

THE SLOW DEATH OF NEOLIBERALISM: PART 4A THE NATURE OF THE PERSON

Part 1.

Part 2.

Part 3.

Part 3A. This post at Naked Capitalism expands on Part 3, and adds a discussion of Simcha Barkai's paper and methodology; I discuss other aspects below.

In this post, I take up the nature of the person in neoliberal theory and neoliberal society. I begin by describing the nature of the person in theory, and then apply it to elites. In a separate post I will discuss the nature of the average person in neoliberal theory and society. Then I will try to put this in a general context, based on my initial readings on Critical Theory.

The nature of the person in a neoliberal society is simple: a utility-maximizing computing machine, only interested in satisfying wants and needs in a world of scarce resources, where survival depends on the ability to grab stuff ahead of other people. Somewhat more elegantly, Philip Mirowski explains it this way

Neoliberalism thoroughly revises what it means to be a human person. Classical liberalism identified "labor" as the critical original human infusion that both created and justified private property. Foucault correctly identifies the concept of "human capital" as the signal neoliberal departure that undermines centuries of political thought that parlayed humanism into stories of natural rights. Not only does neoliberalism deconstruct any special status for human labor, but it lays

waste to older distinctions between production and consumption rooted in the labor theory of value, and reduces the human being to an arbitrary bundle of "investments," skill sets, temporary alliances (family, sex, race), and fungible body parts. "Government of the self " becomes the taproot of all social order, even though the identity of the self evanesces under the pressure of continual prosthetic tinkering; this is one possible way to understand the concept of "biopower." Under this regime, the individual displays no necessary continuity from one "decision" to the next. The manager of You becomes the new ghost in the machine.

Mirowski could be describing corporations: they are in fact the Platonic Ideal of this version of human nature. They have only one goal: to succeed in the market, whatever that is, by grabbing everything they can, money, power, resources, everything. We should all aspire to be like corporations.

In the neoliberal universe, the market, whatever that is, is the perfect computer. It balances all desires with money and spits out the perfect answer. The market can do no wrong. It disciplines everyone to its demands. There is no need for external government oriented regulation. Any regulation will simply make everything worse. In fact, there is no need for or room for democratic control of any kind. The market also selects our leaders, as Thorstein Veblen observed over a century ago.

We've been living under this intellectual regime for half a century now, and we can see its impact all around us. On the corporate side let's look at two of the main theoretical innovations, Robert Bork's antitrust revisions and Richard Posner's Law and Economics movement.

As far back as 1960, Bork was fretting that socialism would be enforced on the US through

antitrust law. In his seminal 1978 book, *The Antitrust Paradox*, he claimed that the purpose of the Sherman Act, the crucial antitrust law, was to protect consumer welfare, and that the existing law protected inefficient firms and thus drove up consumer prices. That view was adopted by the Supreme Court in 1979. Supposedly it would protect consumers better than prior law focused on the dangers of concentrated money and power.

A recent paper by Simcha Barkai shows how that worked out. Barkai is now a professor at the London School of Economics. His paper, *Declining Labor and Capital Shares*, is here. The first two sections and the conclusion lay out the thesis in English, not econspeak. The labor share is declining. The cost of capital is low and little additional capital has not been added to the existing depreciating stock, so the capital share is low. Profits are up in an amount sufficient to cover both drops. The profit share has risen because of increased concentration, which occurred because of the adoption of Bork's opinion. See Part 3A, Observations.

Across specifications, the profit share (equal to the ratio of profits to gross value added) has increased by more than 12 percentage points. To offer a sense of magnitude, the value of this increase in profits amounts to over \$1.1 trillion in 2014, or \$14 thousand for each of the approximately 81 million employees of the non-financial corporate sector. P. 3.

Profits go to the owners of firms, who distribute the money as they see fit. Profits are not distributed to the 99%; they go to shareholders and top management. This is terrible for consumers, whose wages have stagnated while profits soar. Bork was totally wrong, and wrong in ways that hurt people and society.

The second neoliberal innovation is the Law and

Economics Movement, driven by Richard Posner, recently retired from the Seventh Circuit. This is from a 1987 speech he gave at the American Economic Association, behind pay-wall but available through your local library. According to Posner, these are the basic premises of Law and Economics:

1) People act as rational maximizers of their satisfactions in making such nonmarket decisions as whether to marry or divorce, commit or refrain from committing crimes, make an arrest, litigate or settle a lawsuit, drive a car carefully or carelessly, pollute (a nonmarket activity because pollution is not traded in the market), refuse to associate with people of a different race, fix a mandatory retirement age for employees.

2) Rules of law operate to impose prices on (sometimes subsidize) these nonmarket activities, thereby altering the amount or character of the activity.

A third premise, discussed at greater length later, guides some research in the economics of nonmarket law:

3) Common law, (i.e., judge-made) rules are often best explained as efforts, whether or not conscious, to bring about either Pareto or Kaldor-Hicks efficient outcomes. P. 5

You can find my discussion of Kaldor-Hicks efficiency [here](#), with a link to a discussion of Pareto Efficiency. Posner is quite serious about this.

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This is from [Posner's] 1985 article in the *Columbia Law Review*, *An Economic Theory of the Criminal Law*:

My analysis can be summarized in the following propositions:

1. The major function of criminal law in a capitalist society is to prevent people from bypassing the system of voluntary, compensated exchange—the “market,” explicit or implicit—in situations where, because transaction costs are low, the market is a more efficient method of allocating resources than forced exchange. Market bypassing in such situations is inefficient – in the sense in which economists equate efficiency with wealth maximization – no matter how much utility it may confer on the offender. ... (P. 1195, footnote omitted)

Posner carefully explains how this works with rape. I’m sure Weinstein, O’Reilly and all of the sexual predators heartily endorse his conclusions. It’s just sick to think in terms of the utility these predators gain balanced against the “disutility” to the people they attack. In Kaldor-Hicks terms, the predator can make everything right with a few bucks and/or a part in a movie, and Posner would be fine with that.

This analysis is explicitly inhuman: it takes no account of human dignity, or bodily autonomy and personhood of people under assault. The disutility caused by rich predators? What kind of person thinks like that?

To be precise, that is the exact mindset that neoliberalism calls out. That focus on economic efficiency defined in the most dehumanizing terms possible is at the core of the education of the elites and it perfectly explains their behavior in their institutional roles. All of them are sure they are perfection of humanity because they were selected by the perfect market. And it is therefore right and just that they should be in charge of everything. Screw democracy; as Posner put it in a 2007 opinion, the value of voting to the individual is elusive.