencies occur, I may choose to defer going to the supermarket or modify my purchases (buying more or less as the situation demands) in order to accommodate some other activity.

Importantly, this kind of choice – of choosing to follow a plan – is considerably different from both the much vaunted consumer choice and workplace choice. Choosing to follow one plan or another, to engage in activities in a particular sequence, to put off pursuing a particular plan, to attempt (successfully or not) to balance the myriad demands made on me by other people and things involves a very different kind of choice from those scripted by choice architects.

Until recently, workplace choices, excluding those on assembly lines, were largely governed by professional judgment. Everyone from construction workers to physicians to ditch diggers to police officers to social workers relied on their professional judgments to make decisions. While certainly fallible, such reliance on professional judgment meant that when the original plans went awry, one could modify them in light of circumstances.

However, today workplace choices are increasingly *scripted*. The range of choices available has been narrowed by management so as – it is alleged – to increase efficiency. But efficiency is hardly an undiluted good. Overly zealous emphasis on efficiency narrows substantially the scope for judgment. Put differently, it deskills the persons involved and concentrates authority at the top of the hierarchy. It is no accident that Taylor was called before Congress after his methods were enthusiastically adopted by the Soviet Union. They were concerned that his approach to choice was far too similar to that adopted by the Soviets.

If freedom is to be found in production and consumption, it is certainly to be found in part in the very freedom to plan in light of the circumstances with which we are confronted. And, perhaps, it is also in the occasional ability to change the nature and range of those choices. But this is not to argue that having a vast range of choices is necessarily desirable.

An overabundance of choices. Our national belief in the myth of choice also often leaves us bewildered. Choosing among two or three options is relatively easy, but choosing among hundreds of options is nearly impossible. When confronted with such situations, we struggle to make decisions. Consider the case of ketchup, a common household food purchased by millions of Americans. Go into any supermarket and you will find dozens of brands, container sizes,

styles, bottle shapes (easy pour, squeeze, shake) and, of course, prices. Something similar is true for nearly every packaged household product from laundry detergent to dog food, from margarine to mayonnaise. Most of us have neither the time nor the desire to spend hours in the store comparing this endless array of products so as to find the one that suits us. What we usually do instead – and the companies that produce the products know this – is to pick the one that we grew up with or that has a brand name that we recognize or that has the lowest price. Moreover, we often become so habituated to this that most middle class Americans who have the wherewithal no longer pay much attention to the choices involved; we simply pick the product off the shelf and put it in our cart.

But in other situations, far more is at stake than buying a food or household product that we later find unacceptable. In the past we knew where we were sending our children to school. We knew that our pension plan was covered by our employer. We didn't need to choose among health plans. All these and other critical aspects of our lives were decided for us, and they usually came with guarantees. Hence, we knew that the neighborhood school would provide a decent (if not perfect) education for our children. We knew that the company or government pension plan would guarantee a secure retirement. We knew that the health care plan our employer provided would cover most (if not always all) health issues that might emerge.¹¹⁹ Today that is no longer the case for most of us. Add to this the wide range of choices associated with auto, home and life insurance, assisted living facilities, and bank loans and savings plans.

This means that we are now faced with a bewildering array of choices – choices that have major consequences for our and our family's future. According to contemporary myths, we should revel in this opportunity to invest in our own future, to build our human capital, to create for ourselves a secure future. But in point of fact, most of us find ourselves bewildered.¹²⁰ A few may wade through the vast quantities of paper produced by dozens or even hundreds of company bureaucracies, each in a different format and offering slightly different options. Many others will consult their friends and neighbors asking 'What did you do?' or they simply 'go with the flow' only finding out much later if that was a good idea. Some will seek the advice of Human Relations staff at companies or government officials at various agencies.¹²¹ Finally, some of us who have the wherewithal hire consultants who claim to have great knowledge of schools, pension plans or health care plans and who recommend to us the one that appears best to them. And, even for those who can afford to hire others to help make the decisions, there is always the possibility that those others have a vested interest in promoting a given product or service.

In sum, choice is a myth to the extent that the architecture within which we set choices is usually invisible to us. It is a myth because it assumes that one can make a seemingly endless number of choices with something approximating full knowledge of the consequences. It is a myth because

¹¹⁹ Of course, this only applied to the middle class; the poor were and still are often without these important social amenities.

¹²⁰ According to a recent article, most companies are quite aware of this. See: Christopher Flavelle, "Facing America's Other Middle-Class Squeeze," *BusinessWeek*, October 20-26 2014.

¹²¹ Even as the Affordable Care Act has increased the proportion of Americans covered by health insurance, the choices offered are so bewildering to many that 'guides' have been enlisted to help people through the process.

it assumes that freedom consists largely in making choices within a set of options pre-formatted by choice architects, that the good life is one in which we are confronted by the need – no, the requirement – to make choices. It is a myth because even as it celebrates choice in consumption, as we shop in the cathedrals of commerce or on the web, choice is more and more limited in the realm of production. It is a myth in that the appropriate range and number of options among which to choose is rarely the subject of discussion. And, it is a myth in that it puts the blame for making the ‘wrong’ choice squarely upon our shoulders as individuals, despite widespread recognition that having too many choices confuses rather than helps.

Economic Growth

Much ink has been spilled over the question of economic growth. Nearly the entire middle class now watches the stock ticker daily as their future is intimately linked to the ups and downs of the market. Pundits of various stripes and persuasions worry about efficiency – the efficiency of workers in factories and offices, the efficiency of firms, the efficiency of government, and even the efficiency of the entire economy. Inefficiencies are to be rooted out and destroyed. Efficiencies, we are told, will produce growth, while inefficiencies waste scarce resources. All of this seems pretty reasonable.

Yet, the very term ‘efficiency’ is a rather slippery one. What one person considers to be inefficient, another may see as necessary care. Moreover, most of the things that we most desire are dreadfully inefficient – loving and caring for others, enjoying a beautiful sunset, listening to good music, enjoying one’s work, virtually all forms of entertainment, enjoying a meal together, engaging in foreplay, chatting with coworkers about one’s health, family and friends, working through devastating losses of loved ones or loved things, enjoying a lengthy vacation, or learning at one’s own pace. Clearly, all these things could be done more efficiently, but who would wish to do so?

Thus, rushing patients through clinics, hurrying patrons through restaurants, prohibiting friendly conversations in the workplace, limiting vacations, having sex as rapidly as possible or insisting that education shall consist solely of learning what is in the textbook would be more efficient, but clearly conflict with other values that we all desire at one time or another. Yet, we are frequently told that enhancing efficiency will promote economic growth, increase levels of living and contribute to the good life, that is, precisely the kind of life that values all those ‘inefficient’ things noted above.

Furthermore, efficiency is usually measured in economic terms: the greatest dollar output for a given dollar input or the least input for a given amount of output. However, there is no particular reason why one must insist on *economic* efficiency. One might just as easily ask about the most efficient means to create full employment, to minimize accidents, to reduce energy use or to reduce pollution. Importantly, these various forms of efficiency suggest different ways of organizing society and the economy.

However, although it is widely accepted and measured by nations with radically different polities, efficiency is nearly always defined in terms of economic growth – an equally slippery term. Unlike a paved road, a comfortable house or large factory, one cannot point to economic growth. It only exists to the extent that thousands of government officials, economists and statisticians spend countless hours measuring it. Critics have pointed out for many decades that Gross Domestic Product (GDP), the main indicator of economic growth, is very flawed.

Among other things, GDP merely sums up the monetary value of all of the things produced and exchanged in markets at prevailing prices. Thus, it makes no distinction whatever among the *kinds* of things that are produced. Hence, life-saving medical equipment, brilliant works of literature, dangerous products, excellent educational institutions, pollution-producing factories,

construction and maintenance of public parks and dumping of toxic substances into rivers all count equally in GDP.

In addition, those items that are not market goods are not included in GDP. (Their market value may be estimated, but doing so often undermines their value in other terms.) Thus, housework, for example, is not included unless it is paid. A maid or butler adds to GDP, but the same services provided at no cost by a family member – and as feminists have rightly pointed out, it is nearly always a woman – are not included. Similarly, work done by volunteers is not included since such persons are also unpaid. Note that this includes not only those persons who volunteer as part of organized voluntary associations (e.g., for the Red Cross), but also your neighbor who helps you to move a piece of furniture or who watches your home while you are away.

Even some things that do have monetary value are excluded from GDP. For example, many nations have large 'informal economies,' i.e., large numbers of producers of goods and services that for a wide variety of reasons are hidden from national authorities. Some may be hidden to avoid taxes, others because they involve illegal transactions, and yet others because the parties involved do not have the wherewithal to go through more formal channels. In each case, irrespective of the reasons, these goods and services are not included in GDP.¹²²

Moreover, GDP growth is silent about how pleasant or unpleasant, safe or dangerous, the work necessary to produce monetary value might be. Working in a mine without safety procedures and equipment might well produce the same or more monetary value than one with proper safety procedures. Constructing a building without wearing a hard hat may contribute as much to GDP as constructing one while wearing that hat. Overworked workers may contribute more to GDP than those working reasonable hours.

To provide an idea of what this means, consider the following: When I go to the doctor, I get my temperature taken. As is well-known, normal body temperature is 98.6°F. Most medical thermometers used to measure body temperature are accurate to $\pm 1^\circ$ or less. Hence, I can be confident that the measure my doctor gets, and on which she will base her diagnosis, is sufficiently accurate for diagnostic purposes. In contrast, consider the measure of the overall state of the economy: GDP. According to the World Bank,¹²³ US GDP for 2013 was \$16.8 trillion. But, unlike the *single* indicator of temperature measured accurately by that thermometer, GDP is a *hodge-podge* of disparate things, some of which contribute to our collective well-being (e.g., maintenance of infrastructure, education, health care) and others which detract from it (pollution of the air and water, increased road congestion, industrial waste). To add insult to injury, while pollution is not subtracted from GDP, the costs of cleanup are included since they have market value. To pursue the medical comparison, it is as if physicians concocted a measure that included the sum of my body temperature, blood pressure and a dozen other tests. Perhaps

¹²² These are not minor differences. Consider that when Nigeria's GDP was recalculated (rebased in the jargon), it nearly doubled. See: Gillian Parker, "Nigeria becomes Africa's No. 1 economy, overtaking South Africa," *The Christian Science Monitor*, April 8 2014.

¹²³ <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD>

this is why the former French president, Nicolas Sarkozy, convened an internationally recognized group to develop alternative measures of economic health and well-being.¹²⁴

In addition, GDP says nothing whatever about how the monetary value of production is distributed. Over the last 75 years, US GDP has increased nearly every year, but the distribution of income has changed radically. We now have an income distribution as skewed as in the 1920s, after many decades of moving toward greater equality. Regardless of what degree of (in)equality one considers as acceptable, there is no question that differences in the distribution of income have considerable consequences for everyone. In short, despite the illusion of precision, GDP is actually a very poor measure, subject to all sorts of possible – indeed, likely – errors. Yet, these numbers are used in making all sorts of policy decisions that affect us as citizens and consumers.

But what of growth itself? When we see a child mature physically over the years without any major health problems, we are pleased to see that they have grown up. When farmers see a good crop grow in the field, they are enthusiastic about it. When we walk through an ancient forest, we are delighted by the existence of old growth trees. In these and many other situations, growth is desirable and to be praised.

However, we are far less enthusiastic about the growth of urban blight, of cancerous tumors, of polluted streams and rivers, of poverty, of oppression. That is to say, not all kinds of growth are desirable. As *The Limits to Growth*¹²⁵ report (despite flaws in its models) noted in 1972, continuous growth is impossible by virtue of the byproducts it creates. Our ancestors were few in number and produced little waste, nearly all of which was rapidly decomposed. In contrast, we produce vast quantities of waste, much of which cannot and does not rapidly decompose. We are rapidly reaching the point when continued growth is itself a hazard to human health. Pollution of the air, water and earth, as well as impacts on climate are combining to threaten our very lives.

In sum, economic growth is real in that it is real in its consequences; policymakers use GDP as an index of national well-being and make decisions based on it. But it is also a seriously flawed measure and an outmoded myth. Even those who initially developed its measures warned of its misuse.¹²⁶ Doubtless, we will never reach complete agreement on what constitutes our well-being as a people. Yet, there is widespread agreement that well-being must include (among other things) economic security for all, access to adequate health and education, meaningful, dignified work, and a fair and just system of laws. Economic growth as measured by GDP gives us little or no guidance as to how to achieve these objectives.

¹²⁴ Joseph E. Stiglitz, Amartya Sen, and Jean-Paul Fitoussi, "Report by the Commission on the Measurement of Economic Performance and Social Progress," (Paris: Commission on the Measurement of Economic Performance and Social Progress, 2009).

¹²⁵ Donella H. Meadows et al., *The Limits to Growth* (New York: Universe Books, 1972).

¹²⁶ Simon Kuznets, *National Income 1929-1932. A report to the U.S. Senate* (Washington, DC: US Government Printing Office, 1934).

Government

Government, we are often told, is a necessary evil that, if allowed to get out of control, restricts our freedoms, creates massive bureaucracies, demands exorbitant taxes, and otherwise gets in our way. Moreover, others argue that we need to put an end to what is sometimes called 'corporate welfare' and other times 'crony capitalism,' that is, the use of taxpayers' dollars to finance subsidies of various kinds for large corporations. In short, we need to scale back government, thereby allowing each of us to make our own decisions rather than to have them made by faceless bureaucrats. Alas, there is no shortage of horror stories about repressive regimes.

Yet, the practice of governing is hardly limited to government. In fact, it is an inescapable aspect of social life. In our contemporary society, governing is accomplished by families, markets, small businesses, corporations, private voluntary organizations, foundations, educational institutions, religious groups, unions, natural forces and a vast range of human-produced *things*.

We begin to be governed as soon as we are born. After all, we are born into a family in which those much older than we are tell us who we are, what and what not to do, how to dress, what, how and when to eat, and how to speak. The language we learn governs us by demanding that we use certain words (in roughly a certain order) in order to make ourselves understood. Later, as school children, we are governed by teachers who tell us what is acceptable classroom behavior, what is worthy of a high grade and what is not. As adults we are also constantly governed by others. If we have a job in an organization, our boss governs us by insisting that we engage in certain activities and not others. If we are self-employed, our customers (at least indirectly) govern our behavior by their actions. If we are ill, doctors and nurses govern our behavior. Pharmacists govern by placing labels on containers of prescription drugs telling us how and when to take the medication. If we are born into a religious family, then ministers, priests, rabbis, imams or some other religious leaders also govern by telling us the right and wrong ways to behave. Similarly, owners of retail stores govern with signs that tell us not to touch certain merchandise. Restaurateurs govern by refusing entry to people who are improperly dressed. Fast food restaurants govern by urging us not to stay too long (by the use of uncomfortable furniture) and to bus our own tables. Airlines govern by refusing to allow people who appear to be drunk to board their planes. Owners of parking lots govern by telling us who can park there. Banks and mortgage companies govern by requiring us to buy title and property insurance if we wish to obtain a mortgage. Companies govern by hiring security guards to keep those of us 'not authorized' from entering their premises. And, our well-meaning friends govern by informing us that 'if I were you'...; we often comply with their wishes.

But that is not to suggest that all governing is done by other *people*. We are also governed by *things*. To cook something on my stove, I must turn a knob first. To retrieve food from my refrigerator, I must open the door. When calling the service department at the XYZ company, I must first listen to music I don't like or to advertisements before a real person answers the phone. When walking through the forest I must walk around the trees. To get through the winter I must wear something warm.

In addition, as noted at the beginning of this volume, the innumerable technological gadgets with which we surround ourselves in contemporary societies govern us by demanding that we act in particular ways or suffer the consequences. For example, my laptop allows me to write and revise in ways and places that older technologies such as typewriters and pencils did not. But at the same time, it demands that I engage in a wide range of actions in a fixed sequence ranging from turning it on, to opening the correct program, to using various functions so as to perform certain tasks correctly. Moreover, to use it effectively these tasks must become 'second nature' to me such that I hardly notice that I am behaving in that particular way.

Governing is even built into our very environment. Architects put doors in certain places and not others, requiring us to enter buildings in those places or to exert a great deal of effort to thwart their plans. They may even arrange things such that a certain automatic door is designed to permit entry and another one only permits exit. Elevators carry us to other floors, but force us to wait before using them. Center islands on highways protect us from oncoming traffic, but make it impossible to drive on the other side of the road. Fences block our access to what otherwise would be shorter paths. Locks keep us from entering certain buildings or rooms. Chairs force us to sit in certain ways. To drive down a road, I must follow the path that it takes. Ikea arranges its stores so as to strongly encourage us to follow a particular path through the stores.

Most of the time, in most instances, we accept this governance. Indeed, seemingly paradoxically, without governance, freedom and liberty would be impossible. But more than occasionally, we are infuriated. For example, recently, some consumers have balked as electric utility companies have begun to replace older meters that must be read by people with new 'smart meters' that transmit data about electricity use to a central computer.¹²⁷ They have argued that such meters reduce privacy, threaten their health by use of electromagnetic signals, and actually raise costs to consumers. In some states utilities have imposed surcharges against those consumers who prefer to keep the older meters.

The 18th century model alluded to by Henry David Thoreau among others, 'that government is best which governs least,' may have made perfect sense at that time. After all, that was an age of absolute monarchs who saw nations as their personal fiefdoms. But it is outmoded today. Put simply, the world today is too small and crowded for Thoreau's approach to work. And here is the rub: *Governance that is not provided by government will likely be entrusted to others who are far less accountable.*

Those who decry government regulation are mistaken if they believe that without government regulation, regulation itself will cease to exist. Instead, in many (perhaps most) instances in which government regulation is abandoned, private regulation takes its place. That private regulation includes governance by individual firms, by industry groupings of various sorts, and by private voluntary associations (PVOs). In many if not most instances direct public governance by law is replaced by contractual governance, an extension of the contracts essential to markets to a wide range of activities that are far broader in scope. Let us consider several examples.

