

Anscombe for Austrians: Praxeology, War, Democracy, and the State

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Roderick T. Long
Auburn University

Gertrude Elizabeth Margaret Anscombe (1919-2001) – better known as Elizabeth Anscombe, Liz Anscombe, or G. E. M. Anscombe – was one of the foremost figures of 20th-century Anglophone philosophy, making important contributions to philosophy of language, philosophy of mind, philosophy of action, and moral philosophy. Yet this monocle-wearing, cigar-smoking, multilingual Cambridge don and mother of seven, a Catholic social conservative who ate out of tuna cans while lecturing and once intimidated a mugger into leaving her alone, who shocked the right with her antiwar activism and the left with her anti-abortion, anti-contraception activism, and who coined the term “consequentialism” (she was against it), is far less well known among Austro-libertarians than among professional philosophers.¹ The aim of this paper is to show why Anscombe deserves the attention of Austro-libertarians.

Not that her views on politics were especially libertarian: they weren't. Not that her views on economics were especially Austrian: I've found no evidence that she *had* much in the way of views on economics. But her contributions intersected at a number of crucial points with Austro-libertarian concerns. This is not surprising, given that her central philosophical project (like that of her husband, Peter Geach) was the reconciliation of the Aristotelean and Thomistic traditions on the one hand with the Wittgensteinian tradition on the other. (She had in fact studied directly with Wittgenstein, a sign of whose esteem for her is that he chose her as the translator of his work *before she had learned German*.) That the Aristotelean and Thomistic traditions share an affinity with the Austro-libertarian perspective is well-known, given those traditions' contribution to Continental subjectivist economics on the one hand and natural law / natural rights theory on the other;² and I've argued elsewhere for the affinity between Wittgenstein's anti-psychologistic treatment of

¹ One exception is Gordon (2001); cf. also Gordon (1994), p. 105.

² For the economic connection see Rothbard (1976, 1995) and Chafuen (2003); for the natural rights connection see Rothbard (1998) and Mäkinen and Korkman (2006).

logical laws and Mises' anti-psychologistic treatment of economic laws.³ Hence it is perhaps only natural that Anscombe's attempt to fuse Aristotle, Aquinas, and Wittgenstein should generate some Austro-friendly results. I shall focus on four points of affinity: praxeology, war, democracy, and the state.

Anscombe on Praxeology

Anscombe never used, and perhaps never heard, the term “praxeology”; but her 1957 book *Intention* – which no less a philosopher than Donald Davidson called “the most important treatment of action since Aristotle”⁴ – is a work on praxeology from beginning to end, inasmuch as it seeks to delineate the conceptual structure of action. Like Mises and Hayek, Anscombe insists that the means-end structure of action is a conceptual matter, a constraint on the applicability of action categories, and not an empirical discovery:

[I]f I say: ‘No, I quite agree, there is no way for a person at the top of the house to get the camera; but still I am going upstairs to get it’ I begin to be unintelligible. In order to make sense of ‘I do P with a view to Q’, we must see how the future state of affairs Q is supposed to be a possible later stage in proceedings of which the action P is an earlier stage.⁵

I won't attempt to summarise this very short but very difficult book; instead, let me give just one example of a way in which Anscombe makes a positive contribution to praxeology. Mises tends to divide facts about human action into those that are logically necessary and universal on the one hand and those that are contingent and variable on the other; the first are the province of praxeology, the second of psychology and history. But Anscombe, following Aristotle and Wittgenstein, is interested in a category that Mises did not consider: features of human action that are *not universal*, but for which it is *logically* guaranteed that they hold *for the most part*. One of Wittgenstein's examples was moves in chess: there is no guarantee, he observed, that any particular attempt at a chess move will be in accordance with the rules in chess; it is always possible that the player will absent-mindedly (or deliberately, for that matter) begin moving her rook diagonally, or – perhaps more plausibly

³ See Long (2004).

⁴ Dustjacket of Anscombe (2000).

⁵ Anscombe (2000), p. 36.

– will fail to notice that she is moving her king into check. But, Wittgenstein insisted, it makes no sense to suppose that *most* of the chess moves, or attempted chess moves, that actually get made by all the chessplayers out there are in violation of the rules of chess – because the game of chess is defined by the system of practices constituting it. Hence mistaken moves in chess are guaranteed to be the exception rather than the norm – not because some mysterious force prevents players from making too many mistakes, but rather because if deviations from the rules became *too* frequent, the players would no longer count as playing, or even attempting to play, *chess*.

