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ECHOES OF TOMORROW: THE ROAD TO SERFDOM REVISITED

Alex Kozinski and David M. Schizer†

Today, many of Friedrich A. Hayek's ideas have become familiar, so familiar they seem almost self-evident. We have to cast our minds back to the time Hayek was writing to appreciate just how prophetic and insightful his works really were. The world was a very different place in 1944, when Hayek published his most famous book, *The Road to Serfdom*.¹ History's bloodiest war was in full swing. While D-day and Stalingrad portended the triumph of the allies, Hitler's downfall was by no means assured.

America's relationship with communism was still unfolding. After an initial period of hostility toward the Soviet Union²—one that, in fact, motivated some to appease Hitler as a bulwark against the Bolshevik hordes—the West made a pact with the devil, cooperating with Stalin against their common Nazi enemy.³

But in 1944, if you think about it, communism was still a mystery to the West. At the time, the Soviet Union was the world's only communist power; it was not until after the war that communism engulfed Eastern Europe and later China, North Korea, Cuba, Vietnam, Nicaragua and, of course, Santa Monica.

And what did we really know about the Soviet Union? There were whispers about purges and mass starvation, particularly among

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Judge Kozinski delivered this essay (less the footnotes) on December 3, 1993, as the keynote address at Southwestern University School of Law's symposium on F. A. Hayek and Contemporary Legal Thought.

1. FRIEDRICH A. HAYEK, *THE ROAD TO SERFDOM* (1944).

2. In fact, after the Russian Revolution, the United States joined a military operation to topple the Bolsheviks. See, e.g., Robin Wright, *Caution is Watchword as U.S. Faces a New Era*, L.A. TIMES, Sept. 2, 1991, at A1.

3. Perhaps Winston Churchill said it best when explaining why he was supporting Stalin: "If Hitler invaded hell, I would make at least a favorable reference to the devil in the House of Commons." Drew Middleton, *Hitler's Russian Blunder*, N.Y. TIMES, June 21, 1981, § 6 (Magazine), at 30, 65.

state department observers stationed in Riga.⁴ But many well-meaning people in the West—particularly folks on the Left—viewed the Soviet Union as an intriguing experiment.⁵ To enthusiasts, the U.S.S.R. was a worker's paradise, a shining example of what the world could be. In certain intellectual circles, it was almost surprising not to be a socialist.⁶ Remember that the Soviet Union was our ally at the time, so our government was churning out favorable propaganda about "Uncle Joe" and his hardy bands.

It is important to remember this context when we think about *The Road to Serfdom*: important because it shows how new—and how courageous—Hayek's scathing critique of state economic planning was; and important because it is absolutely extraordinary, given the small slice of history nourishing Hayek's insights, that he was right, dead right, about why collectivism is so very, very dangerous.

It is now half a century since Hayek published *The Road to Serfdom*. Much of our population was not even born when he wrote this terse, eloquent work—and a lot has happened since. A lifetime of conflict has raged over the ideas Hayek considered in his slender volume. Unimaginably destructive weapons have been aimed at the world's population centers, menacing the very survival of our species. Even under their shadow, we have seen revolutions reacting against the abuses Hayek identified. Millions have gained their freedom. Walls that seemed permanent came crashing down. We hope they stay down.

4. See generally DANIEL YERGIN, SHATTERED PEACE (1977) (describing "Riga axioms"—the suspicious view of the U.S.S.R. developed by State Department observers at Riga); see also Herbert E. Meyer, *A Trendy Cold War Fairy Tale*, FORTUNE, Nov. 1977, at 81 (faulting Yergin for questioning wisdom of "Riga axioms").

5. One such sympathizer, Benjamin Gitlow, is known to history for three achievements. First, he was a member of the Left Wing section of the Socialist Party. Howard O. Hunter, *Problems in Search of Principles: The First Amendment in the Supreme Court from 1791-1930*, 35 EMORY L.J. 59, 118 (1986). Second, he was convicted under New York's criminal anarchy statute for, among other things, "advocat[ing], advis[ing] and t[eaching] the duty, necessity and propriety of overthrowing and overturning organized government by force, violence and unlawful means, by certain writings . . . entitled 'The Left Wing Manifesto.'" *Gitlow v. New York*, 268 U.S. 652, 655 (1925). This case, incidentally, prompted a famous opinion holding that the First Amendment applies to the states, see *id.* at 666, and a renowned dissent by Oliver Wendell Holmes, see *id.* at 672-73 (Holmes, J., dissenting) (finding First Amendment violation). And Gitlow's final achievement—he is a distant cousin of one of the authors (the one who "is not").