¹²⁷ Mark Chediak, "Taming the Backlash Against Smart Meters," *BusinessWeek* 4279(2012).

Wal-Mart. Wal-Mart is now the world's largest company with annual sales larger than the Gross Domestic Product of many nations. Wal-Mart prides itself on its low prices. But its managers – management is the corporate word for governance – maintain low prices by imposing all sorts of rules and regulations on its employees and its suppliers. In fact, Wal-Mart often insists on access to both the accounts and physical facilities of its suppliers, showing them how to cut costs even as it limits their profits. Moreover, Wal-Mart insists that goods be packed in certain ways and be delivered to stores at predefined hours. In short, the companies that supply Wal-Mart do so by agreeing to operate (sometimes entirely) within Wal-Mart's supply chains. As such they have relatively little freedom to operate as they are governed closely by Wal-Mart.

Health care. There is currently much heated debate in the US about health care. Recently, I was chatting with a nurse at a local hospital. She noted that she believed that everyone should have access to health care, but she was worried that universal coverage would mean that 'bureaucrats would decide who got access to what care.' Indeed, this should worry everyone. But let's take a closer look. Currently, most Americans have private health insurance. When they experience illness, bureaucrats who work for their insurance company decide whether the treatment in question is covered under their plan. Very few of those insurance company bureaucrats are physicians or nurses. Moreover, each insurance company has numerous plans, each with its own language, each nearly unintelligible to the average American. And, each generates its own set of forms, rules, regulations and requirements. Furthermore, we cannot easily appeal the insurance company's decisions. As such, hospital administrative costs in the US are an astonishing 25% of total costs. This compares to 15% in England and 12% in Canada.¹²⁸ And, on top of this, the US ranks 26 out of 34 developed nations in life expectancy and 30th in infant mortality.¹²⁹ To put this in more concrete terms, Duke University Hospital has 900 beds and 1300 billing clerks!¹³⁰ And, the Institute of Medicine estimates conservatively that \$750-\$765 billion is spent on excess, unnecessary health care costs.¹³¹ Were some of those funds allotted to various social services – from early childhood education to better housing to unemployment insurance and services for the elderly – evidence from other industrialized nations suggests that overall costs would decline markedly even as outcomes improved.¹³²

Furthermore, in Canada and most European nations where health care coverage is universal, decisions as to treatments are made by groups of physicians. Those decisions can (in most instances) be appealed. And, outcomes from health care are as good as or better than those in the US. Put differently, in the US we have unaccountable governance of medical care by insurance

¹²⁸ David U. Himmelstein et al., "A Comparison Of Hospital Administrative Costs In Eight Nations: US Costs Exceed All Others By Far," *Health Affairs* 33, no. 9 (2014).

¹²⁹ Jeffrey C. McCullough et al., "A Health Dividend for America: The Opportunity Cost of Excess Medical Expenditures," *American Journal of Preventive Medicine* 43, no. 6 (2012).

¹³⁰ David M. Cutler and Dan P. Ly, "The (Paper)Work of Medicine: Understanding International Medical Costs," *Journal of Economic Perspectives* 25, no. 2 (2011).

¹³¹ McCullough et al., "A Health Dividend for America: The Opportunity Cost of Excess Medical Expenditures."

¹³² Elizabeth H Bradley et al., "Health and social services expenditures: associations with health outcomes," *BMJ Quality & Safety* 20, no. 10 (2011).

companies, while in Canada and Europe they have accountable governance of medical care by the government.

Franchise businesses. Franchises are commonplace in the US. Despite the talk of individual entrepreneurship, many individuals lack the wherewithal to finance, open and successfully manage their own business. Franchises offer an alternative. There are literally thousands of franchises available in everything from fast food to hotels to car washes. What they have in common is that they are based on private governance. Fast food franchises specify the uniforms, menu items, building sizes and shapes, food preparation procedures – even how to act when an accident occurs. Similarly, hotel franchises specify nearly all the details of hotel management from how to fold towels to the frequency of painting the rooms to the number and type of cups to place next to the coffeemaker. What is important to emphasize is that the companies offering the franchises *govern* the franchisees via their contractual language – language which is not negotiable.

Binding arbitration. In a series of Supreme Court decisions, the court has affirmed that employers and sellers may legally require that employees and customers sign away the right of legal redress and settle for binding arbitration instead. The court has also affirmed that corporations can require employees and consumers to enter into contracts that prohibit class action suits against a company. In the case in question, *ATT Mobility v. Conception*, the plaintiff argued that ATT had overcharged by some thirty dollars. Hence, without the possibility of a class action suit, there was no incentive for any attorney to take on such a case.

This information is usually buried in the legalese that you sign when you rent a car, sign up for a cell phone, are hired for a job, or refinance your mortgage. For all practical purposes these contracts are non-negotiable, meaning that you really don't have any other options. Hence, if you want a cellphone or a mortgage or a job or to use a PayPal account, you will often be required to enter into such a contract. If you want the job or the product, you must sign away your legal rights to an arbitration board that is almost always biased toward the company.¹³³ Put differently, with the court's blessing, based on the dubious notion that all such contracts are 'freely entered into,' governance is transferred from the government to the private sector.¹³⁴

Licenses. Yet another form of private governance can be found in licenses of various sorts. Some licenses are issued by governments, such as driver's licenses, building permits and the like. But most licenses are privately issued. For example, although nearly everyone talks about *buying* software, nearly all software is *licensed* for our use under a very complex, densely worded contract that, thanks in part to American Legislative Exchange Council, is legally binding. Specifically, the EULA or End-User Licensing Agreement puts a variety of restrictions on the 'buyer.' These include holding the software developer harmless if it damages my computer,

¹³³ The Consumer Financial Protection Bureau found that such arbitration with respect to credit cards is of little value to consumers, but does allow banks to avoid lawsuits See, Carter Dougherty, "Bank Customers May Get Their Day in Court," *Businessweek*, March 23 2015.

¹³⁴ For a more detailed review of the many cases involved, see Thomas J. Stipanowich, "The Third Arbitration Trilogy: Stolt-Nielsen, Rent-A-Center, Concepcion and The Future Of American Arbitration," *The American Review of International Arbitration* 22(2011).

prohibiting my decompiling the software, limiting the kinds of uses to which I can put it. If you think that these are reasonable, then ask yourself what it would mean if the same restrictions applied to replacement parts for your automobile. That would mean that you could not disassemble the part to learn how it was made, nor could you sue the manufacturer if it damaged your vehicle, or that you could only drive on certain kinds of roads.

Moreover, it is precisely because private governance often gets out of hand, because it is often unaccountable, because it is undemocratic, that we use democratic government to limit those actions. Hence, while a century ago the adage, 'spare the rod and spoil the child,' was widely accepted, today you are not free to beat your children. Similarly, we used to allow barbers to perform surgery; after all they already knew how to wield a collection of sharp objects used to shave people. Today, we make a distinct separation between licenses for barbers and those for surgeons. Moreover, both licenses are issued by government agencies.

It is also important to note that most private governance is hidden from those outside the organization in question. Hence, it is all too easy for such organizations to impose their rules on others. Only rarely do documented cases reach the public. A few examples should suffice to illustrate the point:

*Tyrone Hayes and Syngenta.*¹³⁵ Tyrone Hayes is a biologist on the faculty at the University of California Berkeley. Hayes was requested by Syngenta, a large agrichemical company, to study the effects of a widely used herbicide, Atrazine, often used on corn to keep down weeds. He found that it altered the sexual development of frogs. Syngenta was unhappy about these results and his relationship with the company ended in 2000. However, he remained interested in the effects of atrazine on frogs and other amphibians. Ultimately, his work was used to help a number of Midwestern cities win a suit against Syngenta for contaminating their drinking water. Among the documents revealed on discovery by the lawyers involved were documents showing that the company had used a public relations team to deliberately discredit him. Among other things, a search for Hayes on the web (still!) turns up an ad that reads: 'Tyrone Hayes Not Credible.'

Hayes is hardly alone in being the target of this sort of harassment. Indeed, large corporations have been involved in numerous attempts – doubtless often successful – to discredit scientists whose findings have negative implications for their products.¹³⁶ What must be emphasized here is that each of these cases goes far beyond merely arguing that certain scientific findings are inaccurate. It involves concerted campaigns to discredit these scientists – campaigns that in many ways resemble those carried out by the Soviet Union and other authoritarian regimes.

¹³⁵ For more details see: Rachel Aviv, "A Valuable Reputation," *The New Yorker*, February 10 2014.

¹³⁶ For several detailed studies, see: Oreskes and Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming.*, and David Michaels, *Doubt is their product: how industry's assault on science threatens your health* (New York: Oxford University Press, 2008).

Freedom Industries. Not too long ago, the 300,000 residents of Charleston, West Virginia, found themselves without potable drinking water. The cause was a chemical spill at an aptly named company known as Freedom Industries. However, the freedom proclaimed by the company was the ability to govern as it pleased with little or no oversight by government agencies. The company's owners – and it is far from clear who they are – built their storage facility on the banks of the Elk River. Without proper oversight by the state, they failed to take necessary precautions to repair a concrete containing wall and, ultimately, it was the source of the spill. The chemicals soon made their way down river, where they entered the water company's intake pipes. In short, as a result of a lack of inadequate government oversight, the owners of Freedom Industries were able to govern themselves, thereby threatening the health of 300,000 residents of Charleston. Importantly, spills of this sort are not rare. In 2013 there were 3885 *reported* spills – there may well have been others that went unreported – including 10 companies with more than 100 spills each.¹³⁷

But it should be emphasized that the examples of private governance gone amuck noted here are likely only the tip of the iceberg. Reducing the scale and scope of government means making it easier for private agencies to govern in ways that they find meets their desires, often at the expense of the rest of us.

Of course, government itself can get out of hand. This may be the result of a particular renegade official, but more often it is thoroughly embedded in a given government agency. For example, the recent revelations by Edward Snowden suggest that the National Security Agency extended its reach beyond the limits of the law. However, *democratic governments*, despite all their deficiencies, are designed to minimize arbitrary governance. The division of powers and freedom of information laws are designed to protect against just that.

Furthermore, without government various kinds of public goods are simply unachievable. Public goods are goods that cannot or for various reasons should not be left to the private sector. National defense is a common example. From the early days of the republic, our leaders have understood the importance of public goods. For example, Thomas Jefferson understood this when he purchased Louisiana from the French. At about 3 cents per acre, this was an extraordinary buy. Yet, the purchase was not without opposition. Some argued against giving citizenship automatically to those living in the new territory. Others argued that it would eventually disrupt the dominance of the Atlantic states (which it did). In fact, a vote to deny the request failed in the House of Representatives by only two votes. But looking back 200 years later, it is clear that this was a good deal. It both added more than 800,000 acres of land to the United States, and eliminated France as a contender in the American West.

Over the years, many other public goods have been produced by joint government action by Congress and the President. In most instances, no other entity could have provided us with these:

- Lincoln understood this when he signed the Land Grant College Act establishing a public university in each state to teach 'agriculture and the mechanic arts.'

¹³⁷ Paul M. Barrett, "Who Are These Guys?," *BusinessWeek*, February 3-9 2014.

- Ulysses S. Grant understood this when he authorized the creation of the National Weather Service.
- Theodore Roosevelt understood this when he signed legislation creating the national parks and forests.
- Herbert Hoover understood this when he successfully received government funding to build Boulder (later Hoover) dam.
- Franklin D. Roosevelt understood this when he signed Social Security and the GI bill (the Servicemen's Readjustment Act) into law.
- Dwight D. Eisenhower understood this when he signed the National Defense Highway Act creating a vast network of superhighways across the nation.
- John F. Kennedy understood this when he proposed a dramatic expansion of the US space program.
- Richard Nixon understood this when he reorganized the federal government so as to create the Environmental Protection Agency as well as the Occupational Health and Safety Administration.
- Lyndon Baines Johnson understood this when he established Medicare.
- George W. Bush understood this when he signed the Veterans Educational Assistance Act.

These and many other decisions ultimately helped to unite the citizens of the United States, demonstrated our mutual concerns, care and affinity for each other, and accomplished things that would have been difficult or impossible to do solely within the confines of the private sector. Of course, like all human activities, none of these public goods have been without their flaws. All too often they have been tied up in knots by virtue of unnecessarily complex contracting rules or bureaucratic turf wars. Like many human actions, they have had unintended consequences. Federally subsidized highways helped to undermine public transportation. Medicare created a massive system of sometimes impenetrable rules and regulations for hospitals, doctors and patients.

What is worthy of note here is that the governing done by (our always imperfect) democratic government has certain very specific rules: That which is proposed to become law is subject to (often heated) debate. Moreover, after becoming law, there are clear administrative and judicial venues where decisions can be appealed. In contrast, in most non-governmental forms of governance, both democratic debate and means for appeal (other than through costly litigation) are absent. Hence, in our contemporary society, the demand that government stop regulating opens the door for far less democratic forms of regulation. Put more bluntly, it opens the doors for innumerable petty tyrannies.

This is in no way to suggest that our current government is as democratic and responsive as it might be. Over the last several decades, corporate control over the federal government has increased markedly. It has been aided by outsourcing of government services, so-called public-private partnerships, revolving doors between corporate boardrooms and positions in both the executive and legislative branches and a flood of money used by the wealthy to influence elections resulting in the recasting of Congress as a millionaires' club. Similarly, in many states elections are won by major out-of-state donations that support candidates favored by those

wealthy donors.¹³⁸ This includes not only government executive and legislative positions, but elected members of the judiciary as well.¹³⁹

Moreover, those in control have learned something that those opposed do not fully comprehend: Governing can be done ‘up close and in your face’ or it can be done ‘at a distance.’ Governing ‘up close’ involves policies and laws that have very specific consequences. The laws prohibiting murder are of that sort; violating them is likely to put one in prison. But governing ‘at a distance’ is a relatively new phenomenon. It involves creating elaborate systems of incentives (and disincentives) that give the appearance of choice and freedom, but funnel behavior toward certain ends and not others. It is the source of the now widely used neologism ‘to incentivize.’ It is used by large corporations to ensure that consumers are ‘incentivized’ to purchase things for which they have little or no use under conditions that are non-negotiable. For example, as noted above, cable and satellite television companies demand that you purchase a package of channels even if you never watch most of them. Marketing firms do their best to convince you that purchasing X will improve your social status, demonstrate that you are one of the crowd, show how you are at the height of fashion. More recently, some governments have adopted this approach; the voter ID laws do not prohibit certain persons from voting; they merely make it quite difficult in the (usually unspoken) hope that certain classes of persons will simply not try to vote.

The late Nobel Prize winner Gary Becker explained it approvingly in his Nobel address: “Economists have too narrow a perspective on commitments. ‘Manipulating’ [scare quotes in original] the experiences of others to influence their preferences may appear to be inefficient and fraught with uncertainty, but it can be the most effective way available to obtain commitment.”¹⁴⁰

Becker’s view, which has been widely adopted in a number of fields outside economics and in public policy, offers what appears to be on the surface a brilliant insight as well as a solid technical solution to a policy problem. It implies that all or most decisions can be manipulated so as to produce the ‘right’ market-like behavior not by directly manipulating the decisions but by *adjusting the conditions on which those decisions hinge* such that they become incentives and disincentives, or, if you wish, costs and benefits. Consider an example: When deciding to buy meat, I perform a kind of cost/benefit analysis with the butcher’s scale. The more meat on the scale, the more I will have to pay. Therefore, I need to make a decision as to how much meat will satisfy my appetite. I also need to compare the benefits I will get from the meat from those I might get from buying another type of food product or perhaps buying that cool gadget I have always wanted. All this is unexceptionable. In contrast, the scales of justice have nothing to do with cost/benefit analyses. If they did, then whoever paid the most would get the most justice. Sometimes, this appears to be exactly what happens since wealthy defendants hire lawyers who file endless motions that put the cost of litigation beyond the means of the plaintiff. Similarly, it

¹³⁸ For example, see Nicholas Confessore, "A National Strategy Funds State Political Monopolies," *The New York Times*, January 14 2014.

¹³⁹ Josh Eidelson, "Big Money Finds Another Target: Judges," *BusinessWeek*, August 4-10 2104.

¹⁴⁰ Gary S. Becker, "Nobel Lecture: The Economic Way of Looking at Behavior," *Journal of Political Economy* 101, no. 3 (1993), 400

occurs when those charged with a crime are unable to obtain adequate counsel. Clearly, justice is not supposed to work that way. Justice is about what one deserves and what is fair, rather than what one can pay for.

To summarize, small government in today's world is a myth. It cannot and does not result in greater liberty. Instead, it involves transferring governance from democratic government to undemocratic institutions over which we have far less control. It involves reducing our individualism by subordinating us to institutions that over which we have little or no control. Governing 'at a distance' appears to reduce the size and scope of government, but as Becker notes, it involves 'manipulating' our behavior in a more subtle way than traditional law. This view also glosses over several critical questions: First, when are incentives and disincentives the best way to distribute a given good? It would appear that there are clearly instances when weighing incentives and disincentives is appropriate and other instances when it is not. And, reasonable people may argue over where that boundary might be placed. Second, who shall decide what incentives and disincentives shall be available? In a democracy it would appear that the answer to that question would be 'everyone.' I address these issues further in the conclusions.