In *Intention* Anscombe generalises this moral, as follows:

[T]here are many descriptions of happenings which are directly dependent on our possessing the *form* of description of intentional action. ... [A] great many of our descriptions of events effected by human beings are *formally* descriptions of executed intentions. ... Surprising as it may seem, the failure to execute intentions is necessarily the rare exception.⁶

What Anscombe means is that while there is no guarantee that any *particular* action will be successful in its immediate aim, we cannot make sense of the possibility that *most* actions should fail of their immediate aim. (Longer-term aims, says Anscombe, are another matter.) I might try to scratch my nose, and fail; my arm might suddenly become paralysed, or another person might seize it, or I might drunkenly miss my target; but if *most* attempts at nose-scratching failed, we would begin to lose our grasp on the *concept* of trying to scratch one's nose. We can't even pick out the class of *attempted* nose-scratchings without possessing the concept of *successful* nose-scratchings; this is part of what Anscombe is getting at in speaking of unintentional events as intentional in their *form*. And the concept of successful nose-scratching gets its purchase from its applicability in ordinary experience.

If Anscombe is right, and I think she is, it follows that there is a class of facts about action that might have been thought to fall outside praxeology, since they do not hold universally – but which nevertheless belong to praxeology after all, since their holding *for the most part* is a conceptual, *a priori* truth, not an empirical generalisation. And this opens up the possibility of resolving a long-standing dispute in Austrian circles. Israel Kirzner has claimed

⁶ Ibid., pp. 84-87.

that a tendency to notice profit opportunities is essential to human action.⁷ To this, critics have replied that noticing such opportunities is entirely contingent and so outside the bounds of praxeology. But it might turn out that a tendency to notice profit opportunities *reasonably often* is *a priori* essential to human action even if no particular case of noticing such an opportunity is so.

Anscombe further employs this insight to draw a conceptual connection between action and knowledge. The “identification served by colour-names,” she reminds us, “is in fact not primarily that of colours, but of objects by means of colours, and the “prime mark of colour-discrimination is doing things with objects – fetching them, carrying them, placing them – according to their colours.” Hence “the possession of sensible discrimination and that of volition are inseparable.” This means, not that “every perception must be accompanied by some action,” but only that “one cannot describe a creature as having the power of sensation without also describing it as doing things in accordance with perceived sensible differences.”⁸ As Wittgenstein would put it, the link between the inner and the outer is “grammatical,” not merely empirical.

This idea has further implications still. Austrians often distinguish between *praxeological* preferences – those that are embodied in actions and have no meaning apart from being enacted – and merely *psychological* preferences – wishes or intentions that may or may not receive expression in action. But given Anscombe’s insight, it’s hard to see how a preference that was *never* expressed in action could count as a preference at all. Hence “psychological” preferences, *no less than praxeological ones*, require expression as conditions of their identity; the difference is simply that praxeological preferences require expression *whenever they exist*, whereas “psychological” preferences require only *periodic* expression.

Another of Anscombe’s forays into praxeology concerns her famous debate with C. S. Lewis.⁹ One way of putting Lewis’s argument is this: explaining an action in terms of *reasons* and explaining it in terms of *physical causes* are competitors; hence to describe an action as physically caused is to deny its rationality. The ingenious conclusion is that to maintain that all actions are physically caused is necessarily self-refuting, since maintaining a thesis is itself

⁷ Kirzner (1979), pp. 29-31.

⁸ Anscombe (2000), p. 68.

⁹ For the Anscombe-Lewis debate see Reppert (2003).

an action, and one cannot rationally maintain the thesis that it is never rational to maintain a thesis. But Anscombe, while broadly sympathetic with Lewis's philosophical perspective, was unconvinced by the argument; she questioned Lewis's assumption that reasons explanations and physical-cause explanations must be competitors, suggesting instead that one and the same action might have a reasons explanation under one description and a physical-cause explanation under another. (She agreed with Lewis, however, that reasons explanations are not *reducible* to physical-cause explanations.) This dispute is still a live one in philosophy today.¹⁰