For an interesting look at the attitudes of American socialists after the Soviet Union's collapse, see Donald Baer, *Leftists in the Wilderness*, U.S. NEWS & WORLD REP., Mar. 19, 1990, at 26.

6. So it was, for example, in Irving Howe's circle of New York Jewish intellectuals during the '40s and '50s. See generally IRVING HOWE, *WORLD OF OUR FATHERS* 287-359 (1976) (describing Jewish socialist movement).

Our thesis though, is that today, after this frenetic rush of history, Hayek is not less relevant or less persuasive, but more so. In clear prose, he explains why collectivism—even the moderate, supposedly pro-democratic variety that is still popular in the West—can become the road to serfdom. As we read him, Hayek makes three arguments about why this is so. First, he tells us why collectivism cannot bring prosperity. Second, he tells us why a government that takes our economic liberties must surely come after our political rights as well. And finally, he tells us why collectivism's rhetoric about regularity and the common man is misleading—why, contrary to what many believe, it is collectivism that is elitist, while capitalism relies on the values and judgments of ordinary folks.

As we go through these arguments, we hope you will notice, as readers in 1944 could, how sensible they are as theories. But we also hope you will recognize something we can only know now—how faithfully history has confirmed Hayek's predictions.

There is one more thing we hope you'll remember. When Hayek criticized collectivism, he wasn't just worried about Stalin's or Hitler's variety. Rather, he was also concerned about what was then called "The Third Way,"⁷ and has since become known as welfare capitalism. Hayek believed that state economic planning was dangerous even in small doses. He thought this in 1944, when our government was a mere embryo of what it is today.⁸ Now, after we've created scores of new government agencies, printed millions of pages of regulations, and spent trillions of dollars⁹—often getting dubious returns for these efforts¹⁰—it is all the more useful to think about what Hayek said then, and, perhaps, what he would say now.

7. Kurt R. Leube, *Friedrich August von Hayek: A Biographical Introduction*, in HAYEK ON LIBERTY, at xvii, xxii (John Gray ed., 2d ed. 1986). In fact, Hayek dedicated the book "to the Socialists of All Parties." HAYEK, *supra* note 1, at ii.

8. To get a sense of how rapidly the size and budgets of our federal, state and local governments have exploded, compare the amount we spend today with what we spent in 1965—a massive \$2.3 trillion compared to \$678 billion, adjusted for inflation. Barry Asmus, *Private Sector Solutions to Public Sector Problems*, IMPRIMIS, Oct. 1993, at 2. And, of course, \$678 billion was far more than we spent in 1944.

9. Nor is this trend slowing. In fact, federal regulators have found a new target—the health care industry. Some experts predict the President's proposal will be three times as costly as social security, five times as large as medicare, and will consume 17.2% of the gross domestic product. See Paul C. Roberts, *Health-Care Reform: Have the Clintons Been Retouching the X-Rays?*, BUS. WK., Oct. 25, 1993, at 20.

10. Critics have noted how little the nation has benefitted from money spent in the last three decades to fight poverty. For example, if we had saved this money—a total of \$3.5 trillion—to invest it in real estate and stocks today, we could "buy every Fortune 500 company and every piece of farm land in America" and give them to the poor. Asmus, *supra* note 8, at 1.

I. THE THREAT TO PROSPERITY

Hayek understood that government planning could not bring the prosperity its advocates promised. But at the time he published *The Road to Serfdom*, his view was not widely shared. On the contrary, socialist economists believed that a government-directed economy would be far more efficient and productive than one governed by “anarchic” competition.¹¹ To this crowd, markets were wasteful. The lack of government regulation made them too prone to booms and busts. These cycles not only seemed untidy, but also put people out of work unnecessarily—or so the scientific socialists thought. Moreover, competition itself seemed wasteful. Why have more than one set of people tackling any given problem? Far better, these folks thought, for bright planners with sharp pencils and elite educations to take over: Would this not stabilize the gyrating business cycle? Would it not cut out competition’s wasteful duplication of effort?