National Security

National security is a commonly used term in contemporary American society. Most often it is used in conjunction with military security. We are told that we must have a strong military not only to protect us against foreign threats, but to protect American interests around the world. In accomplishing these two tasks we are told that we will achieve something rather vaguely described and rarely questioned: national security.

But is this in fact the case? While security is without doubt important to everyone, the very way in which security is now defined tends to make us *insecure*. Let us begin with the largely uncontested current situation.

The US spends more on the military than the next 11 largest military spenders *combined*. This includes China, Russia, the United Kingdom, Japan, France, Saudi Arabia, India, Germany, Italy, Brazil and South Korea.¹⁴¹ Moreover, we are world's largest supplier of arms to other nations. But military expenditures and the arms industry are quite different from other expenditures in several ways.

For example, even though it is the US government that spends money on arms and the military and the military protects citizens from foreign enemies, it is largely private firms that benefit immediately. Those arms developers and suppliers as well as other contractors depend on government largesse for their very existence; for most, without the government as the unique buyer, they would soon go bankrupt. As a result, they have developed very effective lobbies for their cause. This turns out to be all too easy to do. Military suppliers can point to any technological advances – I use that term advisedly – that might make our nation more susceptible to some form of foreign threat as a reason to increase investment in the military. They can also point to the expenditures in other nations as a ‘clear indication’ of the need for more military expenditures.

Furthermore, the very size of military expenditures, the lack of mandatory military service and, more recently, the outsourcing of many ‘military security’ jobs to private firms such as the now-defunct Blackwater make it all too easy for government officials to decide that military action is desirable, even necessary.¹⁴² The war in Iraq initiated by George W. Bush, totally unnecessary and even counter-productive, as well as fatal to many American troops and several hundred thousand Iraqis, is a case in point. And, every time that the military is deployed, billions of dollars of equipment are destroyed, damaged or unrecoverable. This, of course, increases the demand for new military equipment profits which further lines the pockets of military contractors.

Indeed, the very fact that the US spends more than all the nations with large military budgets combined *promotes* an arms race. After all, for more than half a century – often called the

¹⁴¹The Statistics Portal Statista, "Countries with the Highest Military Spending in 2012," <http://www.statista.com/statistics/262742/countries-with-the-highest-military-spending/>.

¹⁴²With respect to private military contractors, otherwise known as mercenaries, see The Economist, "Beyond Blackwater," *The Economist*, November 23 2013.

'American Century' – the US was the world's strongest superpower. After the collapse of the Soviet Union, for a short time it was the world's *only* superpower. It is hardly surprising that rising powers such as China should find American military expenditures and related interventions around the world to be threatening. Yet, no matter how much we spend on the military, others can and do try to catch up with us, leading to an endless arms race, endless profits for the firms that supply the equipment and little or no increase in our collective security.

After the Second World War there were challengers to the hegemony of Britain and France. Both the US and the USSR became the new global powers, but the US quickly filled the role of the new global power. There are now challengers to US hegemony. China and Russia, in particular, have considerable spheres of influence. Of late, Russia has shown few qualms in invading Ukraine, while China has sought to increase its influence over the South China Sea. At the same time, US hegemony over Latin America is waning fast. Whereas the US once could intervene in Latin America with impunity, this is no longer the case. Brazil has emerged as a significant regional power on the world stage, while many other Latin American nations are attempting with considerable but varying success to escape the US orbit.

Yet there is a tendency among many US politicians to believe that it is necessary to intervene in nearly every foreign dispute. And, since they (and generally their families as well) no longer have to bear the costs in lives lost and destroyed in 'the fog of war,' they are delighted at the opportunity to bandy about a few patriotic words about America's troops and get on with it. Moreover, since most people have few or no relatives or friends in the military, they can simply ignore these actions. In contrast, those who do serve are often from military families, i.e., families where service in the military has become a family tradition. This is hardly the recipe for an accountable military in a democratic society.¹⁴³

However, every instability in the world is often seen by those affected as an unneeded and unwanted imperialism on our part and is seen as a victory for multinational firms that wish either to open new markets to their products or want American protection of their overseas assets. Put differently, what is marketed to you and me as the promotion of national security is often the creation of new enemies for us around the world,¹⁴⁴ while allowing US-based multinational banks and corporations to mitigate the risks incurred in investing abroad or to open new avenues for investment. It is also a hidden subsidy to those firms involved both in military contracting and in post-conflict investment.

Furthermore, again and again, US military largesse promoted enthusiastically by military suppliers has often supported authoritarian regimes by supplying them with weapons. At best, this leaves us in the situation in which we now find ourselves in Egypt. The discomfort of the

¹⁴³ James Fallows, "The Tragedy of the American Military," *The Atlantic*, <http://www.theatlantic.com>.

¹⁴⁴ As journalist Fareed Zakaria has argued, "...before Syria, Washington had already launched interventions in 13 countries in the Islamic world since 1980. Would one more really do the trick?" See: Fareed Zakaria, "U.S. intervention is not the answer," *The Washington Post* (2015), http://www.washingtonpost.com/opinions/fareed-zakaria-us-intervention-is-not-the-answer/2015/01/15/9f3697c2-9cf7-11e4-bcfb-059ec7a93ddc_story.html.

Obama administration with this turn of events is evident in its decision not to determine if the military overthrow of the legitimately elected government was in fact a coup!

Finally, despite numerous reports by the Government Accountability Office, the Defense Department does not engage in regular audits of its operations. To my knowledge, it is the only federal agency that is not regularly audited. Doubtless, such audits would reveal considerable waste in procurement, use and disposal of military equipment.

Furthermore, ever since the terrorist hijackings of airplanes on September 11, and the subsequent creation of a new Department of Homeland Security, we are constantly reminded of the possibility of some other terrorist attack inside the US and we spend billions for new technologies to prevent that event. There are several questions that are rarely asked with respect to these huge military and anti-terrorism expenditures. Do they accomplish what they are intended to accomplish? Or do they do the precisely the reverse as I suggested above? And, are these legitimate goals for a democratic society?

Foreign Affairs. Since the end of World War II, the US has engaged in a number of wars, although they have not been officially labeled as such. The first of these, the Korean War, ended in a stalemate and remains so now more than 50 years after hostilities ended. The Vietnam War ended in an indisputable loss by the United States despite our clearly superior firepower. The Iraq War did not end, as claimed by the G.W. Bush administration, with the replacement of an authoritarian government by a democratic one. Instead, it resulted in the creation of a highly unstable and certainly undemocratic regime now under threat by the self-proclaimed Islamic State. The war in Afghanistan, in addition to dragging on for 12 years, has hardly crushed the Taliban. In addition, our intervention in Libya has yet to produce a stable regime there, and events in Syria have left us largely powerless. Whether the recent decision to employ air power against the so-called Islamic State will be effective remains to be seen, but at the moment it appears doubtful.

In short, despite our vastly superior firepower, our extraordinarily sophisticated technologies and our superior ability to gather intelligence, our policies have been mostly costly failures in terms of their *alleged* goals. And, although in a few skirmishes – in Grenada, the Gulf, and Panama – we did ‘win’, the scale of these ‘successes’ is dwarfed by the failures.

Importantly, each of these interventions was launched to protect American interests. Clearly, bin Laden and his cronies had attacked US soil, killing thousands of people including a fair number of Muslims. But just what were these interests? In Afghanistan, it was asserted that the war was necessary to destroy the adherents to Al Qaeda, a small, rather loosely knit group of persons not directly connected to the (certainly oppressive) Afghan government, bent on avenging (real or imagined) grievances against the United States. Initially, Colin Powell, then Secretary of State, proposed that the trade towers events be treated as a criminal affair, but he was quickly overruled by others in the White House. Certainly, the Afghan war did not eliminate Al Qaeda, and may even have served as a recruiting tool, ‘proving’ to some that the US was set on wiping out Islam. But regardless of the ‘official’ reasons for intervention, once involved the US government

prepared Afghanistan for greater American investment. Today, according to the Central Intelligence Agency, nearly 1/5 of Afghan imports come from the US.¹⁴⁵

The other wars noted above have also been about 'protecting American interests.' Those interests are considerable, but they are not the interests of the general population. They are largely the interests of the leaders of the global corporate sector who see opportunities to outsource labor to low income nations, to find new sources of valuable minerals to exploit and to sell various goods manufactured elsewhere. These are the same corporations that have few qualms about changing their tax homes when they find tax laws elsewhere more favorable to them. What defense overspending does is attempt to (1) expand the geographical area in which US-based (but often only nominally American) companies can operate, or conversely to prevent that area from contracting, (2) reduce the risk that corporate overseas investments will be confiscated, destroyed, highly taxed or diminished in other ways thereby raising their costs, and (3) at the same time, open very lucrative markets for other corporations for weapons systems and a vast array of equipment and infrastructure demanded by both the US military and our alleged allies.

Put differently, high levels of defense spending and wars elsewhere to protect 'our interests' reduce the costs and risks associated with overseas *corporate investments*. Those cost reductions to global corporations are paid for by Americans in a variety of ways. First, we pay an extraordinarily high proportion of our taxes to support the military, far more than most other nations. Second, as Americans we pay as jobs are transferred overseas, as nations are pacified by American power. Third, we pay in that large portions of the world are now off limits to Americans. Fourth, we pay in lost lives of American service men and women who are killed or injured, putting a very large burden on the shoulders of a very small portion of the population. In short, we pay several times over for the exporting of jobs and the maintenance of a *pax americana* in places where we do not belong in the first place.

Nor should what is perhaps the most egregious problem associated with national security be overlooked: the use of fear as a means for legitimating an ever-growing, ever more secretive national security apparatus. Although the various terrorist groups now to be found around the world do pose a threat, they are far less of a threat than were the Soviets during the Cold War or the Nazis during World War II. Overreaction to such threats rather than treating them as criminal acts supported by only a minute fraction of the world's population has proven to be a very lucrative activity for a wide variety of self-proclaimed security analysts, pundits and companies providing security apparatus. More importantly, it has created a secretive, nearly invisible government that is unresponsive to democratic control and – as the revelations by Edward Snowden illustrate all too well – regularly violates the law in the name of fighting terror. In short, using fear as a motivating force, they are helping to undermine democracy.

Internal Affairs. But national security does not stop at protection against foreign enemies. The US has highest incarceration rate in the world, in addition to being among the few industrial nations that has still a death penalty. In many jurisdictions, prisons are extraordinarily overcrowded. Are Americans that much more likely to be violators of the law than persons in other nations? Do harsh prison sentences prevent further crimes?

¹⁴⁵ <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html>

While doubtless there are some persons who are so violent, so dangerous to others that, for the protection of the rest of us, they must remain behind bars. But large numbers of persons are incarcerated for non-violent crimes such as possession of small amounts of illegal drugs. As such, prisons become a training ground for future crimes.¹⁴⁶ Inmates learn from more violent inmates how to become violent themselves. Moreover, overcrowding and emphasis on punishment rather than rehabilitation leads to gang violence within prison walls. And, each of us pays through taxes for the support of incarcerated persons who might otherwise be productive members of society.

Moreover, starting in the 1970s numerous states have enacted minimum sentencing laws as well as so-called three strikes rules regarding prison. They have removed the right to vote and otherwise restricted the actions of all of those found guilty of felonies. The sheer size of the police force has increased substantially, even as police are more and more distant from the communities they serve, spending much of their time in police cars rather than out on the street.¹⁴⁷ Police have been brought into schools to an unprecedented degree, leading to the criminalization of disputes amongst children that would previously have been resolved by school personnel. Furthermore, in many jurisdictions, police are rewarded for the number of arrests they make, thereby encouraging police behavior that is overly aggressive. One result of these policies is that a large portion of the population has criminal records that make it difficult or impossible for them to hold normal jobs.

At the same time, social welfare programs have been reduced in scope and funding. Thousands of public housing units have been eliminated. Thousands of persons have been removed from welfare rolls on the alleged grounds that they had become dependent on those payments. Doubtless, these programs were far from perfect. They did sometimes create publicly financed ghettos. They did encourage a few to subsist on the meager payments from welfare agencies. But their diminishment has dramatically increased insecurity for those at the bottom of the economic ladder. Today, about 47 million Americans are using food stamps and even this barely meets their dietary needs. Hunger is rampant. In addition, about 3.5 million Americans experience homelessness every year; more than 600,000 are homeless at any given time. Many of these persons are families with children, war veterans and the mentally ill. And, this in one of the wealthiest nations in the world!

Additionally, most social welfare programs virtually ignore the underfunding of schools in poor districts, the persistent unemployment of those with minimal education, and the consequences for children. Recently, welfare programs have been (partially) replaced by 'workfare' programs, involving considerable expenditures for supervision, providing dead-end jobs to those at the bottom of the economic ladder and thereby undermining precisely the self-respect,

¹⁴⁶ For a review of the impact of prison on crime rates, see Martin H. Pritikin, "Is Prison Increasing Crime," *Wisconsin Law Review* 6, no. 6 (2008).

¹⁴⁷ The number of sworn officers in local police departments has grown from 608,000 in 1992 to 765,000 in 2008, the most recent year available. See Brian A. Reaves, "Census of State and Local Law Enforcement Agencies, 2008," (Washington, DC: US Department of Justice, Bureau of Justice Statistics, NCJ 233982, 2011).

independence, individual responsibility and desire to better oneself that are allegedly the goals of those programs.¹⁴⁸

In addition, over the last decade or so, police departments have become more and more military-like in their operation. They have been offered and enthusiastically accepted surplus military equipment including electronic gear that create virtual cellphone towers thereby permitting interception of phone calls (usually without a warrant) and armored vehicles of various sorts. (How it is that the military came upon this high-tech surplus is itself a question left unanswered.) Police have become comfortable in handling peaceful demonstrations while wearing body armor. Not surprisingly, that body armor intimidates many persons exercising their lawful right to protest. In addition, police have distanced themselves from the citizenry to an extraordinary degree, leading to hostility toward and suspicion of police officers. The recent events in Ferguson, Missouri are only one recent example of the consequences of such hostility.

The situation is actually made worse by the spread of a generalized distrust of the police, a climate of fear and destruction of family life, especially in poor, Black and Hispanic neighborhoods. There, a considerable portion of the population lives in constant fear of the police, whether it involves stop-and-frisk programs in which pedestrians are stopped for little or no reason or the constant pursuit of those accused of petty crimes. Not only police stations, but hospital emergency rooms, funeral services and other public gathering places are now seen by many as places to be avoided for fear of encounters with police officers. Moreover, by putting constant pressure on family members including wives and partners of men accused of often minor crimes, they undermine what semblance of family life exists for many in those neighborhoods.¹⁴⁹

The situation is further exacerbated by the failure of far too many jurisdictions to provide adequate counsel to indigent defendants, despite the 1963 Supreme Court ruling that was supposed to ensure that. All too often, court-appointed lawyers are overworked, underpaid, and sometimes simply incompetent. Often, representation consists of just a few minutes with counsel. As a result, defendants often plead guilty to crimes that they did not commit, serve time and acquire a criminal record.¹⁵⁰

Perhaps the former chief of police of the city of Seattle has put it best:

¹⁴⁸ Joe Soss, Richard C. Fording, and Sanford F. Schram, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race* (Chicago: University of Chicago Press, 2011).

¹⁴⁹ See: Alice Goffman, *On the Run: Fugitive Life in an American City* (Chicago: University of Chicago Press, 2014). Goffman provides one of the few existing and disturbing accounts. While some have criticized her for not acknowledging the thousands of law-abiding citizens who live in those neighborhoods, there is little doubt that a significant portion of the residents live in a world of constant fear, bribery, retribution and failure.

¹⁵⁰ Andrew Cohen, "How Americans Lost the Right to Counsel, 50 Years After 'Gideon'," <http://www.theatlantic.com>. Something similar is occurring with respect to civil suits. Hard pressed states have been cutting court budgets leading to huge backlogs of cases. See: Peter S. Green, "In Alabama, Lady Justice has Fridays Off," *BusinessWeek*, December 3-9 2012.

... inept crime fighting and police misconduct are largely the product of (1) defective lawmaking, (2) weak or haughty politicians, (3) the police paramilitary structure, and (4) the workplace culture of the police agencies. It's the institution of policing, not rank-and-file cops, that is in need of an 'extreme makeover.'¹⁵¹

Of particular importance is that this kind of hyper-policing combined with a decline or even collapse of minimal welfare services as well as failing inner city schools has created a new nearly invisible underclass. This underclass, which is often divided into segments that are African-American, Hispanic and white, consists of persons with minimal education who are unlikely to get and hold a job even in times of economic booms. They live in a world which is increasingly violent, in which minor disagreements often end in gun fights, in which drugs and alcohol are ever present, in which one lives from day to day. The collapse of the market for unskilled labor in manufacturing as well as the poor quality of public transportation necessary to get to work has left this underclass excluded from the rest of society. As such, even as hyper-policing exacerbates the problem, the members of this underclass are not likely to be helped by conventional education and employment programs.

In addition, unlike most other professions (e.g., medicine, social work), policing in the United States is largely left to local police departments of which there are a staggering 18,500, most having fewer than 10 officers. No national body encourages best practices, permits learning from mistakes or provides minimum requirements for becoming a police officer. As a result, in some jurisdictions officers are well-trained and understand the best practices to follow in, for example, dealing with mentally ill offenders or protest demonstrations. However, in far too many other jurisdictions, police are poorly equipped to grapple with an ever more complex world.¹⁵²

To the problem of policing, we must add the rapid growth of government policies that are invasive of our private lives. The so-called Patriot Act of 2001 went far beyond necessary precautions; moreover, government officials have gone far beyond even what it permitted and encouraged. The revelations by Edward Snowden of the generalized interception of telephone and internet traffic and the use of information technologies to analyze those phone calls and email messages tends to put a damper on freedom of speech. Apologists for these transgressions have argued that if one has not done anything wrong, then one has little or nothing to fear. Yet, there is no doubt that many people would say things in private that they would never say in public. These NSA policies breed fear of government snooping among law-abiding citizens as well as criminals and terrorists. Moreover, knowing that this is taking place, we can be assured that terrorists will find and are already finding other means of communicating – whether by avoiding electronic means, by secure encryption or by using language that would not be seen as threatening by law enforcement authorities.