Anscombe on War

Another point of affinity between Anscombe and Austro-libertarians concerns military policy. Anscombe was a fierce critic of modern warfare. She did not think war *as such* unjust; but given the "character of warfare," and in particular the "extraordinary occasions it offers for viciously unjust proceedings," any given war is overwhelmingly likely to be unjust, and the presumption is accordingly against it.¹¹ A "war against totalitarianism produces a totalitarian tendency," whose effect is "to make what our country chooses to do, the criterion of what may be done, and to call this patriotism."¹²

The death of men, the curtailment of liberty, the destruction of property, the diminution of culture, the obscuring of judgement by passion and interest, the neglect of truth and charity, the decrease in belief and in the practice of religion – all these are the normal accompaniments of war.¹³

But Anscombe's chief moral concern about war is the killing of innocents: "murder is the deliberate killing of the innocent, whether for its own sake or as a means to some further end," and whether it occurs in war or elsewhere.¹⁴ And while she does not reject the legitimacy of collateral damage (foreseen but not intended killings) in principle, she regards

¹⁰ In my own view, both sides of this argument might profit from a greater attention to McDowell (1994)'s distinction between constitutive and enabling conditions.

¹¹ "War and Murder," p. 51; in Anscombe (1981), pp. 51-61.

¹² "The Justice of the Present War Examined," p. 81, in Anscombe (1981), pp. 72-81.

¹³ *Ibid.*, p. 81.

¹⁴ "War and Murder," p. 53.

most purported cases of collateral damage as being really cases of intentional killing and so forbidden.

It may be impossible to take the thing (or people) you want to destroy as your target; it may be possible to attack it only by taking as the object of your attack what includes large numbers of innocent people. Then you cannot very well say they died by accident. Here your action is murder.¹⁵

Hence she condemned the bombings of Hiroshima and Nagasaki, and protested Oxford's decision to award President Truman an honorary degree.

To the argument that the bombings saved lives, because far more, on both sides, would have died in a conventional invasion of Japan, Anscombe counters that this assumes that a conventional invasion was the only available alternative: "Given the conditions, that was probably what was averted by that action. But what were the conditions? The unlimited objective, the fixation on unconditional surrender. The disregard of the fact that the Japanese were desirous of negotiating peace."¹⁶ More generally, in World War II the Allied policy of "obliterating cities" was taken "out of a villainous hatred," while the Allied demand for "unconditional surrender" was "visibly wicked" and "now universally denigrated."¹⁷ Any "individual who joins in destroying a city ... is too obviously marked out as an enemy of the human race, to shelter behind" the plea of taking orders.¹⁸

Anscombe rejects strict pacifism, however, charging that it conflates killing the innocent with killing the guilty. Indeed, she thinks the propagation of pacifist ideas actually contributes to the likelihood of war crimes; if people combine the pacifist premise that all killing, whether of the innocent or not, is equally bad, with the true premise that killing the non-innocent is nevertheless sometimes necessary, they will be likely to conclude that killing the innocent can sometimes be necessary too, since it's *no worse* than something shown to be necessary. (Incidentally, although I'm not a pacifist, I think Anscombe is rather unfair to pacifism here. Pacifists hold that both forms of killing are equally *forbidden*, not that both forms are equally *bad*; Anscombe seems to be mixing moral categories. Of course one might

¹⁵ "Mr. Truman's Degree," p. 66; in Anscombe (1981), pp. 62-71.

¹⁶ *Ibid.*, p. 65.

¹⁷ "War and Murder," p. 58.

¹⁸ *Ibid.*, p. 60.

think that if one action is worse than another, then the better act must be permissible in more cases than the worse act; but this would be a mistaken inference. Compare walking down the street randomly *punching* people in the face, just for fun, with walking down the street randomly *shooting* people in the face, just for fun. Both of these actions are morally forbidden in all cases; yet surely one is worse than the other. So, *contra* Anscombe, one may consistently regard two kinds of action as equally forbidden without treating them as morally equivalent.)