No way, said Hayek. Not only was it hard for him to imagine someone trustworthy enough to wield the enormous power governmental planning would require—a point we will return to later¹²—but he thought that even if you found such trustworthy souls (like the authors, for example), a centrally-directed economy would still starve for lack of one essential nutrient: information. No matter how gifted or hard-working the planners were—and Hayek would concede the brightest people you could imagine: Einstein, Plato, Tim Curry¹³—

Then, “what would the problem of poverty be like today? Would there be tens of thousands of Americans who are members of a ‘permanent underclass’ and millions more who qualify as ‘working poor?’” *Id.* One has to wonder.

11. One of the most articulate socialist economists was Oskar Lange, who crossed swords with Hayek on a number of occasions. See Linda A. Schwartzstein, *Austrian Economics and the Current Debate Between Critical Legal Studies and Law and Economics*, 20 HOFSTRA L. REV. 1105, 1125 (1992). Lange is perhaps best known for claiming that government planners had enough information to allocate resources efficiently:

The economic problem is a problem of *choice* between alternatives. To solve the problem three data are needed: (1) a preference scale which guides the acts of choice; (2) knowledge of the “terms on which alternatives are offered”; and (3) knowledge of the amount of resources available. Those three data being given, the problem of choice is soluble.

OSKAR LANGE & FRED M. TAYLOR, ON THE ECONOMIC THEORY OF SOCIALISM 60 (Benjamin E. Lippincott ed. 1938). What a hoot! Needless to say, Hayek disagreed. See *infra* text accompanying notes 12-19; see also Friedrich A. von Hayek, *Two Pages of Fiction: The Impossibility of Socialist Calculation*, ECONOMIC AFFAIRS, Apr. 1982, reprinted in THE ESSENCE OF HAYEK 53-61 (Chiaki Nishiyama & Kurt R. Leube eds., 1984).

12. See discussion *infra* part II.

13. After all, do you think it’s easy to play the same character in movie after movie?

they simply could never know enough to allocate productive resources sensibly, let alone to maximize total welfare.¹⁴

Think about the sheer volume of information needed to manage an entire industry, even a simple one like, say, making pencils.¹⁵ We are not talking about rocket science after all. But pencil planners would have to untangle some knotty supply problems:¹⁶ how forest fires might affect the supply of wood; whether a new supply of lead will become available; what toll tropical weather will have on the rubber crop needed for erasers; whether the truckers transporting raw materials will have enough fuel; how productive the workers making the pencils will be; and whether a better pencil-making technology exists, developed somewhere exotic like, say, Pasadena.

It is not just the amount of information planners would need that is daunting, but also the type. You will notice that so far we have only talked about information needed to *supply* the good. We have not talked about demand at all, what planners need to figure out how many of the darned things society will need.

As Hayek understood, that information is more important in determining price than the cost of producing a good. This insight is called the subjective theory of value, which is one of the most significant contributions of Hayek's Austrian School.¹⁷ The idea, though revolutionary at the time, is pretty simple: In deciding how much to pay for something, people don't say, "Well, I guess I should pay whatever some poor slob spent to produce it." They don't really care about the poor slob. Instead, they will pay what the item is worth to them—that is, how much it would enhance their welfare compared to other goods they could buy.

14. See HAYEK, *supra* note 1, at 58-59.

15. The informed reader is no doubt reminded of Leonard E. Read's excellent essay, "I, Pencil". Leonard E. Read, "I, Pencil", *IMPRIMIS*, June 1992, at 1.

16. As Leonard Read stated,

I, Pencil, am a complex combination of miracles; a tree, zinc, copper, graphite, and so on. But to these miracles which manifest themselves in Nature an even more extraordinary miracle has been added: the configuration of creative human energies—millions of tiny bits of know-how configuring naturally and spontaneously in response to human necessity and desire and in the absence of any human master-minding! Since only God can make a tree, I insist that only God could make me. Man can no more direct millions of bits of know-how so as to bring a pencil into being than he can put molecules together to create a tree.

Id. at 2-3.

17. Carl Menger, the founder of the Austrian School of Economics, is one of three economists credited with developing this idea, which led to the "Marginalist Revolution" in economics. See Schwartzstein, *supra* note 11, at 1123. The other two economists were William Stanley Jevons in England and Leon Walras in France. Christopher T. Wonnell, *Contract Law and the Austrian School of Economics*, 54 *FORDHAM L. REV.* 507, 510 n.24 (1986).