In addition, if the government is capable of collecting such data to stop terrorism, then why stop there? Why not include all sorts of crimes? Or, for that matter, any form of non-conformist behavior? Moreover, there is great irony in this. The most enthusiastic supporters of widespread

¹⁵¹ Norm Stamper, *Breaking Rank: A Top Cop's Exposé of the Dark Side of American Policing* (New York: Nation Books, 2005). 391

¹⁵² Drake Bennett, "Building a Better Police Department," *BusinessWeek*, December 15 2014.

government surveillance are often the same people who otherwise distrust the government, feeling that a national system of identification cards or limitations on gun ownership could lead to the end of democracy.¹⁵³

Finally, in the name of security, we are now subject to elaborate checks at airport security. These checks are costly in terms of equipment and salaries of TSA employees as well as in terms of passenger time. Yet, there is little or no evidence that this type of routine screening actually has any effect on terrorism. Instead, there is a growing body of evidence that it is utterly ineffective.¹⁵⁴ Even the TSA's own study has shown how it is of little or no value.

In short, as in foreign affairs, in our internal affairs we have endorsed and pursued policies that promote a ramping up of violence, an increase in the use of deadly force and in many places the loss of any form of community.¹⁵⁵ Moreover, much of what we have done has had consequences that are exactly the opposite of those intended.

Security requires that people be secure. But turning all institutions into markets makes many of us insecure. Indeed, it is *designed* to make people insecure. In the name of freedom, individualism and national security, we have created widespread insecurity. As noted above, Roosevelt had it right when he talked of the Four Freedoms. With a few exceptions we have done a reasonable job on freedom of speech and worship, but we have failed miserably with respect to the last two: Want and fear haunt far too many Americans – and unnecessarily so.

In sum, the current definition of national security as merely the maintenance of order both in foreign affairs and in domestic ones has precisely the opposite effect of that claimed for it. It tends to get our nation involved in complex foreign wars and conflicts that increase antipathy for the US and that turn the so-called 'battle for hearts and minds' against us. Similarly, the definition of internal security as the growing use of hyper-policing of certain neighborhoods as well as to suppress popular protests against injustices instills fear into ordinary citizens and creates greater insecurity. Much of what is currently presented as national security is a myth; it is an ill-thought out, poorly executed and dangerous threat to democracy itself.

¹⁵³ Bruce Schneier, "Mission Creep: When Everything Is Terrorism," *The Atlantic*(2013), <http://www.theatlantic.com/politics/archive/2013/07/mission-creep-when-everything-is-terrorism/277844/>.

¹⁵⁴ Among the critics, see: Jeffrey Goldberg, "The Things He Carried," *The Atlantic*, no. 11 (2008), <http://www.theatlantic.com/magazine/archive/2008/11/the-things-he-carried/307057/>.

¹⁵⁵ Some aspects of our internal security policies have had grave consequences for those outside the nation. The War on Drugs has had far more casualties in Latin America, as gangs of drug smugglers have taken over large parts of national territories, than it has in the United States.

All the World's a Stage

It should be apparent to the reader who has come this far that much of the social world in which we find ourselves is performed. Put differently, were it not that we give our tacit – and sometimes explicit – *consent and participation*, many of the things that we take for granted would cease to be, or would at least be quite different. The myths discussed above all work the way they do largely because we collectively consent and participate in enacting them. Shakespeare seems to have vaguely understood this when he wrote in *As You Like It* that

All the world's a stage,
And all the men and women merely players:
They have their exits and their entrances;
And one man in his time plays many parts,
His acts being seven ages.

But Shakespeare did not quite go far enough. For him, men and women are *merely* players, whereas it appears that as we play the parts we also simultaneously make the play. Our language is replete with performative statements: Get your act together! The doctor didn't perform that operation well. Let's evaluate teacher performance. That child was acting out. My new car performs well. These statements are not merely metaphors; they express in words how we behave in innumerable situations.

In most of these performances we perform willingly, with pleasure, perhaps with great enthusiasm. This is the case when fans cheer at a baseball game. It is the case when we praise our children for finding a hidden Easter egg or for learning how to read. It is the case when we achieve great satisfaction from the work we do.

In contrast, in many cases we perform because we feel social pressure to do so. Many of us will consent when friends ask them to join in a drink, even if they would prefer not to. Many of us will dress and act in a certain manner merely to please others, although we ourselves lack that desire. And, as noted above, a very significant portion of Americans perform only sufficiently well at work so as to get by.

However, in some cases we are *obliged* to perform as there are severe penalties to be paid for failing to perform as others expect. For example, in many religious groups, failure to perform according to the script leads to excommunication. Failure to perform according to strictly defined gender roles may bring on unwanted ostracism, physical violence by others and even death. Boys may be called sissies; girls may be called tomboys. Those failing to 'shape up' may find themselves subject to beatings and, as illustrated in the 2000 movie, *Boys Don't Cry*, they may even be raped and murdered.

More important for our purposes in this brief volume, in a few cases, we conclude collectively that we can no longer perform in the conventional manner, but must perform differently. Such action invariably begins by the actions of a few persons who then recruit others in a wide range of ways. Indeed, many of the events of history consist of one or another group rejecting the roles they are expected to play and performing differently. When Americans decided to fight for

independence from Great Britain, they performed differently. When women demanded the right to vote, they performed differently. When Rosa Parks took a seat on the front of the bus, she triggered a movement among African-Americans who demanded to be allowed to perform differently. When Rachel Carson asked about the effects of pesticides on wildlife, she performed differently.

Perhaps one of the most interesting recent places where people are attempting to perform differently is the internet. In particular, and unlike all previous communications technologies, the internet permits *both* broadcasting and narrowcasting by anyone who is able to connect to it. The internet has already given rise to a wide range of new kinds of social groups – everything from people who have the same obscure or common disease to those who share various hobbies, to those who share ‘unusual’ sexual practices. More recently, the internet was implicated in toppling authoritarian governments in Tunisia and Egypt. This is largely the case because – for reasons not always obvious – people often feel that they can perform ‘differently’ on the internet than they would in face to face communication.

This has led to some embarrassing moments as pictures posted to Facebook pages have become publicly available, as offhand remarks made years ago can be dredged up to confront one. It has also led to an ongoing debate between those who wish to eliminate online anonymity and those who wish to preserve it.

On the one hand, anonymity allows the posting of scatological comments thereby ‘defacing’ websites. It also allows deliberate attacks on sites in efforts to shut them down. But, on the other hand, anonymity is extremely important for whistleblowers, political dissidents, and those who otherwise fear some sort of social sanction. It permits them to perform differently with relative impunity. Put differently, the internet can and does serve to loosen the bonds that tend to lock us into particular performances.

But let’s push this a bit further. Consider health care. Good health care requires performances by physicians, nurses, orderlies, pharmaceutical companies, medical equipment manufacturers, and countless others. They, in turn, depend on a stable supply of electricity, clean water, heated and/or air conditioned buildings, waste disposal systems, and so on. And each of these requires that other people and things perform in certain predictable ways as well. In short, the entire process of providing health care to me, to you, or to anyone else requires countless performances – performances that must be consistent, fairly standardized, and yield positive outcomes.

What I just noted above for health care is equally true of education, of food preparation and sale, of automobile manufacture, of just about any and every activity on which each of us depends in order to carry out whatever personal or group plans we might have. Put differently, we depend on the performances of others to bring our own performances into being, to make them happen.

Performing the Economy

The economy requires that we perform as well. Among others, Adam Smith understood this. For Smith, the development of a market society required a particular legal framework and investment in what we would today call infrastructure. Hence, he argued vociferously for laws against monopolies, corporations, and even professional societies. Put differently, Smith understood that certain *common* policies and *shared* goods were necessary to the functioning of a market society. At the same time, he saw the existence of monopolies and corporations as roadblocks on the path to a market society. Moreover, he proposed an active role for the state in providing roads, canals (then an important part of the transport system), and at least basic education for the workforce. Only when all these legal changes and improved infrastructure were in place, he argued, would the economy perform as he claimed.

In fact, strange as it may seem to us today, the very idea of ‘the economy’ is a relatively new invention dating from the mid-20th century. When economist Jan Tinbergen proposed to model business cycles statistically, John Maynard Keynes, hardly a novice with respect to mathematics himself, wrote a devastating review. He noted that, “... the successful application of this method to so enormously complex a problem as the Business Cycle does strike me as a singularly unpromising project in the present state of our knowledge.”¹⁵⁶ The recent crash, despite the claims of many apologists, illustrated how right Keynes was.

Indeed, at about the same time it was not even clear that national economies existed as such. Most economies were relatively local. The USDA Yearbook of Agriculture for 1940 lamented the “lack of coordination among States in their efforts to regulate, resulting in nonuniformity of requirements from State to State.”¹⁵⁷ Hence, many foods were not sold nationally because regulations on trucking, marketing, taxes, grades and standards, and plant and animal quarantines differed from state to state.

Creating national economies also required massive efforts by governments to collect and process statistical data. Indeed, Tinbergen’s efforts, sponsored by the League of Nations, were among the first. Data collection and analysis was spurred on in part by the Great Depression and World War II. Rather arbitrarily, economists decided to assume that national boundaries were also boundaries for economies. Rising national tariffs tended to make this a self-fulfilling prophecy.

It was only with the creation of the General Agreement on Tariffs and Trade (GATT) in 1947 and the World Trade Organization (WTO) in 1995 that a truly global economy began to be performed. Importantly, the WTO is essentially prohibited from considering environmental or labor issues, cultural norms or any other concerns not narrowly defined as economic. As such, the WTO has done much to separate ‘the economy’ from other aspects of social life and to promote it irrespective of its non-economic consequences.

¹⁵⁶ J.M Keynes, "Professor Tinbergen's Method, [Review of] A Method and its Application to Investment Activity. By J. Tinbergen, Geneva: League of Nations, 1939.," *Economic Journal* 49(1939)., 567

¹⁵⁷ E. L. Burtis and F. V. Waugh, "Barriers to Internal Trade in Farm Products," in *The Yearbook of Agriculture, 1940* (Washington, DC: US Department of Agriculture, 1940)., 659

Today, the economy is performed by economists, finance, law and management professionals, but also by statisticians who collect and process vast amounts of government data, generating measures of the 'health' of the economy. They are supported by politicians of all stripes and persuasions who use the economic data so generated (often in a naïve way) to justify various political trajectories. The news media also perform the economy by providing stock prices, unemployment rates, median incomes, and Gross Domestic Product estimates to the general public.

The economy is also performed by politicians and economists (who often advise them) in ways that may foster either individuation or community. Put differently, the burdens for various kinds of goods and services as well as the risks involved may be placed on the shoulders of individuals or shared by (some segment of) the public at large. Clearly, no one would argue that my purchase of an expensive watch should be financed by a public levy; similarly, no one would suggest that each of us build our own roads. Reasonable people can debate as to which goods and services should be supported by the government through taxes and which through individual initiative. But in the last several decades there is no question that, based on the myths of choice and the market, the pendulum has shifted strongly toward making more and more goods and services into individual responsibilities. Table 1 provides a number of examples of the alternatives involved. Note also that most of us have had little or no input into the choice architectures that have been developed, even as we may have many options among which we may choose. Let us examine a few of these alternatives – retirement plans and charter schools – in a bit more detail.

Table 1. Policies to create individuals vs. policies to create communities	
Individuation	Community
Individualized investments for pension plans	Group pension plans
Individual health insurance	Government-guaranteed health insurance for everyone
Charter schools	Public schools
Zero tolerance policies for students	Flexible policies that treat students as both individuals and as social beings
Private individual transportation	Public mass transportation
Classes to promote entrepreneurialism	Civics classes
Trust through certification	Trust through community
Private recreation facilities	Public recreation facilities
Individuated risks	Public protection against dangers
Tuition at public universities financed through individual loans	Tuition at public universities financed through taxes
Individual employment contracts	Union employment contracts
Private security firms	Public policing
Private banks	Credit Unions
Connections through social media	Face to face connections
Narrowcasting	Broadcasting

How retirement funds can be made to create insecurity. Since 1937 Social Security has provided a minimum of retirement security to most Americans. In addition, by 1970 about 42% of employees had a fixed pension guaranteed by their employer. While this was hardly satisfactory to the 58% without such retirement plans, it was a step in the right direction. But since then things have changed dramatically. On the one hand, we now live longer and, as a result of the post-war ‘baby boom’ and lower birth rates, a far greater portion of the population today are at or past retirement age. On the other hand, partly as the result of tax loopholes and partly as a result of greater global competition, large companies are divesting themselves as fast as possible of company-wide pension plans. Municipal governments are doing the same.

As a result, far too many Americans find themselves without a pension – only about 20% have one – or with one that is grossly inadequate. Others have seen a shift to so-called 401k plans. Such plans have several consequences for all of us. Unlike fixed benefit plans of the past as well as Social Security, a 401k puts the decision making about investments firmly in the hands of each employee. Indeed, they are often advertised as giving the plan holder a variety of choices with respect to their investments. Even if our employer contributes, it is up to each of us to make the right investment decisions. 401k plans are transportable from one employer to another unlike conventional fixed benefit pension plans; in a world in which people frequently change jobs, this is quite desirable. However, 401k plans put the risks involved in making investments squarely in the hands of each of us. Moreover, the growth of 401k plans has promoted the advance of a wide range of investment firms; they saw 401k plans as a huge investment opportunity. But perhaps most importantly, 401k plans allow – indeed, often require – that one buy a product whose price, quality and risks are unknown in any meaningful sense. As a result, *Forbes* reports that the total value of an average 401k balance among 65 year olds is estimated by independent experts at \$25,000 and by the retirement planning industry at \$100,000.¹⁵⁸ Even taking the higher value suggests that most cannot afford to retire. Those younger often have little more. So how did this happen?

Let me explain. Nearly every vendor of 401k plans has a wide range of options available. Each of those options depends on the expertise of a person or team whose job it is to invest your money but who lose nothing if they lose it; how good they are at investing is difficult or impossible to determine. Even those who have been successful in the past may have simply been lucky. In addition, even if you wish to quit your current job and become a full-time investor, there is no way to for you to determine which of the literally thousands of investment options might be the best one for you. And, come to think of it, if you quit your current job, that employer would no longer contribute to your plan.

To make matters worse, only a very small number of investment counselors are ‘registered investment advisers’ [sic], that is, persons who are required by law to put your interest first in making investments. The other advisors are generally employees or contractors for the many brokerage and banking firms that handle 401k investments. Quite clearly, they are *at least* as

¹⁵⁸ Edward Siedle, "The Greatest Retirement Crisis in History," *Forbes*(2013), <http://www.forbes.com/sites/edwardsiedle/2013/03/20/the-greatest-retirement-crisis-in-american-history/>.

interested in their own or their firm's fees and investments as they are in yours. In addition, investment firms charge fees for their services which may range from 0.5 to 3.0 or more percent per annum for their services. While this may seem to be a relatively small amount, remember that in a fund whose value is increasing by 6% per year, up to fully half of the returns are going to your investment firm, a firm that takes no risk whatever in investing your hard-earned cash.

Moreover, since many firms set up 401ks to which they contribute, a group of brokers has appeared on the scene. They convince companies to invest with particular brokerage houses or banks. For that service, they also receive a fee – one that usually is subtracted from your pension account. Finally, to add insult to injury, buried in the pages of dry verbiage that accompanies every investment plan may be additional fees – to transfer funds from one account to another, to make withdrawals, and so on. In short, 401k accounts are everything that market orthodoxy tells us a market should *not* be. Pricing, quality and risks taken are at best unclear and often indecipherable. Attempts to correct this by better regulating the market for 401ks have largely failed, thanks to heavy lobbying by the industry. In sum, as presently constituted, 401k plans have taken risks that were once borne *collectively* by large companies and governments and put them on our *individual* shoulders, thereby making our lives more insecure. It is no wonder that so many Americans now find themselves without pensions for their retirements.

The situation is analogous to the California Gold Rush. During the Gold Rush a few miners became fabulously wealthy, some found enough gold to barely compensate for their relocation and living expense, while many others lost money through their participation. In contrast, those manufacturers and retailers of mining equipment did extraordinarily well. They profited on every shovel, miner's hat and axe that they sold. Whether the miner who bought that equipment found any gold was irrelevant.

Similarly, managers of individual retirement funds have done extraordinarily well, charging a small but significant percentage for that management task. At the same time, a few investors have done extraordinarily well, many have completely lost their investments and most have fared little better than they would have if they had been in a fixed benefit retirement plan.

Charter Schools vs. Public Schools. In recent years we have seen a significant growth of what have come to be known as Charter Schools. These schools are supported with public funds but are run independently by either for-profit or non-profit enterprises. The argument for them is twofold: On the one hand, it is argued that poor public schools can be improved through competition. If the students in the Charter School down the road are doing better than those in the local public school, then there will be an incentive for public school administrators and teachers to improve their own performance. Those schools failing to do so will simply cease to exist. On the other hand, it is argued that Charter Schools offer parents greater choice. While the very wealthy have always had the opportunity to send their children to private schools, the rest of us have had to send our children to the local public schools regardless of their quality. Hence, proponents of Charter Schools argue that such institutions offer choices for middle and low income residents. Let us consider each of these claims individually in light of what I have written about competition and choice above.