But despite her opposition to pacifism, Anscombe also defends those who refuse military service on pacifist grounds, contending that “universal conscription, except for the most extraordinary reasons, i.e, as a regular habit among most nations, is such a horrid evil that the refusal of it automatically commands a certain amount of respect and sympathy.”¹⁹

Against Anscombe’s strictures on targeting civilians, it is sometimes claimed that “the distinction between the people engaged in prosecuting the war and the population at large is unreal,” that there is “no such thing as a non-participator,” since “you cannot buy a postage stamp, or any taxed article ... without contributing to the ‘war effort’.”²⁰ Hence civilian populations would be fair game. Anscombe wryly adds: “I am not sure how children and the aged fitted into this story: probably they cheered the soldiers and munitions workers up.”²¹

Anscombe finds this argument unconvincing. If civilians are “engaged in an objectively unjust proceeding which the attacker has the right to make his concern,” then they do not count as innocent, and so one may “attack them with a view to stopping them”; but “people whose mere existence and activity supporting existence by growing crops, making clothes, etc., constitute an impediment to him ... are innocent and it is murderous to attack them.”²² To say that a “farmer growing wheat which may be eaten by the troops” is “supplying them with the means of fighting” is to blur the distinction between acts that are and acts that are not inherently unjust.²³ Merely “maintaining the economic and social strength of a nation” is

¹⁹ *Ibid.*, p. 55.

²⁰ “Mr. Truman’s Degree,” p. 63.

²¹ *Ibid.*, p. 63.

²² “War and Murder,” p. 53.

²³ “Mr. Truman’s Degree,” p. 67.

not in itself an unjust act, even if “that strength is being used by their government as the essential backing of an army unjustly fighting,” and so those who provide such maintenance are not *per se* legitimate targets.²⁴

But for Anscombe, the problematic moral character of World War II did not derive solely from the use of illegitimate tactics such as targeting civilians. As she saw it, the war was flawed not just in its means but also in its goals. Drawing on Catholic just war theory, Anscombe reminds us that in order for a war to be just, it is not enough for one’s enemy to be unjust; one’s own side must have a *just aim*. As early as 1939, Anscombe had decided that World War II failed that test. The Allied policy, she wrote, has been one “not of opposing German injustice, but of trying to preserve” the unjust status quo of the Versailles treaty.²⁵ Moreover, the Allies’ war aims were so vague, sweeping, and open-ended that nothing could objectively count as satisfying them:

They have not said: “When justice is done on points A, B, and C, then we will stop fighting.” They have talked about “sweeping away everything that Hitlerism stands for” and about “building a new order in Europe”. What does this mean but that our intentions are so unlimited that there is no point at which we or the Germans could say to our government: “Stop fighting; for your conditions are satisfied.”²⁶

One can imagine what Anscombe would say about the present “War on Terror.”

Anscombe concludes, regretfully, that in the case of World War II “we are fighting against an unjust cause, indeed; but not for a just one,”²⁷ and so long as this is so, everyone involved, from the political leadership down to the soldiers on the ground, has not just a *right* but a *duty* to fight it no longer: “we sin against the natural law by participating in it.”²⁸

Anscombe on Democracy

²⁴ “The Justice of the Present War Examined,” p. 78.

²⁵ *Ibid.*, p. 74.

²⁶ *Ibid.*, p. 75.

²⁷ *Ibid.*, p. 75.

²⁸ *Ibid.*, p. 73.

Anscombe also shared with Austro-libertarianism a skepticism about political democracy, by which she means *majority rule*. (I note in passing that theorists of democracy have not always meant this.) “In the West,” Anscombe wrote,

men are brought up in a conviction of the unique fairness of democracy. It is even conceived to be as it were the sole legitimate form of government. “It’s not democratic” is a condemnation. Pope Pius XII once spoke ... of the right of democracies to defend themselves by whatever means they might think necessary. One could hardly have better proof of the pervasiveness of the attitude, if of all people the Pope of Rome should speak as if democracies had some special entitlement.²⁹

Democracy, Anscombe observes, has been so “instilled as a fundamental dogma” that “it is not *astonishing* to hear of an apparently reasonable and well-disposed man who says: someone who is not prepared to accept a majority decision, or a law enacted by democratic processes, ought to leave the society. And this, without any limitation’s being put on what the matter of the law or decision may be.”³⁰

Anscombe proceeds to demystify and desanctify the idea of majority rule. A person who “always or most often finds himself voting in the minority,” says Anscombe, has no grounds for regarding himself as participating in self-government.³¹

Does he simply have a ‘we’ feeling about the decisions, bad as he thinks they are? “*We* decide for ourselves” – even though *his* vote was always contrary to the decision? There is indeed such a sentiment, but ... it is mystical. He has reason to feel as oppressed by the authority of the majority as he might by the authority of an autocrat³²

Admittedly majority rule can be convenient way of deciding what everybody should do, but its being so depends on “an assumption: namely, that a decision has to be made for people *as a collection*; a decision has to be made which determines what everyone does,” as opposed to letting “each choose his own activity.” Anscombe, no anarchist, does not deny that in

²⁹ “On Frustration of the Majority by Fulfilment of the Majority’s Will,” p. 123; in Anscombe (1981), pp. 123-129.