This idea—a departure from the way Marx and other classical economists thought about prices¹⁸—is absolutely crippling to our pencil planners because, though they might conceivably calculate costs of production, there is just no way they can figure out *ex ante* how much of a good people will want at a given price, let alone what the market clearing price would be. Nobody is that smart. Think about it. A really sharp pencil pusher—puns definitely intended—with a really big computer might conceivably figure out, say, the actuarially predicted weather and its influence on the rubber crop, the probable productivity of the factory workers, and so on. These quantities are knowable to a planner at least theoretically, because they are objective in some sense.

But not so with demand. Do people prefer pencils to pens? Do they like wooden pencils or the metal kind? Do they like the classic yellow pencil or brightly colored ones with cute cartoon characters on them? How do they feel about sharpeners? And of course, these are not really yes or no questions, though we have phrased some of them that way. The real inquiry is: At a given price, how will people react? How are our pencil pushers supposed to answer this question? With psychological experiments? With polling? Should they call in some collectivist version of the Gallup organization? Would they then plot their data on graphs to discern society's utility function? Maybe this could be done, but we have doubts—as, obviously, did Hayek. Our planners would more likely guess at a quantity and a price, and then wait and see if there is a surplus or a shortage. But that is an awfully clumsy way of doing things, particularly if they are slow to react—like most bureaucracies—and do not have competitors forcing them to be more accurate.

Remember, of course, that we have only thought about one industry, and a simple one at that. What if we told our cadre of pencil-planners to think bigger? “Plan more,” we could say. “Plan America's vacuum cleaners. Plan America's antifreeze. Plan America's toothpaste. Plan America's curtains. Aw heck,” we could say, “just plan it all.” Could they do it? You bet they could—really, really, really badly. So badly, in fact, that our economy would grind to a halt.

“Well O.K., Mr. Hayek, that's fine,” one could say. “You've made our pencil guys feel pretty bad, but do you have an alternative?” As a matter of fact, he did—market prices. No central planner can

18. Schwartzstein, *supra* note 11, at 1123 (“[C]lassical economists . . . believed that value was determined by resource costs in the past . . .”).

process information nearly as well as a market price. A price, Hayek knew, is an aggregate of everybody's information—all their predictions, their preferences, their predictions about everyone else's preferences, etc. You name it, it's in there. And it all averages out; so the price tells us, better than any planner could, how much society values a certain good relative to others.¹⁹

So Hayek offered persuasive arguments about why collectivism could not bring prosperity. Even his readers in 1944 could have seen how coherent and logical his case was. But we can do better—we can see that history has proved him right. Like a wrecking ball, collectivism demolished every economy it has touched. When the Soviet Union collapsed, it was utterly bankrupt—its once proud agricultural system a joke, its consumer industries practically nonexistent, its housing cramped and decrepit.²⁰ How about Vietnam? Ho Chi Minh's socialist paradise is courting foreign investment and liberalizing its economy as quickly as possible.²¹ It is ironic that our goal years ago—keeping communism out of Vietnam—may finally be realized not because of our military might, but because communism is too flawed to survive. And how about Cuba? Now that they've lost their massive Soviet subsidy, they're tottering on the brink.²² Cubans have learned the hard way what Hayek knew before anyone heard of Fidel—centralized planning leads to national poverty.

II. THE THREAT TO LIBERTY

Collectivism does not just steal our prosperity. More important, it poisons our liberty. And this is perhaps the essence of Hayek's argument. He understood that some ideals transcend material well-being. Societies, he knew, can sensibly sacrifice prosperity in the name of a higher ideal—like freedom. But collectivism does not set people free; on the contrary, it is a short road to serfdom.

As Hayek understood, allowing government officials to plan our economic lives gives them an extraordinary capacity for tyranny. The state moves beyond controlling our lives in limited ways, like when it polices our streets and borders. Rather, collectivist states control it

19. See HAYEK, *supra* note 1, at 49-50.

20. For a powerful description of the Soviet economy in its death throes, see PAUL C. ROBERTS & KAREN LAFOLLETTE, *MELTDOWN: INSIDE THE SOVIET ECONOMY* (1990).

21. See, e.g., David Rogers, *Young and Restless: In the New Vietnam, Baby Boomers Strive for Fun and Money*, WALL ST. J., Jan. 7, 1994, at A1, A4.