One of the great proponents of Charter Schools is Bill Gates. Gates appears to be taken in by the orthodox view of the market. In a recent interview he explained his view on education: “When we get into a field, we do take a point of view, and raising controversy is a symptom. Fortunately, there is what’s called the charter school format that lets you try new things. The system is good at shutting down the ones that don’t work and replicating the ones that do.”¹⁵⁹ If we take Gates at his word, for him the best mark of success of a school is not how well its students do later in life, how much they learn or any other such measure. It is whether the school survives in a market competition (because markets ensure that the best quality charter schools flourish while those of poor quality go out of business?). Gates’s claim fails to note that most charter schools are in poor neighborhoods where public schools are underfunded and students are ill-prepared.

Even if Charter Schools accomplished their assigned tasks, in order to have a fair competition, those persons or organizations involved must start from some place of relative equality. For example, one would never pair up the New York Yankees with the Jefferson High School Patriots. Nor would one propose a chess tournament between Garry Kasparov and the kid down the street. In such instances, the winner would be a foregone conclusion.

But having Charter Schools and public schools compete looks all too much like these hypothetical baseball and chess competitions. If I am a parent living in a neighborhood with poor quality schools and a Charter School is formed, I must (1) be highly motivated to do something about the situation, that is, I must know that the public school is of poor quality and seek a better alternative. In addition, (2) I must be able to provide my children with the necessary support when they are at home. This involves not merely providing love and care, but taking an active part in their education, reading to them, ensuring that they are doing their homework and behaving properly in school. Furthermore, (3) I must have the means to send my children to the Charter School, to get them there by myself or to pay others to take them. In contrast, public schools nearly always provide transportation to and from school as part of the school services.

In addition, proponents of Charter Schools as enhancing choice forget a key distinction between market institutions and democratic ones. In markets and market-like situations one is faced with a binary decision: Buy the good or service or do not buy it. But in democratic institutions there is always a third option: One can voice one’s dissatisfaction with the existing state of affairs. Promoting Charter Schools has the (arguably unintended) consequence of providing a means of exit for those parents who might otherwise demand redress for existing concerns. In consequence, the public schools find themselves faced with a growing proportion of students whose parents are unmotivated to improve school quality and who don’t provide support to their children (for many different reasons ranging from poor health to drug abuse to working multiple jobs). They also find declining support for local taxes necessary to maintain quality schools and good teachers.

Furthermore, while there are some exceptions as there are for public schools, *Charter Schools do not live up to their vaunted claims*. The state of Wisconsin has evaluated such institutions for some 25 years and they do no better on average than public schools. The same appears to be true

¹⁵⁹ Brad Stone, "Bill Gates: Philanthropist," *BusinessWeek*, August 12-25 2013.

in Washington, DC.¹⁶⁰ This, however, has had little effect on the enthusiasm devoted them by various politicians.

Put differently, Charter Schools turn collective decisions into individual ones. Instead of asking what *we* want for our children, they ask what *each parent* might want. And, since many parents – especially in poor neighborhoods – are preoccupied with many issues beyond the quality of their children's education, their children suffer the consequences. Importantly, in relatively wealthy school districts Charter Schools have made little headway. The parents of children in these schools generally provide strong support for their children when at home as well as a willingness to pay for and demand strong public schools. To put it bluntly, the overall effect of Charter Schools is to degrade the quality of public education in precisely the places where it is needed most as well as failing to offer a viable alternative.

Moreover, the shift of decisions such as those about pension plans and schools to the shoulders of individuals creates a major problem with respect to trust. We must either trust others or engage in constant checking. Consider the following.

Trust: Certification vs. Community. We each start out in life with an expectation of trust in others. As infants, we trust our mothers to feed us. As children, we assume that our families will care for us, unless by experience we learn otherwise. Of course, such trust may on occasion be misplaced; our parents may abandon or abuse us. Yet, without trust, society is impossible. If each of us feels that we cannot trust anyone else, then society erodes away. Our next door neighbor might be a terrorist. The cashier at the supermarket might be shortchanging me and pocketing the difference. The person who sells me her home may well be concealing severe structural damage. My sister may be plotting to cheat me out of my just inheritance. That person dressed 'funny,' of a different race or ethnic group may well be out to attack me. The list of potential situations in which I might be cheated, robbed or even killed is endless.

Of course, in small societies one rarely runs into this sort of problem. Everyone knows each other relatively well and those who cannot be trusted are often ostracized. But in our contemporary society with huge urban areas and global trade, trust is more difficult to ensure. In recent decades, in an effort to ensure trust, all sorts of certifications and licenses have been created. Not surprisingly, we certify teachers and doctors, since few of us would wish to trust our children to just anyone or to trust just anyone to treat our illnesses. But we can now find people and things certified for just about any product or service. Hence, I can find certified organic foods, certified medical marijuana, certified translators, certified laboratories, certified humane care of animals, certified 'green' buildings, Certified ScrumMasters®, certified professional photographers, even certified fraud examiners. Indeed, a Google search yields an astounding 206 million results for the word certified!

But just what does all this mean? Certification claims to resolve the problem of trust, but it raises the question sometimes attributed to the Roman poet Juvenal: *Quis custodiet ipsos custodes?* Who will guard the guardians? This is not an idle question, since requiring that something or someone be certified demands shifting trust from those who are being certified to those doing the

¹⁶⁰ Economist, "Private Schools: Pro Choice," *The Economist*, February 14 2015.

certifying. The problem of trust is not resolved, but simply shifted from one person or group to another. Moreover, doing so involves the creation of a bureaucracy whose job is to engage in checking.

Of course, this is not to suggest that all forms of certification should be abandoned. If I need surgery, I don't want just anyone operating on me. And, I trust that the licensing of surgeons will ensure a minimum level of competence. Should I desire to go further, I might insist that the surgeon be 'Board certified,' certified by the American Board of Surgery or another board that certifies various surgical specialties. In general, these government licenses and board certifications serve to weed out those who are incompetent or even fraudulent. But that only works because we collectively have great trust in the governmental and private organizations doing the certification.

Despite this, there is a paradox in certifications: The very act of certification suggests that we cannot trust the persons or things certified. After all, we need someone else to check on them to see that they are doing their job. But in order to do that, we need to trust the person or persons doing the certifying. Of course, we could get someone or some organization to certify those doing the certifying, but then we must trust those persons. Clearly, we cannot do this *ad infinitum*, nor can we check on everyone and everything ourselves. At some point we are forced to trust.

Yet, there is an alternative means of inducing trust. It is often referred to as community. Families promote community, trusting members of the family to engage in certain activities and not to engage in others. Sports teams promote community by engaging in group activities designed to create interpersonal bonds. The military promotes community, trusting each member of the armed forces to support the actions of others – both superiors and equals – in the military hierarchy. Schools and colleges promote community by encouraging students and faculty to act as part of a community. Street gangs promote community by demanding that recruits engage in certain (often illegal) activities to demonstrate their commitment to the gang. Governments promote community by establishing rituals and encouraging everyone to take part – singing the national anthem, pledging allegiance to the flag. Large work organizations promote community through company-wide activities such as picnics, sports teams and the like. Even thieves promote community as necessary to work together and accomplish their shared (although illegal) goals.

At the extreme, something resembling community may well be coerced. Those failing to perform properly may be ostracized or worse. Tyrannical regimes work very hard to build (what is ultimately a false sense of) community by staging endless parades, plastering the nation with signs promoting the state and imprisoning those who fail to obey. In short, both certification and community have their limits. Taken to the extreme, certifications undermine trust, creating a society in which credentials count for everything. Similarly, taken to the extreme community undermines trust, replacing it with conformity to the orders of those in charge.

Today, in our understandable efforts to avoid the horrors of authoritarian regimes that artificially impose a semblance of community on everyone and establish severe penalties for those who dare

violate the norms imposed, we have gone to the opposite extreme, attempting to promote trust through certification in a vast array of activities.

In sum, in our attempt to perform the market economy in such a manner that everyone is treated as an atomized, fully autonomous individual, we have succeeded all too well. As a result we have replaced trust in many areas of social life by endless auditing, checking, certifying and accrediting. Our enthusiasm for markets has led to the proliferation of bureaucracies. So where do we go from here? One model for the future is Detroit.

Detroit: Model City?

It is an open secret that Detroit is the most neglected large city in the United States. The population has declined from a peak of 1.5 million in 1950 to about 730,000 today, as both Black and (especially) white residents with the means to do so have walked away. Poverty and unemployment are rampant. City services are in decline. Crime rates remain extraordinarily high. The police force has been cut such that protection is often weak to non-existent. As a result, murder rates are among the highest in the nation and less violent crimes abound. The fire department performs only minimally due to cuts in funding. Street lights are often out of service, leaving large areas of the city darkened. Potholes in the city's streets abound. Many parks are unkempt wastelands no one wishes to enter. Supermarkets are few and far between, with prices often higher than those found in the suburbs. Library services have been cut. The schools are among the worst in the nation. An all too large portion of Detroit's youth never finish high school and abandon any hope of upward mobility beyond criminal activity.¹⁶¹ Many residents live in homes without water or heat as they find themselves unable to pay for it.

Public transit is poor, thanks in part to the automobile culture that dominated Detroit for more than half a century, and to insufficient funds to maintain even the rather limited bus service in the city. Residents report waiting hours for buses that are rarely on schedule. The railway station remains only as a huge broken down hulk with a barbed wire topped fence around it. Whole residential neighborhoods have been abandoned, while others contain block after block of abandoned factories contaminated by industrial waste. It is estimated that 30% of the city's buildings – more than 78,000 of them – are no longer occupied. The city government just 'celebrated' the demolition of 10,000 abandoned and dilapidated homes. Those who have the wherewithal have simply packed up and moved away, leaving behind only the poor, the aged and those whose lives are otherwise bound to the city.

This is not to say that there is only poverty in the Detroit metropolitan area. To the contrary, the Detroit suburbs – a profusion of governments that are protected by law from annexation by the city of Detroit – include some of the wealthiest in the United States. The downtown area remains largely viable, but nearly all who work there live outside the city. Thus Detroit is among the most economically and racially segregated of metropolitan areas.

In short, Detroit is a model for one possible future for the United States and possibly other nations as well. We can surely do better than that.

¹⁶¹ Among wealthier nations, the US has the tragic distinction of having both higher levels of inequality and low upward mobility across generations. In other words, if you are born poor in nations such as France, Germany, Canada or Japan, among other nations, you have a much greater chance of improving your financial situation than you do in the US. See: Brendan Greeley, "How Inequality Became a Household Word," *BusinessWeek*, December 16-22 2013.

Securing America's Future

As is the case with all societies, in addition to a set of core values, we have a set of myths that serve to guide our behavior. But over the last several decades these myths have worn thin. Although people continue to recite them, the world has shifted such that they are real only in their consequences. In the name of these myths, we have created a society in which more and more wealth and income is concentrated at the top, in which the world's 85 richest people own as much as the bottom half of the world's population. We have created a society in which wages for most of us are stagnant or declining despite rises in productivity. Indeed, between 1973 and 2014 net productivity rose by an impressive 72.2%; in contrast, wages rose a mere 8.7%.¹⁶² Yet, at the same time, we have created a society in which most of us find ourselves subjected to more and more frequent and complex audits, to a creeping authoritarianism in the name of efficiency and compliance, to a world in which a New Taylorism prevails. We have created a world in which power and authority are ever more concentrated, in which an ever growing range of actions are gauged largely based on their monetary value. Indeed, we have a global society in which monetary values trump all others. As a consequence of these myths people are pressured to act in certain ways and not others. These myths are used to justify the belief that one gets a larger share of the pie solely by dint of hard work, lifestyle choices and stick-to-itiveness. Recitation of the myths justifies what would otherwise be unjustifiable. And, all of this we are told is to produce the 'good society,' to bring us untold wealth and freedom, to enhance our quality of life. Clearly the time has come to challenge these myths, to ask how society might be performed otherwise and, thereby, to secure our future.

But we can hardly simply reject the myths described above. We need to modify them. Myths are only problematic when we mistakenly believe that we can apply them to any and all situations, when we attempt to use them rubber stamp-like to resolve every problem that comes along. We need markets, competition, freedoms *to*, individuality, entrepreneurship, transparency, science and technology, choice, growth, modest government, and national security. But we need to perform them differently, to adapt them to current needs and conditions. Moreover, as citizens of a democracy, albeit a fragmented and even fragile one, we have the means at our disposal to perform differently, to modify the scripts and to change the players.

Changing the ways in which we collectively perform the world is not an easy task, but it must include the four major means noted above through which we organize our collective and individual performances: through (1) customary practices (referred to variously as norms, traditions, practices, manners, or mores), (2) formal standards (created by private and non-profit organizations), (3) laws (created by various governments), and (4) through technical means (technologies and technological systems). These are, if you wish, the scripts that define the actors, the actions, the entrances and exits, the performative infrastructure that *simultaneously* allows us to act freely and limits our actions to certain pathways.

¹⁶² Josh Bivens and Lawrence Mishel, "Understanding the Historic Divergence between Productivity and a Typical Worker's Pay," in *EPI Briefing Paper* (Washington, DC: Economic Policy Institute, 2015).

If that is the case, then even as we need to discuss specific laws, customs, standards or technologies, we need to go beyond them to re-examine and modify the *performative infrastructures* we inhabit. Centuries of failed revolutions show that this cannot be done by somehow demolishing the old infrastructure and building a new one in its place. For example, the Russian revolution merely replaced the Tsar with an equally autocratic regime. Attempting to do this – as is implied in the term ‘revolution’ – tends to come full circle as those who replace the old guard begin to resemble those they have replaced. In contrast, the American Revolution is best understood as a war of independence. It did not involve radically changing the laws and traditions that existed before the revolution, but rather re-creating them free from long-distance interference from Britain.

That said, I hardly expect that the long list of changes proposed below could be rapidly adopted. However, I would argue that there are groups of one sort or another pursuing each of these changes. What is missing is any link among them. When they are linked, networked together, they produce an integrated image of a better, more democratic, more just, more secure future in which life, liberty and the pursuit of a wide range of individual and collective life goals are reinvented. Moreover, we must begin with the issues facing us today, issues which can only be addressed by challenging, modifying and even abandoning some of our current myths.

Issues facing us today

Our often blind pursuance of the myths described above have left us faced with a number of pressing problems. We are now reconstructing nature on an unparalleled scale. Whereas just a few generations ago our forefathers built fences to keep nature out of society, we now need to build fences to keep us out of nature. Everywhere on the surface of the planet evidence of human activities can be found – from airborne pollutants to toxic waste dumps to eroded soils. Species loss – from microorganisms to large mammals – is on the rise. Many sites are no longer inhabitable, at least by we humans.

The nature we have now is not that of our ancestors. It is one that is in large part constructed by us. As little as two centuries ago our power to transform nature was relatively limited; moreover, our numbers were small enough that our disruptions of cyclical natural processes were compensated for by the natural world. But today the nature that we know is to an unprecedented extent constructed by us. Consider that if you are a typical American, your life depends on complex socio-technical systems of which you are only vaguely aware. You likely have dependable electricity, water and gas at your home. The car that you use to get to work burns gasoline produced from petroleum products sourced worldwide. Your home contains a wide range of human-made products – from plastic bags to floor tiles to insulation to light fixtures. The road you take to work is likely paved. Nearly all the food you eat is bought in a supermarket, after being transported a considerable distance to arrive there. Even farmers who produce that food are rarely self-sufficient in food products. And, the day that you spend at a local or state park is made possible by regular maintenance, planting of trees, mowing lawns, installing picnic tables and otherwise making those ‘natural’ places available for your enjoyment. Even if you are a hunter, you are dependent on manufacturing plants for guns and ammunition, and on governments for protecting against encroachments into the lands on which you hunt. This is the

human-built infrastructure in which we find ourselves. We are dependent on it for food, clothing and shelter as well as for innumerable other services.

All of this requires not merely *physical* infrastructure but *social* infrastructure. Whereas our ancestors lived in small villages in which everyone knew each other, we now live in a world in which it is impossible to know everyone who contributes to our physical and social well-being. Scale requires that we have large governmental infrastructures, that we have complex networks of people and things spread over much of the planet. We need social infrastructures that allow us to act collectively as well as to resolve disputes. These infrastructures are often harder to build than are physical infrastructures, in part because they are largely invisible. Hence, child labor, sweatshop conditions, even slavery *next door* is obvious, while it is often invisible halfway around the world. In short, what our not so remote ancestors did for themselves, we now have others do for us – others we do not know and will likely never meet.

However, this infrastructure comes at a cost, a cost the value of which we are only now coming to appreciate. First, it must be maintained. Roads, schools, homes, hospitals, farms, retail stores, vehicles and more must be maintained. As population expands, so infrastructure must be expanded. Furthermore, as we build and rebuild this infrastructure we create various waste streams that disrupt natural processes. And, the social infrastructure must also be maintained by formal and informal education, (re)organizing socio-technical networks of all sorts in light of changes in the natural and social environment. We must either radically reduce our level of living or consider more carefully how we consume and what wastes we produce.