³⁰ *Ibid.*, p. 124.

³¹ *Ibid.*, p. 124.

³² *Ibid.*, p. 125.

some cases deciding for people as a collective is necessary; but she thinks its necessity is too freely taken for granted in too many cases. “The ‘given’, that they are ‘in for’ some decision ... has been contrived merely by the question’s coming up for majority decision.”³³

Nor does democracy enjoy any special status by embodying the “consent of the government.” Like La Boétie and Hume, Anscombe points out that *any* form of government “always rests on consent in the sense that it could not exist without at least the passive consent of a large majority.”³⁴ As for consent in any more substantive sense, democracy fails by its own standards, since the majority will can be frustrated just as much in a democracy as in any other system; given the logic of voting, it is always “possible that the majority should vote in the minority on a majority of the questions,”³⁵ so that “the principle of the majority getting what they want allows the majority to get what they do *not* want in a majority of cases.”³⁶

For Anscombe, the crucial question is not whether a government is democratic but whether its enactments are reliably *just*; if they are, its not being democratic is no objection, while if they are not, its being democratic is no excuse.

Anscombe on the State

As I’ve mentioned, Anscombe was no libertarian, and certainly no anarchist. She proclaims confidently that “the world is less of a jungle because of rulers,”³⁷ and dismisses the non-aggression principle out of hand: “The present-day conception of ‘aggression’ ... is a bad one. Why *must* it be wrong to strike the first blow in a struggle? The only question is, who is in the right.”³⁸ Nor does she accept the libertarian ban on differing standards for government agents and private citizens: for Anscombe, within civil society lethal force, even

³³ *Ibid.*, p. 126.

³⁴ “On the Source of the Authority of the State,” p. 151; in Anscombe (1981), pp. 130-155.

³⁵ “On Frustration of the Majority by Fulfilment of the Majority’s Will,” p. 123.

³⁶ *Ibid.*, p. 127.

³⁷ “War and Murder,” p. 51.

³⁸ *Ibid.*, p. 52.

in self-defense, is forbidden *except* to agents of the government: “The deliberate choice of inflicting death in a struggle is the right only of ruling authorities and their subordinates.”³⁹

Yet Anscombe’s article “On the Source of the Authority of the State” contains much for libertarians to relish. She may reach the wrong conclusions, but she asks most of the right questions, and frames the discussion in much the same way a Rothbardian would.

For Anscombe, the fundamental question is how we are to distinguish a legitimate state from “large-scale voluntary co-operative associations” on the one hand and “a place’s being under the control of a smooth sophisticated Mafia” on the other.⁴⁰ The state, she sees, differs from the former by its exercise of “institutional violent coercive power”⁴¹ (though she says nothing about territorial *monopoly*, and this omission, as we shall see, leads her into fatal confusion); she also sees that it is not so easy as people often suppose to say just how it differs from the latter.

[O]ne shouldn’t deceive oneself by failing to recognize that the civil power essentially ‘bears the sword’: that what we have here is canonized violence. ... [T]he threat of [violence], the readiness to be violent to the point of killing ... is always there. No political theory can be worth a jot, that does not acknowledge the violence of the state, or face the problem of distinguishing between states and syndicates. ... [H]ow can we specify a domain of concern which is special to government, and of no interest to gangsters? ... The picture of the problem that I am drawing may seem to be fantastic. Here in England, for example, a minister if the Crown cannot single me out and tell me what to do ... That is surely very different from what we imagine of gangsters running a place. ... But now, just what distinction do we have in mind here? That the gangster decisions relate to an individual directly, rather than because he is a member of some class? ... But it would be a bold legal theorist who would say that legislation ... could never refer directly to individuals. ... Or is it the lack of procedure? Well, must a government, to be a government, always be non-arbitrary in its actions? And, may not a gang of bandits be all tied up with rules of procedure? ... If I lived in a place that was rather smoothly run by the Mafia ... I, together with many others, might feel as safe and unimpeded and unthreatened as people do under many governments.⁴²

³⁹ *Ibid.*, p. 54.

⁴⁰ “On the Source of the Authority of the State,” p. 131.

⁴¹ *Ibid.*, p. 132.