22. See, e.g., David Asman, *The U.S. Should Punish Fidel by Granting His Wish*, WALL ST. J., Jan. 7, 1994, at A1.

all. Consumers fall under the smothering blanket of government fiat. It is not their preferences, but those of governmental planners, that determine resource allocation.²³ To get back to our example, if our pencil planners like red pencils—to pick a color not quite at random—pencils will be red even if consumers prefer yellow. Not so, obviously, in a free society, where it is the customer, not the bureaucrat, who is always right.²⁴

When the consumer in a collectivist state goes to work and becomes a producer, he is also under the thumb of—you know who—the government. Your capacity for professional advancement—and perhaps even your choice of profession to begin with—is captive to the state, or, more precisely, to the bureaucrats who act in its name. If you do not like them or they do not like you, tough luck. You cannot quit and go to work for anyone else.

Moreover, by controlling the means of production—that is, society's material wealth—the government has a stranglehold on the material means people can use to protest government action. For example, one of the first things Lenin and his gang of thugs did in 1917 was to seize all printing presses. As one of his underlings put it before the Council of People's Commissars: "The revolution which is now being accomplished has not hesitated to attack private property; and it is as private property that we must examine the question of the Press. . . ." ²⁵ From this premise, he concluded that, "We must . . . proceed to the confiscation of private printing plants and supplies of paper, which should become the property of the Soviets . . ." ²⁶ The rest is history.

The truth is, in a collectivist regime you are really stuck. The government tells you what you can buy, where you can work and even what resources, if any, you can use to protest its policies. Hayek saw, though, that government planning is dangerous for yet another reason. By directing the economy, the government not only gains greater control over our lives, it also frees itself of an extremely important constraint on its power—the rule of law. As Hayek understood this phrase, it "means that government in all its actions is bound by rules

23. HAYEK, *supra* note 1, at 65.

24. For a particularly thoughtful and eloquent exposition of this idea, see Malcolm S. Forbes, Jr., "Three Cheers for Capitalism", *IMPRIMIS*, Sept. 1993, at 1, 2-3 ("The market is *people*. All of us. We decide what to do and what not to do, where to shop and where not to shop, what to buy and what not to buy.")

25. JOHN REED, *TEN DAYS THAT SHOOK THE WORLD* 268 (International Publishers 1967) (1919) (quoting Avanessov).

26. *Id.*

fixed and announced beforehand—rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one's individual affairs on the basis of this knowledge."²⁷

This constraint is pretty important. It means you can figure out how to stay out of trouble with the government. It also gives us an independent standard for judging the state, and particularly the way it treats individuals. Favoritism and discrimination become easy to detect; as a result, the government is less likely to engage in such behavior.

Hayek realized, though, that the rule of law and the beneficent constraints it imposes on arbitrary state power can only be meaningful if rules constraining the state are clear and do not give its agents too much discretion.²⁸ Were it otherwise, government officials would not really be constrained. For example, think about two rules: the first says, "Officers of the state shall only execute those convicted of murder"; the second says, "Officers of the state shall only execute those they deem dangerous to the welfare of the state." The first rule is a pretty effective safeguard against arbitrary state action—state officials cannot take your life unless you do something pretty bad and pretty clearly defined. It is true, of course, that they could try to frame you or rig your trial, so this rule, by itself, does not offer absolute protection. But compare it to rule number two: All it really says is that a state officer can only kill you if he feels like it—all he has to do is say he thought he was acting to protect the state. This rule does not constrain the government at all.

Hayek used this insight—that only nondiscretionary rules constrain arbitrary governmental power—to show another reason why state economic planning endangers our liberty. Economic planning, he said, cannot be governed by nondiscretionary rules—the sort that prevent arbitrary government action. Those making economic judgments must have discretion about what goals to pursue and how to pursue them; otherwise, they simply cannot do their jobs.²⁹ But by giving such decisions the force of law, we grant decisionmakers enormous power—we cannot judge their commands by any precise external standard.³⁰ We cannot say, "You may only do this and this, and only under these narrow circumstances"—a mandate that is verifiable.

27. HAYEK, *supra* note 1, at 72 (footnote omitted).

28. *See id.* at 72-79.

29. *See id.* at 74-75.

30. *See id.* at 81-83.