The reconstruction of nature has led to a wide range of issues. They include climate change, water shortages, flood damage, rising energy costs and widespread obesity. To this must be added the potential for yet another financial crisis.¹⁶³ These problems cannot be 'solved' like most problems in mathematics or engineering. They transcend the boundaries of disciplines, professions and occupations, such that we can only move iteratively towards improvements. Moreover, since their causes and consequences are varied, no discipline, profession or occupation is sufficiently broad in scope to deal with the technical, political, economic, social and ethical facets of each of them. Grappling with them requires technical expertise, but it requires much more than that. Let us briefly examine each of them.

Climate Change. Evidence of climate change is now overwhelming. Nearly all scientists around the world agree that climate change is already happening. Most point to human activities, especially the production of so-called greenhouse gases as the primary cause. It consists not only in a global rise in average temperatures, but in increasing variation in weather patterns. Both are already wreaking havoc. Sea levels are rising. The Greenland and Antarctic ice caps are melting. California faces unprecedented droughts. Erratic Midwestern weather patterns have produced near total losses for farmers in some years and bonanza crops in others. Coastal cities, such as New Orleans and New York which have already experienced extraordinary damage from

¹⁶³ As numerous commentators have suggested, the major problems that contributed to the financial crisis have been swept under the rug, returning as quickly as possible to the status quo. See, for example, William D. Cohan, "Wall Street Rises Again," *The Atlantic*, <http://www.theatlantic.com>.

hurricanes, are beginning to realize that low-lying areas are increasingly vulnerable to flooding. Miami is already experiencing regular tidal flooding; officials there recognize the need for new infrastructure. But even if we act immediately, sea levels will continue to rise and the weather will become more erratic.

Water shortages. Another effect of the reconstruction of nature is water shortages. For example, the central valley of California uses so much water for agricultural production that the Colorado River never reaches the sea. Moreover, the water used for agriculture is sold at much lower prices than that used for urban consumption. Prices are so low that there is little or no incentive to use water-saving means of irrigation; the irrigation canals are uncovered such that evaporation is substantial and irrigation is performed by flooding the fields. This results in considerable land being used for crops such as cotton and rice, rather than higher value perennials such as fruit trees and nuts or intensive vegetable production. Similarly, farmers on the dry plains are using fossil groundwater from the Ogallala aquifer for pivot irrigation, not so gradually depleting those water supplies.

The situation in urban areas is often little better as lawns are irrigated with purified water, as plumbing fixtures use far more water than is necessary. California has put some restrictions on urban water use, but most other states are far behind. Water for drinking, for agriculture and for industrial use is in increasingly short supply. So serious are water shortages that some have actually proposed turning the Yukon River around such that it flows south or drawing water from the Great Lakes to feed the dry prairies.

And, what is true in the US is equally true in much of the rest of the world for whom we depend for much of our food and who also need to feed themselves. There is a potential for water wars along the world's major rivers – the Nile, the Mekong, the Tigris, the Jordan – as various nations claim it and as various constituencies – urban dwellers, farmers and industrial users – compete for it. In addition, as the climate changes it is likely that rain water will be distributed differently, although it is as yet unclear just how this will play out. Nevertheless, the successful resolution of these water scarcities will require cooperative collective action by communities, assets that have been markedly eroded by our current obsession with markets and competitions.

Energy. It should come as no surprise to anyone that energy prices rose over the last several decades and then fell abruptly as a result of a slowdown in the Chinese economy and Saudi attempts to push new producers out of the market. Ironically, both high and low priced fossil energy pose problems. The current drop in oil prices, although likely temporary, encourages greater use of highly polluting energy sources even as it discourages the search for viable alternatives. Furthermore, globally energy is subsidized in numerous ways ranging from direct support for low consumer prices to failure to consider the environmental damage attributable to overuse.¹⁶⁴ Yet, over the medium to long term, growth in consumption in China, India, Brazil and elsewhere is likely to push prices higher and/or increase air pollution. Unless major investments are made in energy conservation in homes, in industries and on farms as well as the

¹⁶⁴ David Coady et al., "How Large Are Global Energy Subsidies?," (Washington, DC: International Monetary Fund, 2015).

development of new forms of energy – wind, solar, wave, tidal power and perhaps others – we will find it impossible to continue to enjoy much of the infrastructure described above.

Obesity. One consequence of the ways in which we have developed the socio-technical infrastructures of our society (as well as a growing portion of the rest of the world) is leading us to widespread obesity – even in the face of hunger. Among the causes are the discovery among researchers at large processed food companies and fast food restaurants is that we respond very favorably to fats, salt and sugar. Put differently, fat, salt and sugar sell processed foods. A century or more ago, when most of us were engaged in manual labor, the energy in such foods would have been worked off during the day. However, the combination of an increase in the availability of high sugar, high fat and high salt foods as well as our more sedentary lifestyles (in part the result of reduced manual labor, but also of the building of auto-friendly cities) has dramatically increased levels of obesity in the US and elsewhere. Such obesity is particularly profound in its effects on the poor, as the infrastructures of food distribution are such that processed foods are often much cheaper than unprocessed ones. Hence, there is considerable monetary disincentive to healthy food consumption.

Financial crises. Despite assurances from a wide range of economists, statisticians and government officials that markets are self-correcting, George W. Bush presided over the worst economic collapse since the Great Depression. Banks and insurance companies that were too big to fail did so and required massive government bailouts. We are still living with the consequences of that near collapse.

Although considerable effort has been spent on rewriting the legal frameworks in which banks operate, the banks and other financial institutions have pushed back. They have contributed massive sums of money to the campaigns of both parties and have ensured that the resulting legislation was watered down. Moreover, the very large banks remain too large to fail. This means that they have the implicit backing of the government, allowing them to grow even larger. Furthermore, whereas financial institutions were once the servants of industry and commerce, today commerce and industry are their servants. Put differently, financial institutions once served primarily to help to finance large projects – industrial infrastructure, new homes, hospitals, roads and bridges, among others. Such projects not only benefit the financial institutions, but those who borrow money from them.¹⁶⁵

But today, such institutions have become far more interested in making money by engaging in non-productive activities. For example, such institutions now regularly engage in automated buying and selling on commodities and currency markets. They have even moved their computers closer to those markets so as to take advantage of milliseconds that would otherwise be lost in the transmission lines. None of these trades brings in colossal sums of money; each might bring in as little as a 0.0001% return on investment. But the principal involved is enormous and the same funds might be turned over numerous times in a single day. It is impossible for you and me to play in this sandbox, since we have neither the enormous sums of money required nor the computers and specialized, secret algorithms used in trading. Moreover,

¹⁶⁵ In medieval times charging interest was regarded as usury since nearly all borrowing was against future consumption. Today, we almost always borrow against future production.

such trading is utterly non-productive. It in no way contributes to the common good; it only further lines the pockets of the ultra-rich.

To this must be added the fact that such trading has the potential to subject us all to further economic insecurity. Indeed, there have already been several huge drops in various prices as a result of flaws in these algorithms. Essentially, an erroneous ‘sell’ signal triggers a massive selloff, nearly collapsing a market solely because of a mathematical flaw in the program.

Moreover, the rise of this new form of finance has led to the ‘financialization’ of everything. In the not too distant past, financial instruments were a small portion of our economic activities. Essentially, only the wealthy depended on them. But today, the leverage of financial institutions over, agriculture, manufacturing and commerce including the interlocking directorates noted above, has become the determining factor in investment decisions. More and more, everything exchanged is transformed into financial instruments. More and more, profits are made through financial instruments and the non-trivial fees charged for creating those instruments, not through other forms of commerce or production activities. Remember the collapse of the housing market? It was the result of the creation of mortgage backed securities – securities that were literally too good to be true. The government bailouts of these institutions merely increased their dominance in contemporary society.

The dominance of financial institutions has also radically increased the debt of individuals, corporations and governments, concentrating capital more and more in the hands of a few. Lower taxes on capital gains than those on earned income, tax havens of all sorts, lowered estate taxes and inadequate funding of the Internal Revenue Service (resulting in non-collection of as much as \$365 billion per year),¹⁶⁶ as well as making filing returns more difficult,¹⁶⁷ have only further promoted that concentration of wealth. And, all of this, justified by the myths described above, has further deflected attention from the consequences of the reconstruction of nature, from the real needs and desires of the population as a whole.

Rethinking and re-enacting our myths

Given the range of complex, interwoven issues facing us today, we need to engage in a rethinking and a re-enacting of many of the myths that have guided us in the past. All of these promise greater security and freedom in our daily lives. But blindly pursuing them is undermining our collective and individual security. If we are to build for ourselves and our children a more secure future, we need to modify, to reexamine, to go beyond these myths, reinventing ourselves and performing our world differently. We must strengthen democracy if we are to preserve it, improve it and use it to enhance our collective security. We must expand democracy beyond what has been narrowly defined as the political. We need to expand it to both the workplace and to the design and implementation of new technologies. Otherwise, we will

¹⁶⁶ Government Accountability Office, "Federal Tax Debts: Factors for Considering a Proposal to Report Tax Debts to Credit Bureaus," (Washington, DC: Government Accountability Office, 2012).

¹⁶⁷ BusinessWeek, "Why Filing Tax Returns Is Going to Be Tougher," *Bloomberg BusinessWeek* 4412(2015).

continue to see the growth of authoritarian forms of governance that undermine our security. We must build a more just society by reforming our criminal justice system; none of us can be secure if justice is capricious. And, we must redefine and re-enact our means for protecting ourselves against internal and external threats to our security. Only by so doing can we secure America's future. Let us examine each of these challenges in more detail.

Strengthening democracy

The governor of New York State and losing presidential candidate in the 1928 election, Alfred E. Smith, once remarked that "All the ills of democracy can be cured by more democracy."¹⁶⁸ Smith may have exaggerated in his enthusiasm, but he did strike the right chord. We must strengthen democracy by improving the representative democracy we already have. We must also find means whereby we can create, invent and perform other modes of democracy in addition to the representative sort. This involves (1) increasing the opportunities for meaningful participation in governing, (2) removing impediments that block persons from participating, (3) educating citizens for participation, and (4) ending corporate welfare and crony capitalism.

This might entail constitutional changes so as to enhance democracy and to reduce undue influence that special, usually moneyed, interests have. These interests currently dominate the political scene, through the so-called Super PACs, through huge donations by special interests of all sorts to candidates for public office, and through the passage of legislation that specifically provides monetary benefits to those who lobby for it. I propose the following constitutional amendments:

- Eliminate the Electoral College. The Electoral College was established by the founders because many of them were afraid of genuine democracy. In addition to occasionally allowing a candidate who did not receive the majority of the popular vote to become president, the Electoral College distorts campaigning, since strategists must focus not only on the popular vote, but on the electoral vote.
- Require that Congressional District boundaries be drawn by non-partisan commissions similar to those used in Arizona, California and Iowa. Currently, relatively few Congressional seats are actually contested. Most districts are drawn so as to ensure that one party or another will win the Congressional election. Living in such a district, as most of us do, means that our Congressional vote is essentially meaningless.¹⁶⁹ This could be easily fixed by a constitutional amendment or amendments to individual state constitutions that would make gerrymandering impossible.
- Stop treating corporations like natural persons by passing an appropriate constitutional amendment. Currently, corporations are granted rights that in the past would have applied

¹⁶⁸ Alfred E. Smith, "Formal Addresses of Lehman, Smith, Root and Wadsworth at Repeal Convention," *New York Times*, June 28 1933.

¹⁶⁹ The Economist recently compared turnover among members of the House to turnover among European monarchs and found the latter more common! See Economist, "The Royals of Capitol Hill," *The Economist*, July 19 2014.

only to persons. But since corporations are entirely the result of legal structures enacted to make them possible, they in no sense deserve such rights. A constitutional amendment on corporations might also require that all US-based corporations be chartered by the federal government, thereby ending the shopping for the state with the most lax laws as commonly engaged in by corporations. It might also change the rules for incorporation such that shareholders share seats on the board with labor and community leaders who are elected to serve in that capacity. Given that shareholders often have little or no say over corporate decisions that are made by top managers (sometimes with some help from a few large shareholders), broadening the composition of the board would enhance everyone's share in corporate governance.

- The recent Supreme Court decision in *Citizens United v. the Federal Election Commission* conflates money with speech. It allows corporations and the very wealthy¹⁷⁰ unlimited access to politicians. Large donors are thereby permitted to buy politicians' votes on issues of concern to them as well as to influence unduly who is elected to public office. The consequences include the exclusion of most others from significant influence over governments at the state, national, and sometimes even local levels. It also serves to weaken legislation that limits corporate power.
- Make senatorial seats proportional. When the US was constituted in the late 18th century, each state was seen as a nation-state that agreed to become part of these United States of America. When states were prohibited from leaving the union resulting in the Civil War, the notion of each state as a separate nation ended. Today, it is a real myth. Hence, currently Wyoming with a total of half a million residents has the same number of senators as does California, with a population of over 38 million persons. What this means is that a voter in Wyoming has more than 75 times as much influence on federal legislation as does a California voter. We can still maintain a federal system without maintaining the fiction that states are separate entities.
- Give the District of Columbia, the Commonwealth of Puerto Rico and the various US territories seats in Congress proportional to their population. It may have made sense to exclude the District when the constitution was initially written, but today it simply means that residents of the district have no real voice in Congress. As is written on the license plates for the District, it is taxation without representation. The same applies to Puerto Rico and the territories. This goes against our fundamental belief in democracy.

In addition, numerous changes could be accomplished through legislation. We could:

- Expand the number of representatives to reflect the growing US population. Since 1911, when Congress passed the Apportionment Act, the number of representatives has

¹⁷⁰ A recent study of the top 1% of wealth holders finds that such persons are extremely active politically, but have views sharply at odds with most other Americans. The study finds that this is even more true of the top 0.1% of Americans, with a net worth of \$40 million or more. See Benjamin I. Page, Larry M. Bartels, and Jason Seawright, "Democracy and the Policy Preferences of Wealthy Americans," *Perspectives on Politics* 11, no. 1 (2013).

remained fixed at 435. Thus, although the US population more than tripled over the last century, the number of representatives has remained essentially the same. This means that each member of Congress represents far more people today – about 700,000 people – than was the case in the past. It also means that the chances of you making your concerns known to a member of Congress – unless you are a wealthy donor – are far smaller than in the past. A larger Congress would increase citizens' access to members as well as increase the diversity of persons and views represented in the House.¹⁷¹

- Enforce anti-trust laws – size does matter. For much of the last half century anti-trust enforcement has been based not on the size of a given firm and its market share, but on whether that firm restricts competition resulting in higher prices for buyers. This neglects the fact that very large firms – even those that offer low prices to consumers -- (1) create artificial and cutthroat competition among their suppliers, (2) benefit from easier access to both federal legislators and regulators, (3) have resources that dwarf those of local or even state governments,¹⁷² (4) have the ability to rig markets to their advantage, and (5) are simply 'too big to fail.' This is particularly true of large banks. Despite the financial meltdown of 2007, as of June 30, 2013 the 12 largest US banks controlled more than \$12 trillion or 69% of total assets.¹⁷³ Three-fourths of those assets – more than \$9 trillion – are controlled by just six banks: JP Morgan Chase, Bank of America, Citigroup, Wells Fargo, Goldman Sachs and Morgan Stanley. This concentration of power has allowed them to pay their managers handsome salaries in the face of poor returns, to limit the ability of government to regulate them, and to receive what amounts to a subsidy from government since they are simply too big to fail. We need to rewrite the anti-trust laws in a manner that puts size as well as competition back in place.
- Ban companies that do business with the government from lobbying activities in support of that business. Even if we were to decide tomorrow that the federal government would no longer outsource most services, there would still be a wide range of things that would continue to be purchased by the government. This includes everything from toilet paper to automobiles, from telephone services to copy machine maintenance. Given the conflict of interest involved in companies lobbying to increase their revenues, that practice should be banned. It might be done either by legislation or by incorporating that requirement into all government contracts.
- Recognize that under globalization there are virtually no *large domestic* corporations and regulate them (as international businesses?) accordingly. We have no need to spend billions to subsidize their adventures overseas.

¹⁷¹ It would also make it much more difficult and expensive to buy elections.

¹⁷² Wal-Mart's annual revenues of \$475 billion are larger than the GDP of all but 27 nations.

¹⁷³ National Information Center, "Top 50 Holding Companies," Federal Reserve System, <http://www.ffiec.gov/nicpubweb/nicweb/Top50Form.aspx>; Richard W. Fisher, "Ending 'Too Big to Fail': A Proposal for Reform Before It's Too Late" Federal Reserve Bank of Dallas, <http://www.dallasfed.org/news/speeches/fisher/2013/fs130116.cfm>.

- Improve corporate governance by banning interlocking directorates. Currently, far too many large corporations have directors who are also directors of other companies – companies that have a conflict of interest over corporate policies. Banning interlocking directorates would improve corporate governance.
- Reduce the number of levels of government. In many parts of the country there are many overlapping governments with complex and often competing rules of interaction with other governments. One egregious example is the Detroit metropolitan area. It contains about 300 governments, each largely autonomous from the others. This vastly increases the cost (and often reduces the effectiveness) of a wide range of government services from libraries to policing to fire protection to trash collecting to road maintenance.
- Whenever possible make government programs applicable to all citizens so as to avoid stigmatizing the poor.
- Cease blaming teachers for poor school performance on national tests. Ensure that schools in poor districts secure extra support such that equal opportunity is more than a convenient buzzword.
- Reduce and eventually eliminate all tuition and fees for public undergraduate education so that everyone who desires and is able to engage in higher education can do so without incurring colossal debts and can determine just what kind of career best suits their interests.
- Encourage voting by making Election Day a national holiday, by making it possible to register on the day of voting and by expanding voting by mail. Consider making voting mandatory as is the case in 22 other nations including Australia and Brazil. Doing so would end the problems associated with voter registration and ensure that candidates elected better reflected the views of constituents, thereby increasing political legitimacy of elected governments and eliminating the problem of so-called voter fraud.
- Provide elementary and secondary students with education for citizenship, incorporating an understanding of both the mechanisms by which government works as well as the ability to develop a healthy criticism of the process.