⁴² *Ibid.*, pp. 132-136.

Since governments and criminal gangs need not greatly differ in what they do, Anscombe concludes that in order for the state to distinguish itself from a Mafia, it must possess not just power but *authority*, which she defines the “right to be obeyed.”⁴³ And this leads her, naturally enough, to the question: “with what right may people, in various ways exercising the power of the state, lay violence and threats of violence on anyone?” She notes that “the answer cannot be law, because ... we are asking for the source of a right to lay laws on people at all.”⁴⁴ Of course it was once customary to begin inquiries in political philosophy in this fashion – think of Hobbes, Locke, and Rousseau, who, whatever the merits of their answers, all saw that the question of the basis, if any, of the state’s authority must be addressed at the start before any further proposals for the use of state power are in order. The need to begin by refuting the anarchist seems to have been felt long before there were many actual anarchists about. But in the 20th century, when outside the libertarian and anarchist traditions political philosophers generally take the existence and legitimacy of the state for granted and simply wrangle over what its policies should be (I know of no place where Rawls, for instance, so much as acknowledges the question of justifying the state), Anscombe’s approach represents a breath of fresh air.

Anscombe takes the anarchist seriously, but in the end concludes that the anarchist is mistaken. For the anarchist, Anscombe tells us, “the human world is one in which some of the bandits have got on top, so that their claim to a right in exercising power is just a huge trick”⁴⁵ – which sums it up pretty neatly. But why is the anarchist wrong in holding this view? Anscombe doubts her ability to persuade the anarchist; if, she says, a person sincerely “holds in a sufficiently radical fashion that government is a refined and grandiose banditry,” wherein “some people, who are willing and able to command violence, have succeeded in getting on top, and ... clothe themselves in the luxurious cloak of ‘authority,’” then “it is hardly possible to convince him of error.” But, Anscombe insists, he is in error nonetheless; he is “blind to everything but the evil of violence, which he is unable to concede may ever be just.”⁴⁶

⁴³ *Ibid.*, p. 132.

⁴⁴ *Ibid.*, p. 134.

⁴⁵ *Ibid.*, p. 135.

⁴⁶ *Ibid.*, p. 136.

In short, Anscombe has confused the anarchist with the *pacifist*; she thinks those who reject the violence of the state must be doing so because they reject violence as such. But while some anarchists have been pacifists, most have not; Anscombe has, regrettably, failed to inquire as to the actual position of those she seeks to refute. She even goes on to lecture the anarchist on the need for consistency: “Anyone who does think this,” she sternly declares, “ought not to be selective. If he is willing to invoke the law, to take anyone to court, or to call on the police for protection, then he should regard himself as making use of some available members of a bandit gang.”⁴⁷ But this *is* precisely how anarchists view the matter. Some anarchists regard such appeals to the state as legitimate under the circumstances, as buying food from a Mafia-controlled store is permissible if there are no alternatives available. Others do not; but all anarchists are agreed on the nature of *what* is being appealed to in such cases.

For Anscombe, the state fills a legitimate human need: “because ... some men do not leave others in peace ... but will attack them and violently impede their activities and enterprises, it is after all a human need that there should be government and laws backed by force.”⁴⁸ And in Anscombe’s view *needs* give rise to *tasks*, which in turn are the basis of *rights*. A *task* is a “work which it is in some sense necessary should be done,” and we derive the associated rights by showing “for particular types of task, that whoever does perform these acquires a right to perform them, or a necessity that he should perform them.”⁴⁹ Hence what makes governments necessary, and good governments legitimate, is the “administration of justice.”⁵⁰ Happily, the tasks that ground the rights of the state also limit their scope: “authority in the command of violence ... is based on its performance of a task which is a general human need. A way of treating someone which puts him outside the class of those for whom the task is performed puts him outside the class of those subject to the authority.”⁵¹ Hence those who are mistreated by the state no longer have a duty to obey it.

⁴⁷ *Ibid.*, p. 136.

⁴⁸ *Ibid.*, pp. 135-136.

⁴⁹ *Ibid.*, pp. 145-146.

⁵⁰ *Ibid.*, p. 153.

⁵¹ *Ibid.*, p. 155.

That's good to know – yet still, is all this not an *ignoratio elenchus*? To defend a legitimate use of violence in order to protect the innocent from the violence of others is not yet to defend the *state*, since many anarchists happily endorse this use of violence; what is special about the *state* is that it claims for itself legitimate uses of violence that it *denies to others* within its sphere of activity. In short, it is above all the inegalitarian, *monopolistic* character of the state that requires justification.