Instead, we must say something like, "Do what you must, as long as it is in society's interest." Would anyone like to try prosecuting a violation of that rule? A bureaucrat could use that mandate to justify almost any behavior: playing favorites, tormenting his enemies, lining his pockets, or whatever else he feels like. State economic planning involves raw, unconstrained power and, as such, is extraordinarily dangerous.

But the peril, Hayek realized, is graver still. Not only does state planning create the *potential* for tyranny (as we have just seen), but also the *need* for it—at least in some people's minds. Economic planning, more than other government action, requires planners to impose their preferences on the general population, something which is not easily done through democratic processes.³¹

Why are economic decisions different? Think about other decisions a government may make, like outlawing murder—it is something we all can agree on in some sense. Or traffic lights. We are all willing to sacrifice some freedom—that is, the freedom to go when the light is red—to ensure that when we go, we will be safe. Contrast economic decisions. Economics, you will recall, has been called the "dismal science" because it is about trying to satisfy unlimited wants with limited means.³² We would all like everything, but we can't have it. Instead, we have to rank our preferences. The essential point, though, is that we do not all share the same priorities and tastes.³³ Some people, for example, actually fail to realize Jim Morrison was God's gift to the sixties.³⁴

So if everyone's preferences are different, whose priorities will guide state planners? They might ask the people, or at least their elected representatives, to vote on priorities, but that is awfully unwieldy. Think about how much trouble Congress has coming up with a budget; how easily could they come up with a rational, synoptic plan for our entire economy? Hayek certainly did not think they could—and that was 1944, before "gridlock" became a political cliché. "Parliaments come to be regarded as ineffective 'talking shops,' unable or incompetent to carry out the tasks for which they have been chosen.

31. See *id.* at 65-68.

32. See, e.g., Burton Y. Pines, *The Lessons of Reaganomics*, HERITAGE FOUND. REPS., Mar. 25, 1987, at 1, available in, LEXIS, EXEC Library, HFRPTS File (describing economics as a dismal science because it focuses on scarcity).

33. See HAYEK, *supra* note 1, at 57-58.

34. See, e.g., Alex Kozinski, *A Drummer Tries to Remember Jim Morrison*, WALL ST. J., June 14, 1991, at A8 (reviewing JOHN DENSMORE, *RIDERS ON THE STORM* (1990)).

The conviction grows that if efficient planning is to be done, the direction must be 'taken out of politics'"³⁵

The end result will be that we will need so-called "experts" to set priorities for us. In so doing, they will impose their values on us—something that is really impossible without a powerful state apparatus. This brings us awfully close to tyranny. Hayek was not exaggerating by much, if at all, when he said that "planning leads to dictatorship because dictatorship is the most effective instrument of coercion and the enforcement of ideals and, as such, essential if central planning on a large scale is to be possible."³⁶ And, of course, the end result can be tragic. "When [democracy] becomes dominated by a collectivist creed," Hayek said, "[it] will inevitably destroy itself."³⁷

History has affirmed Hayek's judgment here as well. Citizens of totally collectivist societies have lived at the mercy of the state—and the petty tyrants acting in its name—because they've had no choice but to buy its goods and work at the job they'd been given. Discrimination and harassment based on ethnicity, religion and gender have been all too common for workers in communist states. One of the authors first learned the extent of this problem during the early 1970s, on a trip back to Romania, where he was born. He struck up a conversation with a man in a small town near Timisoara, who had two grown children, a son and a daughter. When asked whether they were going to the university, the man said yes as to the daughter, but no as to the son—not because the daughter was a lot smarter than the son, but because, as he put it, "it's far better to step with your boot into cow manure than to take off your boot and fill it with manure." The author must have looked baffled because the man explained: The son could take care of himself, but the daughter, unless she was armed with a superior education, would be constantly harassed for sexual favors by her supervisors. How did he know? "Because," he said, "I was a supervisor."

History reveals that giving the state massive economic power not only leaves citizens without escape from abusive treatment, but also

35. HAYEK, *supra* note 1, at 62.

36. *Id.* at 70.