But while enacting the proposals above would strengthen democracy considerably, they do not expand its scope. Moreover, given the ways in which our world has been transformed over the last century, we also need to consider how democracy might be expanded.

Expanding democracy

When the republic was established, democracy, such as it was, was rather limited. Only white, male property owners could vote. A rather significant portion of the population were slaves. Women were generally dependent entirely on their husbands and fathers, their personhood only weakly acknowledged if at all. Even white male voting was restricted such that Senators were chosen by state legislatures. And, actually participating in the practices of governing was

deliberately limited since many of the founders were actually skeptical of democracy, fearing mob rule.

In addition, from its inception American democracy has been confined nearly entirely to a realm narrowly defined as the political. Thus, laws might be passed governing trade, slavery, marriage and defense, but for the most part workplace conditions and technological innovations were governed based on property relations where property rights trumped civil and human rights, not along democratic lines. Only much later were workplace conditions addressed with wage and hour laws as well as those prohibiting child labor. Similarly, a few limits were placed on technologies. For example, after many deaths resulting from boiler explosions, an 1852 law required steamship boilers to be inspected, to be made of appropriate materials and to have escape valves on their boilers. Half a century later, regulation of foods and drugs was introduced, banning harmful technologies from sale. And, later, a variety of other regulations were introduced to ensure auto and air safety. But none of these affected the organization of the workplace. It was assumed that large corporations would operate much as small mom-and-pop businesses, in which the owners would make all the important decisions. These practices continue today.

Hence, as citizens we are (usually) free to voice our concerns to both elected officials and civil servants. As citizens we are free to use our wages to purchase those items for sale in the cathedrals of commerce. But we are not free to participate *directly* in the affairs of government. Furthermore, as soon as we enter the workplace or grapple with a new technology, we are told to hold our tongues; we can only be silent or leave the situation in which we find ourselves. And, for most of us, leaving has more than a few negative consequences. This promotes obedience to authority, stifles much innovation and allows large corporations to run roughshod over those who work for them. Indeed, the increase in auditing across all workplaces – what I have called the New Taylorism – has increased the autocratic character of work organizations and, as noted above, contributed to the widespread lack of engagement in work. We need to expand democracy by moving beyond annual voting as well as by bringing it to both the workplace and to technology design. Here is how we might go about doing that:

Democracy beyond voting.

Over the last several centuries, thousands of Americans have fought for the right to vote. Whereas women and most African-Americans did not have the vote a century ago, most have it today, recent attempts to restrict voting by claiming to protect against largely non-existent voter fraud notwithstanding. But while voting is a necessary condition for democracy, it is an insufficient one. While for the nation as a whole direct democracy is likely impossible, other options are possible and should be pursued. These include:

- Making greater use of ballot initiatives. Some states already allow ballot initiatives, but most do not. Most cities and the federal government do not allow them as well. Yet, ballot initiatives are a means of putting particularly salient issues before voters. Of course, such initiatives require an educated electorate that can debate the pros and cons of a given initiative, but this is all the more reason why we need to ensure that we have such

an electorate.¹⁷⁴ Further reducing the length of the work week and eliminating tuition would make such educational opportunities more widely available.

- Making greater use of and improving town meeting democracy. The New England area is one of the few places in the United States where such approaches are common. Yet, not surprisingly, busy people often do not wish to sit through lengthy meetings before they arrive at the issue that is of concern to them. However, with the development of the internet, much or all discussion could be accomplished electronically. (Ensuring that everyone has internet access would further democratize the process.) Town meetings could also be accompanied by making ballots available to those unable to attend. By extending town meeting democracy to the rest of the nation and improving it, democracy could be expanded.
- Experiment with neighborhood councils so as to promote greater citizen participation in governance. For example, Los Angeles has a city Department of Neighborhood Councils that provides resources to promote the formation of such councils. Councils include residents, businesses and property owners and focus on issues they consider to be of greatest importance in a given neighborhood. Unlike citywide government, councils have great flexibility in their size and scope, depending on the needs and concerns of the community.
- Explore stakeholder democracy. Let me explain: By stakeholder democracy, I mean that not every issue involves everyone equally. Hence, for some issues – which ones must be decided democratically – one might let those most affected make the decisions. For example, if there are three parks serving about the same number of people in three different neighborhoods in need of renovation, those in the affected neighborhoods might be given a voice as to how the funds should be spent. The same approach could be applied to a variety of government services.

Democracy in the workplace.

While generally not the case for mom and pop businesses, large corporations often resemble nation-states. They have human relations departments that determine who shall be a ‘citizen’ of the corporation. They reward those persons who best embody corporate ideals while punishing those that do not – firing (banishing) reserved for those deemed incorrigible. They maintain order by having security guards. They provide various services for their employees ranging from health care to a company cafeteria to recreation facilities to vehicles to, in some cases, providing housing. They operate an internal mail and telephone service. They censor employees by prohibiting activities that might show the company in a bad light, much as some autocratic nation-states do. Put differently, while we value democratic decision making in society at large, we are all too willing to leave our democratic values at the door when we work for a large corporation. Yet, nowhere is it written in stone that corporations must be autocratic entities. Indeed, we can and must make our workplaces more democratic.

Implementing workplace democracy is not to suggest that all workplace decisions need be decided on the basis of one person-one vote, although that may be appropriate for certain

¹⁷⁴ The expansion of ballot initiatives must also be accompanied by limits on large contributions to ballot campaigns. Ballot initiatives, much like elections, can also be bought.

'constitutional' decisions. Instead, it involves much more in the way of direct democracy in which most decisions are made by consensus. Clearly, such workplaces would be much more egalitarian than contemporary workplaces. They would also reorganize the current roles played by unions. Instead of being adversaries protecting workers through promulgation of detailed rules for working, unions would become actively involved in ensuring the success of the firm as well as in debating and ultimately justifying levels of wages and benefits of all employees.

As unlike contemporary firms as this may sound, there are already precedents for democratic forms of workplace organization. Many companies have already adopted so-called 'flat organizational structures.' Such organizations appear to have higher productivity as well as, more importantly, more engagement and satisfaction with work. Other companies are already democratic, organized as worker cooperatives. At least one firm, WorldBlu, helps companies to make this transition and has about 100 clients.¹⁷⁵ Of course, no single form of democratic governance can be expected to work in all instances; exploration of alternative models is highly desirable.

So how might we get started? Here are some possibilities:

- Represent workers and communities on boards of large companies. By virtue of their size, large companies have an enormous influence on local communities and on the workers they employ. Yet, we cling to the fiction that shareholders are only ones who are affected by corporate actions. In some nations such as Germany, worker and community representation on boards of directors is mandated by law. The US needs similar laws to ensure that such firms behave responsibly and that community and worker concerns are heard and acted upon.
- Stop the New Taylorism by demanding greater voice in the workplace. Point out the costs of constant audits of workplace behavior including the time and effort required to complete the audits as well as the impact they have on both employee behavior – overly focusing attention on that which is measured – and employee engagement. Note the absurdity of thinking that all decisions can be made in management offices. Show how attempting to do that stifles innovation and creativity.
- Reimagine unions. The American approach to unionization for the last century has focused nearly entirely on increasing wages and benefits.¹⁷⁶ Unions were designed to mobilize workers to fight against management. At the same time, the division between workers and management remained largely unchallenged. We need to reimagine unions such that workers gradually increase democratic control over companies in return for taking on growing responsibility for what have traditionally been management decisions. To date, large corporations have given their employees important sounding titles – Wal-Mart calls its employees 'associates' – without involving them in the decisions that affect their daily lives. A reimagined union movement would demand that such titles be given meaning by active participation. For example, some teachers unions have promoted peer

¹⁷⁵ See: <https://www.worldblu.com/>

¹⁷⁶ In the 19th century, the Knights of Labor fought for worker control over companies.

assistance programs, school-site councils, joint labor-management committees and other innovations.¹⁷⁷ The United Steel Workers is exploring the creation of union-cooperatives as alternatives to traditional firms. More such experimentation is needed.

- Stop the erosion of professional control over services rendered by recognizing that personal judgment is part and parcel of professional behavior. A key feature of a profession is that its practitioners require freedom to make many decisions in light of complex and ever-changing circumstances within a broad 'constitutional' framework. This is the case because, unlike the manufacture of goods, professionals have little or no control over their 'raw materials.' Hence, physicians must employ their expertise under conditions of constantly changing medical knowledge and patient problems. Police officers must employ their expertise in ever-changing situations using ever-changing practices and technologies. Social workers must respond to the vast and ever-changing range of persons needing their help as well as to ever-changing knowledge of the best ways to proceed. And, teachers must help an ever-changing body of students to learn even as teaching techniques are in flux. In short, although the contexts in which they work are often (rightly) established outside the profession, professionals in particular require spaces for making judgments. Excepting cases of egregious dereliction of duties, they are best judged by their peers, since their peers have a better understanding of the situations faced at a given time and place.
- Use local, state and federal funds now used to woo outside firms to particular locations to promote locally-based cooperative enterprises.¹⁷⁸ In practice, this would mean extending the current concept of entrepreneurship as something to be found inside the head of a particular individual to collective entrepreneurship, where a defined group of persons would receive support leading to the establishment of new enterprises. Put differently, this would mean abandoning the notion of the self-made man or woman and replacing it with a much more robust social understanding of entrepreneurship. Internet sites could also be established to facilitate networking among persons desiring to produce the same kind of enterprise. Currently, the Small Business Administration offers services to form new cooperative businesses. A bill has been introduced in California which would amend the state's cooperative law to make it easier to create worker cooperatives. And recently Reading, Pennsylvania and Richmond, California have begun to inquire as to how their cities could promote worker cooperatives.
- Expand the role of credit unions. Over 100 million Americans are members of credit unions and control over \$1 trillion in assets. Importantly, credit unions are financial cooperatives that are designed to serve their members. Unlike many banks, nearly all credit unions survived the financial crisis nearly unscathed.¹⁷⁹ This is because, even as

¹⁷⁷ Morgaen L. Donaldson et al., "New roles for teachers unions? Reform unionism in school decentralization," *Journal of Educational Change* 14, no. 4 (2013).

¹⁷⁸ In August 2015 Governor Brown signed the California Worker Cooperative Act that eases the formation of worker cooperatives in that state.

¹⁷⁹ So did many small rural banks. See: Brendan Greeley, "Rural Banks Know Something Big Banks Don't," *BusinessWeek*, October 21-27 2013.

they serve their members well, they tend to invest in relatively low-risk activities. Banks have not appreciated the substantial and growing role of credit unions, which they see as undermining their own activities. However, credit unions have two weaknesses that could easily be corrected.

First, members in many credit unions have little or no opportunity to make their concerns known to management. Indeed, in a few instances credit union managers have successfully converted their organizations into banks, earning large bonuses even as they ultimately pushed higher costs onto members. This could be corrected by changing the legislation that governs credit unions so as to enhance member participation and to prohibit conversion to banks without member debate and votes. Second, credit unions might be urged to explore other ways of benefitting their communities by investing in relatively low risk activities that would provide jobs or otherwise improve the community.

Implementation of the suggestions above will certainly not resolve all the problems associated with expanding democracy. Doubtless, other strategies will be needed as well. But democracy is not a fixed immobile goal. It is a process that must be pursued, demanded, improved and subject to experiment continuously.

Democracy and technology.

If technical artifacts are forms of governance as well as means of reconstructing nature as I argue above, then we need better ways to assess their likely consequences before they arrive at the marketplace. By then, investments are so great that it is nearly impossible to make major changes except in the most egregious cases. Hence, lead paints are banned since their ingestion can cause significant brain damage. Certain pesticides are banned because they cause harm to non-target life forms. But these are far and away the exceptions.

In most instances today we give fairly free reign to those who create new technologies. We have an abiding faith that doing so will improve the human condition. This is in stark contrast to our medieval ancestors. They found technological change so frightening that they prohibited it in all but a small number of cases. While we find this view somewhat absurd today, we need to reconsider one aspect of that medieval fear: the concern that new technologies would reorganize the social and natural order. We need not go too far to see that on this count they were quite correct. Consider how some forms of industrial production have also created massive toxic waste dumps and adversely affected people's health. Consider how texting has become a significant cause of traffic accidents. Consider how we have rebuilt our cities around automobiles.

A useful way to consider an alternative approach that opens these decisions to democracy is to distinguish between research in the laboratory and 'research in the wild.'¹⁸⁰ In the laboratory (or clinical trial or experimental field or test facility), nature is studied in purified form. Put differently, an attempt is made to eliminate all 'extraneous' factors that might render the

¹⁸⁰ Michel Callon, Pierre Lascoumbes, and Yannick Barthe, *Acting in an Uncertain World: An Essay on Technical Democracy* (Cambridge, MA: MIT Press, 2009).

experiment invalid. If successful, then the result is a prescription that goes something like this: If you conduct yourself the way we did in the lab, using the same materials and procedures, you will obtain the same results that we did.

In contrast, research in the wild is something in which we all engage much of the time. It involves trying things out – not in the purified world of the laboratory but in the messy, ever-changing world of everyday life. When technological artifacts or processes are removed from the lab and placed in the wild, they don't always act as planned. In fact, people may and often do use things developed for a given purpose in the lab for an entirely different one. They may use them in entirely different contexts as is sometimes the case for pharmaceutical products used for 'off-label' treatments. They may decide not to use them at all. Or they may protest that their use in the wild has a significant number of undesirable consequences.

Another way to think about this is to consider that when experts design technologies, they do so with a small number of particular ends in mind. They conduct experiments so as to ensure that those ends are realized. But they always do this in the lab. Consider the case of automobile design and testing. Engineers design those vehicles, testing them in the lab to ensure that engines perform as expected, that transmissions work properly, that doors open and close and so on. Hundreds, perhaps thousands of tests of this sort are performed. Moreover, the vehicles are then tested at special testing facilities that simulate performance on the street or highway. Something similar takes place with respect to pharmaceutical products. Once the tests are satisfactorily completed, the experiment is deemed to be over and the product is put on the market.

But testing in the wild is quite different from all this. Once those vehicles are sold, those who bought them begin to test them under 'wild' conditions – conditions never simulated in the lab or at test sites. In so doing, users and bystanders discover things about those vehicles that were unnoticed by the designers and testers. They might discover that the seat quickly wears out when exposed to metal rivets on jeans. They might discover that a vehicle designed for one purpose also can be used for another. They might discover that the vehicle is difficult to steer in snowy conditions. They might discover that very hot or very cold weather has undesirable effects on the vehicle. And, bystanders may discover that certain vehicles can all too easily get out of the driver's control and create an accident.

Of course, no program of expert design and testing can address *all* possible conditions of actual use. However, more democratic means of producing and introducing technologies has the potential to avoid some of the worst mistakes.¹⁸¹ We already have made some inroads into democratizing technology including public hearings, advisory panels, surveys of public attitudes, initiatives and referendums. More recently, we have seen experiments in using consensus conferences in which a randomly selected group of laypersons spend some extended period of time questioning developers of the new technology in a formal setting. Then, they draft a public report which may itself be debated by legislators. Each of these approaches has its advantages and drawbacks – perhaps different ones in different settings. The aim of each, however, is to take

¹⁸¹ The now defunct Office of Technology Assessment attempted to do so. Unfortunately, it tended to produce reports so massive as to undermine their potential impact. Yet, its approach has prompted many other nations to develop similar agencies.

social and ethical concerns into account upstream, thereby avoiding many of the worst post-production conflicts.

Hence, regardless of the approach(es) taken, one might begin by discussing what consequences every major new technology is likely to have on democratic governance itself. Among the questions that might be asked by a citizen panel include:

- How does the technology in question promote or expand democracy?
- How does the technology empower users in desirable ways?
- How does the technology offer alternatives to users?
- What negative (or positive) consequences might the technology have that might be avoided (encouraged) by redesign?
- Does the technology encourage growth in scale or does it promote small-scale production?
- Does the technology improve/degrade the conditions of work?
- Does the technology pose particular problems/improvements for suppliers of raw materials?
- Does the technology have the potential to enhance/degrade our quality of life?
- Does the technology promote ethical/unethical behavior?
- Does the technology positively or negatively affect third parties?

One of the places where greater democracy can also be quite effective is in the setting of standards. Standards are those boring, technical, abstruse things that are often developed by engineers and other technical experts. But they are also important means of governing our individual and collective actions.

We live in a world in which standards are proliferating and changing people's lives, yet most of these standards are not even visible to most people. Nearly all of these standards are modified with little or no attention to the needs and desires of workers or consumers. Instead, standards organizations tend to be dominated by representatives of large corporations who often stand to gain from the outcome of a particular standards debate. But standards are very much a part – arguably the central part – of the choice architecture that faces each of us every day.

An example should suffice: If you own a personal computer, you know that certain plugs fit only into certain sockets. You know that certain software requires that you enter information according to a pre-defined script. You know that only a particular operating system will work on your computer. Put differently, standards have defined the choice architecture that governs computer users (as well as parts suppliers, computer manufacturers and others involved in production and use).

We need to develop means to incorporate other stakeholders into standards debates. This includes, quite obviously, likely buyers and users of new technologies. Moreover, as noted above, all markets have third parties. Hence, standards are never solely a matter of the relations between buyer and seller. Means must be developed to ensure that manufacturers, buyers and third parties are at the table when decisions about standards are made. Doing this will require

experimentation to create new forms of stakeholder democracy, the details of which remain unclear.