Anscombe never directly engages the question of monopoly, but she does make some remarks relevant to the question. She insists, for example, that the use of defensive force needs to be institutionalised rather than *ad hoc*, and she calls for parties who come into conflict to submit their disputes to impartial arbitration rather than acting as judges in their own case.⁵² Now that is all well and good; but like Locke before her, Anscombe seems to confuse these desiderata with a monopoly state. On the contrary, there can be impartial judges and organised administration without any one agency enjoying a *monopoly*. Indeed, given that a monopoly of legal services must by definition always act as a judge in its own case, at least one of these desiderata is achievable *only* under anarchy.

But Anscombe does give a further argument which might be seen as more directly relevant to legitimising the state's monopoly. The state, she tells us, requires no justification for direct suppression of injustices beyond the fact that they *are* injustices and need to be suppressed; but the machinery of government, Anscombe assumes, will require various further decision-making powers that go beyond the direct suppression of injustices. (Presumably taxation is one of the powers she has in mind.) Not being a utilitarian, Anscombe does not think that showing these broader powers to be necessary means to a legitimate function is enough to make them legitimate in turn – just as we saw that in her view killing civilians is not made legitimate merely by being a necessary means to winning a legitimate war. After all, Anscombe is operating within the Thomistic tradition, according to which *everything* aimed at in an action must be independently legitimate, and the justification of an ultimate aim is not sufficient to guarantee the justification of a more immediate aim that promotes the ultimate one. “Our *problem*,” writes Anscombe, “concerned the right to coerce people who refused to accept the decisions. *The right could not derive directly from the need of this machinery for the general good.* For if for the sake of the general good it is proposed to

⁵² *Ibid.*, pp. 146-147.

damage my interests ... and I shall be subjected to force if I don't go along with this, the question arises: why should I respect the decision?"⁵³

Anscombe's reply is that once a claim with no *inherent* justice (but not inherently unjust either) achieves widespread acquiescence for a long enough time, it becomes a customary right and it is henceforth unjust to break it. (This is her account of property rights, for example.) Thus a would-be government's edicts going beyond the direct suppression of injustice have *initially* no claim to be obeyed; but if a general habit of obedience arises and persists, eventually the claimant acquires a right to such obedience. "The right explicitly to make laws becomes a customary right – through being exercised without too much check or set-back."⁵⁴ In short, Anscombe's justification of the state comes in two steps, or as she calls them, "two bites."⁵⁵ First, certain acts are naturally unjust, legitimising the state's suppression of them; here justice helps to determine the content of law. Second, the state's ongoing, unresisted activity generates a customary right that its further commands incidental to this activity be obeyed; here law helps to determine the content of justice.

This argument, if it works, might seem to justify the state's monopoly – at least in cases (are there any?) where states encountered no significant resistance to their assumption of power. But the anarchist has no good reason to accept the argument. Anscombe seems to be treating the state's right to be obeyed as a kind of *easement*. Just as my having in the past always allowed you, without protest on my part or notification of contrary intent, to hunt on my land might be taken as granting you hunting rights on my land which I can no longer withdraw, so Anscombe seems to suppose that if every morning you tell me what to have for breakfast and I voluntarily comply, in the course of time you acquire a right to *compel* my breakfast choices. (Anscombe denies that her justification of government involves the *transfer* of rights from individuals to the state, but I have a hard time seeing how it doesn't.)

Now the question of easements is a tricky one and I don't propose explore it here. But whatever one may think of easements, they seem importantly disanalogous to the rights claimed by the state, insofar as easements concern the ceding of *alienable* rights. To be sure, some libertarians, like Robert Nozick and Walter Block, regard self-ownership rights as

⁵³ *Ibid.*, pp. 153-154.

⁵⁴ *Ibid.*, p. 154.

⁵⁵ *Ibid.*, p. 153.

alienable too. But most libertarian theorists do not; and if self-ownership is not alienable then no longstanding customary acquiescence on my part could possibly transfer any portion of it to another party.

But whatever the flaws in Anscombe's case for the state, her contributions here – as with her contributions on the topics of praxeology, war, and majoritarian democracy – show considerable affinity with an Austro-libertarian approach. I submit that she deserves a place in our canon.

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