37. *Id.* This insight is particularly apt as to societies where the state controls virtually all economic activity. It is less true, of course, for societies with partial state ownership—as not all have descended into dictatorship. France, Germany and Israel, for example, have thriving democracies even though certain of their industries are under state control. Nor are free market societies immune to dictatorship. However, the trend is clear: economic and political liberties are intimately related. For a particularly insightful exploration of this phenomenon, see MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* (1962).

enables the state to insinuate itself into all aspects of their lives. In fact, the Soviet Union and its satellites were among the most repressive states in human history. They systematically denied citizens the most basic rights: to worship as they pleased; to say or write what they thought; to choose their own profession; to travel freely; to get a meaningful trial before incarceration, etc. Massive internal policing organizations robbed the people of their privacy and engaged in gruesome torture.

As Hayek predicted, these nations did not use democratic processes to decide how to allocate resources. On the contrary, they outlawed the opposition and made all decisions through elitist institutions. Those who did not agree were silenced, and sometimes imprisoned, tortured or even killed. There can be no doubt: The Soviet state and the pygmies it created in its own image—each of which had a chokehold on its citizens' economic and political lives—offer uniquely vivid proof of the proposition that absolute power corrupts absolutely.

III. THE FALSE PROMISE OF EQUALITY

Some true believers might surrender prosperity and individual liberty in exchange for virtues they find only in collectivism: true equality and respect for the dignity of the common citizen. Admittedly, at its core, collectivism has some very high sounding ideas—from each according to his ability, to each according to his need. A society of equals. The celebration of the common man and woman—and their common offspring.

Though Hayek could see the appeal of such rhetoric—as, no doubt, could anyone—he recognized that the massive power which state bureaucracies assume for economic planning necessarily leads to social stratification: There would be no society of equals as long as bureaucrats wielded so much power.³⁸ Instead, they would be masters and the rest would be slaves.

On this point, too, history has surely proved him right. In fact, few modern societies have been as stratified as those under collectivist rule. Behind the Iron Curtain, a powerful elite—the folks who wielded both society's political and economic power—demanded and enjoyed a high standard of living, leaving the rest of society in poverty. In the Soviet Union, for example, members of the party elite could claim various privileges, among them better food, schools and housing, in addition to the use of servants, cars and party-owned vaca-

38. See HAYEK *supra* note 1, at 101-03.

tion homes.³⁹ They shopped in special stores with higher quality food, scarce consumer goods and luxury items. This Soviet model was widely imitated in other collectivist economies.

One could say, of course, that this outcome is merely an abuse, a perversion of an otherwise sound idea. To make this case, one has to explain why the abuses are so utterly widespread. But more fundamentally, such defenses of collectivism must fail because—notwithstanding all the rhetoric—collectivism is an inherently elitist idea: It does not trust people to choose for themselves. Instead, it relies on a small sliver of society—those with the right connections, educations, ruthlessness and ideological fervor—to make decisions for everyone else.

The fundamental premise of free market societies is very different. It is that each of us—regardless of who our parents are, where we went to school, what our religion is, or what continent our ancestors came from—knows far better than anyone else what fulfills us. We know what we need and we are free, within the bounds of the law, to pursue our dreams. No one else is needed. No five year plan. No communist party. No oppressive state. Just us.

We realize what we say could seem surprising. Many, after all, have described collectivism as egalitarian and capitalism as elitist—hey, we've seen Oliver Stone's "Wall Street";⁴⁰ we know that capitalists are just pampered crooks who wear expensive suspenders. But free markets do not just serve corporate raiders—they serve us all. They ennoble each and every one of us by affirming our right to choose and by deferring to our choices. We speak through prices, and our voices count.

If the world has learned anything in the half century since Hayek published *The Road to Serfdom*, it is the wisdom of what Hayek said there. We have seen war. We have seen brutality and dictatorship. And we have seen an awakening of freedom in places where it had long been dormant. We hope our nation will remember the lessons Hayek understood so long ago, lessons others learned only through misery and bloodshed. Our liberty and our prosperity are precious. They are also fragile. We must remain forever vigilant—and forever grateful.

39. ROBERTS & LAFOLLETTE, *supra* note 20, at 67-74. See generally MICHAEL VOSLENSKY, *NOMENKLATURA: THE SOVIET RULING CLASS* (Eric Mosbacher trans., 1984). There are, in fact, books that list members of the Soviet elite along with their ranks and the privileges they could claim. See, e.g., ALBERT L. WEEKS, *THE SOVIET NOMENKLATURA* (1987).

40. *WALL STREET* (Twentieth Century Fox 1987).