The same applies when products advance downstream, past the point of design to the investment of capital, the construction of manufacturing plants and the retailing of the technology in question. Here, democratic governance is arguably more necessary but also more difficult. This is another reason why enhancing upstream governance is essential.

These are not simple questions and doubtless they have no simple answers. Critics will say that we should just let the market decide. But as noted above, that is merely an appeal to the status quo, to the existing rules and institutions. Ignoring the problems of governance through technology will not eliminate those problems; it will simply exacerbate them as technologies become ever more world-changing.

Building a more just society

A more just society is one in which equality before the law is not merely an imaginary state to which lip service is given, but one in which class, status, money, race, gender or other extraneous factors have no place in either criminal or civil law. Currently, we are moving away from that position; we need to turn the tide. Building that society will require democratic struggle, much as other issues of social justice have in the past. Among the many things needing attention, we must:

- Ensure that all persons accused of crimes receive adequate legal counsel.
- Cease excessive sentencing and reduce the size of the prison population through reform of drug possession laws replacing incarceration with treatment
- Abandon mandatory sentencing requirements by returning to judges the ability to determine what punishment is appropriate in a given instance.
- Reduce or eliminate prison sentences for non-violent crimes, thereby promoting reintegration into society and reducing recidivism
- Limit the ability of prosecutors to plea bargain; such plea bargains put prosecutors in the role of judges and juries, often resulting in convictions based on false confessions.
- Ban companies from incorporating arbitration and class action provisions in their contracts with workers and consumers, thereby circumventing the law.

Equally important is the growing issue of distributive justice. We are fast arriving at a point in human history in which machines cannot merely be used to eliminate those jobs that require heavy *physical* labor but a wide range of jobs that require considerable *mental* labor. Already, over the last several decades, we have seen a decline in jobs for secretaries and stenographers, assembly line workers, machine tool operators and those in a wide range of other fields. However, the next several decades are likely to see automation creep upward into higher paid jobs that were previously beyond the capabilities of even the most sophisticated technologies.¹⁸² This transformation of work has had the effect of concentrating more and more wealth and income among the owners of capital, even as it depresses wages elsewhere. Moreover, as the

¹⁸² The Economist, "The Age of Smart Machines," *The Economist*, May 25-31 2013.

robotic and information technologies become less expensive – think of the decline in the cost of computing power over the last several decades – the incentives to replace workers of all kinds with machinery will be overwhelming. After all, unlike workers, machines can work around the clock without stopping. They don't require pension benefits or health insurance. And, they don't go on strike. They do require maintenance, but that is a relatively small percentage of their total cost.¹⁸³

This transformation will require us to come face to face with a problem that has been haunting us for some time. Economists have often assumed that new technologies would always eliminate the need for labor in some occupations, while they created new jobs elsewhere. Although there would be some short term disruptions, over time things would balance out. However, it appears increasingly likely that we can no longer count on that.

Moreover, we are the inheritors of the Puritan notion that hard work is a demonstration of one's worthiness to others and to God. But that notion was formulated at a time when machines were rare and productivity was low. Currently, our Puritan tradition combined with an unmitigated faith in markets and a less than democratic polity has left us with a world of increasing inequalities, high unemployment and underemployment, and a growing underclass of the homeless, the hungry and the uneducated. This means that we need to ask some very difficult and long overdue questions.

How long should the work week be? Richard Nixon foresaw a four day work week before the turn of the century. Others made similar predictions. But as long as markets remain organized based on a 40 hour work week – and that applied only to production workers and not to middle and lower level managers – the situation will continue. The same applies to paid vacation. Nearly all other industrialized nations have legal minimums for paid vacation. Some provide as much as 40 paid holiday and vacation days per year. As long as many markets are organized with expectations that workers will receive little or no vacation, sick leave or maternity leave, employers will be under no pressure to provide it.

Creating mandatory paid vacations as well as mandatory sick and maternity leave would, among many benefits, go a long way toward solving the problem of unemployment, while increasing the time available for leisure and civic activities. In addition, reducing the length of the work week would be a step in the right direction. However, as recent French experiments show, it must be done in a manner that takes into account the complexity of issues involved.

Ultimately, we will have to come face to face with the likelihood that most goods can be produced more cheaply, more efficiently, with less energy used, when they are produced by machines. But this is not – and should not be – the case for many services. Even if health care, education, social work and policing can be automated, that does not mean that these services should be. We can deliver more and more of each of these services in ways that are automated, but only at the cost of undermining the social fabric. The human cost of so doing is extraordinarily high.

¹⁸³ For an example of what robots might do, see Brad Stone, "Smarter Robots, With No Wage Demands," *BusinessWeek*, September 24-30 2012.

While many of these service jobs require high levels of skill as well as sophisticated technologies, many others require care and concern above all else. As things currently stand, we devalue those service workers who care for the elderly, visit hospital patients, help families get through tragic events, help teachers to build learning environments and engage in other essential caring occupations. The same applies to those who produce artistic and literary creations. We pay them poorly or rely largely on volunteer labor. But there is no reason why that must be the case. A significant increase in the minimum wage would make those jobs far more attractive as well as going a long way to address many critical problems facing us all. Indeed, we need to embrace automation that would arise from higher wages, thereby eliminating dull, boring jobs and replacing them with a guaranteed income as explained below. In sum, we need to create a society in which there are more opportunities for learning, for caring and for health-seeking.

Creating a more secure society

Perhaps the most difficult and urgent task of all given the myriad ways in which our world has become less secure over the last several decades is to build a more secure society. Nevertheless, there are many things that could be begun immediately. We need to:

- Make the income tax code much simpler and more progressive. For those who have little income other than wages, eliminate filing entirely, much as is now done in the United Kingdom.¹⁸⁴ The current tax code is riddled with loopholes. Its sheer size – 73,954 pages at last count – makes interpreting it difficult for both the Internal Revenue Service and professional accountants.¹⁸⁵ The vast majority of loopholes benefit only the very wealthy and large corporations. As Warren Buffet pointed out, there is something fundamentally wrong when his secretary pays a higher rate of income tax than he does. Moreover, the notion that capital gains should be taxed at a lower rate than earned income is justified on the grounds that investment risks are higher. Hence, lower rates are claimed to encourage investment. Yet, the data show that the differing rates do not produce the claimed benefits.¹⁸⁶ Making the income tax more progressive would recognize that, since all markets are *designed*, a great deal of wealth and income is accumulated by virtue of creating and exploiting the unusual characteristics of those markets, rather than through some special effort. It would also promote greater income equality.
- Separate health insurance from employment. The US is the only industrialized nation that links health insurance to employment. Historically, this made sense as it was unionized workers for the most part who were able to push employers to provide health insurance, while there was fierce resistance by physicians to government-sponsored insurance. But the current system has disadvantages for both employees and employers. For employees, losing a job means losing insurance (although this changes under the new health care law). For employers, it means that the costs of health care are incorporated into the

¹⁸⁴ In the United Kingdom, those with only wage income simply have withholding payments taken from their paychecks.

¹⁸⁵ Wolters Kluwer, "Federal Tax Law Keeps Piling Up," Wolters Kluwer CCH, <http://www.cch.com/TaxLawPileUp.pdf>.

¹⁸⁶ Brendan Greeley, "Keep Looking for the Economic Benefit," *BusinessWeek* 4299(2012).

balance sheets of some businesses, while they are not incorporated into the balance sheets of others. With global competition, this puts US-based companies at a disadvantage, and encourages them to shift jobs overseas to where health coverage is not linked to employment.

- Guarantee health care access to all. All industrialized nations and many others provide free or nearly free health care to all in need of it. The lack of guaranteed health care is a major source of insecurity, causing needless illness and premature deaths. Some, such as Great Britain, do it via a National Health Service. Others do it by reimbursing practitioners for services rendered. Obamacare, for all its flaws, has put this issue on the American agenda. Doubtless, it will need to be reexamined, reworked and reinvented. There is no specific form of universal health care works perfectly. All have defects. But that is hardly an excuse for not acting to implement such a system now.
- Reduce military and homeland security spending so as to create greater security. The US need not and cannot afford to be policeman to the world. We must recognize that we now live in a world with multiple large powers; we need to forge ahead recognizing the goals and objectives of the leaders of these nations and using diplomatic means to minimize conflict while promoting freedom and democracy. Nor can we continue to push other nations around simply to protect the interests of multinational corporations headquartered in the United States. Similarly, we cannot become completely safe against terrorists, against persons with grudges against Americans or against other governments' efforts to further their own interests without surrendering democracy itself.
- Begin the massive project of rebuilding US infrastructure. Ironically, the very focus on the 'naturalness' of markets has made us forget that markets only work well when the infrastructure for them is in excellent condition. In contrast, the Chinese have understood this for some time. They have invested massively in infrastructure, building four of the world's largest container ports, thousands of miles of superhighways and secondary roads and the world's largest system of high speed railroads, hundreds of schools and universities as well as a vast internet and telephone infrastructure thereby reducing the cost of Chinese products and services. In contrast, after considerable spending in mid-century, we have gradually reduced spending on infrastructure – both for maintenance and for new infrastructure. Poor quality infrastructure slows the movement of people, goods and services, as well as raising costs of all sorts. Moreover, given that the US population is unevenly distributed across the continent, no single plan can serve all needs. The transport infrastructure along the East and West coasts cannot take the same form as the infrastructure in sparsely populated Wyoming. This suggests that transportation funding needs to be flexible so as to allow states and in some instances cities to determine the specific types of (individual and mass) transit that best serves their needs. Hence, transportation funding should be as available for mass transit as it is for highway transport thereby reducing energy needs, building more viable cities and reducing urban sprawl.

- Build friendly neighborhoods by encouraging the formation of neighborhood associations. Such organizations allow people to know their neighbors, to treat them with respect and to quickly integrate newcomers.
- Implement a Basic Income Guarantee (BIG) for all. Arguably, a BIG for all would be the most effective means for grappling with many of the problems currently facing us. By this I do not mean a pittance offered to those who are poor, but a sum adequate to achieve a satisfactory level of living for everyone. Such a BIG would reduce the need for and cost of many welfare services (some, such as mental health support, treatment for drug addiction and certain aspects of family services would still need to remain in place). It would at once nearly eliminate homelessness and hunger. It would reduce many forms of crime. It would make it possible for high school dropouts to return to school and for poor high school graduates to attend college. It would ensure that the elderly who have not saved sufficiently for retirement would be able to retire with a modest income. It would boost the minimum wage, since employers would need to pay more than the BIG (or make jobs more attractive) in order to attract workers at the bottom of the skill ladder. It would recognize that fulfilling the needs of our contemporary society requires that each of us work fewer and fewer hours. It would also eliminate oppressive and demeaning requirements of contemporary welfare and ‘workfare’ programs (e.g., requiring drug tests of recipients, insisting on working at dead-end jobs) as well as the bureaucracies required to maintain them.¹⁸⁷ Already, numerous experiments have demonstrated its potential. At the moment, Finland is actively considering such a system for the entire nation. Even smaller scale experiments in Kenya and other poorer nations have shown promise.¹⁸⁸

Of course, a BIG would markedly reduce current income inequalities. Such a BIG might be paid for by (1) making taxes more progressive, (2) ensuring that everyone pays the taxes they owe, (3) reducing unnecessary military expenditures, (4) using the savings from the BIG to eliminate much of the bureaucracy surrounding welfare services, (5) reduced costs for the criminal justice system as petty crime is reduced, (6) creating a better educated, higher skilled, more creative population in the long run, and (7) reducing waste in health care services.

Creating the Nature We Want

As noted above, nature does not come ready made. The nature we know is always the nature *we* know. We are constantly in the process of making and remaking nature through our actions and the actions of the vast sociotechnical systems we have created. What is at issue is whether the nature we are collectively making through manufacturing, agriculture and the myriad actions we

¹⁸⁷ Note that the current workfare system is based on the notion that one can ‘let the market decide,’ but if markets do not decide anything as argued above, then workfare is simply an injustice imposed on the poor.

¹⁸⁸ See Elizabeth Nolan Brown, "Finland Wants to Replace Welfare Programs With a Minimum Income for All Residents," Reason Foundation, <http://reason.com/blog/2015/12/07/finland-to-test-basic-income-guarantee>. and Sanwon Yoon, "Cash Handouts Give Kenyans a Leg Up," *BusinessWeek*, September 28 2015.

take in our everyday lives is the kind of nature we collectively want, the kind that tells us we are the kind of people we would like to be and the kind of nature we can pass on to future generations. Here are some actions that could move us further in that direction:

- ✓ Implement full cost accounting (FCA). While no panacea and never totally accurate, FCA offers a means to incorporate not merely the costs of production of a given product, but the costs incurred in production of raw materials and packaging for that product as well as the costs associated with its disposal. Under full cost accounting, producers take responsibility for the entire chain of events associated with a given product. FCA applied, for example, to computers would include in the cost of production both the costs associated with mining minerals in a responsible way as well as in disposal of packaging materials and in disposing and recycling of the product itself after its useful life. Current accounting procedures allow producers to ignore these costs and to foist them on others. In more formal economic terms, FCA requires that all (known) externalities be incorporated into production costs, such that they are included in product prices. Thus, it acts to minimize or eliminate detrimental effects on the natural world as well as on those involved in producing raw materials and disposing of wastes. Some nations have implemented parts of this approach – the European Union requires that companies recover their own packaging or contribute to packaging recycling schemes – with considerable success.

- ✓ Take immediate action to both mitigate and grapple with climate change. Regardless of its causes, climate change is clearly upon us. Hence, we need to take action in order to preserve our nation and the world for our grandchildren and their children. This must be a two pronged approach. On the one hand, we need to reduce greenhouse gas emissions. This means we also need to invest more in clean(er) energy.¹⁸⁹ Already, improved means of producing solar energy has made it competitive with fossil fuels in many places. But, no one particular alternative form of energy is likely to provide the magic bullet. We will need wind, solar, tidal, wave, geothermal and hydro energy among others. Moreover, we can also reduce greenhouse gases by conserving energy. This means building cars which consume less fuel, rebuilding our public transport infrastructure so as to use less energy, constructing buildings that are better insulated from both heat and cold, and developing industrial processes that consume less energy. All of this will require considerable investment in research over the next several decades. Moreover, which technologies are best adapted to particular regions should itself be the subject of democratic debate.

On the other hand, we need to take action to grapple with the effects of climate change. We need to plan how our coastal cities will grapple with rising sea levels. We need to protect coastal estuaries such that we do not have a repeat performance of hurricane Katrina. We need to develop more efficient means of using water as weather variability makes drought conditions all the more likely in areas with prime agricultural land. And,

¹⁸⁹ Even as Exxon Mobil has spent nearly \$30 million denying climate change, it is preparing for carbon emission reductions. See Mark Hertsgaard, "If it's Good Enough for Big Oil ..."
Businessweek, November 10 2014.

in doing all this, we need to do it in a manner that simultaneously lends urgency to the project and provides minimal disruption to people's lives.

- ✓ Protect *our* nature. Today, we humans have become the greatest threat to our own future. If we destroy our nature, nature itself will go on without us. What we need to do is to maintain biological diversity from large mammals like bears to microorganisms that support higher life forms. We must protect lands from overuse by human beings. This means that we must restrict and ultimately reduce the urban sprawl that now characterizes too many of our cities. To do that we need to simultaneously make our cities more livable and attractive and make the economic and social costs of sprawl more apparent.

We must also expand our system of national parks and forests. Already, the numbers of visitors to many existing parks and forests has become problematic with significant congestion in many places. With a growing population, we need more parks with more opportunities for recreation and appreciation of their natural beauty.

And, we must grapple with the serious problems posed by erosion and fertilizer runoff. Erosion leads to the loss of significant areas of fertile soils each year. Fertilizer runoff is particularly destructive of aquatic environments. It has had a significant negative effect, for example, on the fisheries at the mouth of the Mississippi. In addition, phosphate – an essential ingredient in plant nutrition – is in short supply globally. Allowing it to pollute lakes and rivers is tantamount to pouring this valuable and scarce element down the drain. Better means to limit runoff and reduce use are needed.

Currently, there is a raging debate between organic and conventional approaches to agriculture. Yet, this debate ignores the potential benefits from linking the two approaches together. No conventional farmer wants to see money spent on fertilizer wasted. Adopting many of the practices proposed by organic farmers would reduce that waste. In addition, recent research on soil microbiomes (the microbial life found in the topmost layer of the soil) suggests that these microorganisms are as essential to plant life and health as the microorganisms in our digestive tracts are essential to our lives and health. Determining how to manipulate such microorganisms so as to produce healthier plants should be a priority research topic as it has the potential to mitigate many of the problems currently confronting food and fiber production.

In sum, if we are to secure America's future, we need to confront and reexamine the myths that served us well for some time but have since worn thin. We need to reinterpret many of the existing myths while abandoning others. And, we need to develop new myths that correspond to newly emerging problems. As a nation, we have done this in the past. None of this can be done immediately by enacting a few pieces of legislation or by simply deciding to change our individual behavior. All will require that we challenge many of our deepest held beliefs. All will require committing to collectively acting to improve the situation in which we find ourselves. All will require that we change how we perform and enact the world together.

Finally, I should note that the changes proposed above suggest how we might modify the ways in which we perform the world. But they should not be seen as ultimate ends. Instead, they should be seen as first steps that -- taken together and periodically re-evaluated in light of new situations -- might lead us to a more secure society, one that is more democratic, more just, and that constructs a life-giving nature we can respect and cherish. To paraphrase the poet Robert Frost, we all have promises to keep and miles to go before we sleep.

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