

Kid Lib

di Murray N. Rothbard

Among the many highly touted “liberations” of recent years, sometimes genuine and more often spurious, “kid lib” seems to be waiting in the wings. In fact, one libertarian publication claims that “kid lib” is the next wave of the future. What “kid lib” is supposed to be is now unclear; and I suspect it may amount to little more than the supposed “right” to kick every adult in the shins and to enjoy a guaranteed annual income to be provided by long-suffering parents and the longer-suffering taxpayer. But, nevertheless, kid lib highlights the difficult and vexing problem of children’s rights; what, indeed, are the rights of children and of parents?

There has been very little thinking among libertarians about the children question. The reason is clear, for libertarians are well trained to handle the problems of adults; each adult is clearly possessed with the right of self-ownership. So far so good. But what of the newborn babe? It is evident that the baby has no *de facto* power of self-ownership; and since adult rights in natural law derive from adult powers and faculties, who does own the baby? And if the baby must in some sense be “owned” by one or more adults, if he must be directed and controlled, who draws the line and where? At what point or in what zone does the child acquire his full rights, his rights of self-ownership? Suddenly? Gradually? At age 21, or what? Libertarian answers have ranged from the progressives, who wish to give children the right to run roughshod over everyone in the name of “freedom,” to some anarchists who concluded that children were to be the absolute property of their creators, their parents, who therefore had the right to kill their children if they so desired.

As in so many other fuzzy areas of demarcation of rights, as for example in the problem of “free speech” and the shouting of “Fire!” in a crowded theater, the answer to perplexing questions of rights is invariably to be found in focusing on the rights of property. Where do the property rights lie? In the first place, the overriding fact of parent–child relations is that the child lives on the property of his parents. The child lives either in a house owned by his parents or in an apartment rented by them. Therefore, as in the case of any other “guest” living on someone else’s property, he must obey the rules set down by the property owners for remaining on that property. In short, the parents have the perfect legal and moral right to lay down rules for their children, just as they would have the right to lay down rules for the behavior of their longstanding house guest, Uncle Ezra. Furthermore, there is nothing morally wrong with laying down such rules. On the contrary, any property owner is bound to lay down rules for the use of his property. We have already said enough to demolish the progressive’s cry for absolute “freedom” for children: that children should be allowed to run wild in the house, to make noise, kick adults in the shins, and generally behave in an obnoxious manner. No well-regulated piece of property, including a household, can be run intelligently in such a manner. And so it is perfectly proper, legally and morally, for the parents to prohibit noise, offensive behavior, etc., as part of the rules for persons living on their property. When the child becomes older, it is equally legitimate for the parents to insist on curfews, to prohibit noise, wild parties, sexual hijinks, etc., on the property as well. In moral and legal theory, there is no freedom except freedom for the property owner; and hence, such rules for the use of property are not infringements on the rights of the child. Ludwig von Mises settled an analogous case when he demolished the “traffic-laws” argument for government, the common argument being that you have to have traffic laws, and, therefore, why not other government interventions in the economy? Mises replied that every owner of a piece of property will and must lay down rules for its use; and so, if the government owns the roads, it will lay down rules for traffic. But if private parties owned the streets and roads, *they* would lay down such rules, and hence there is no case here for government intervention in private affairs. In the same way, the owner of the house or apartment will lay down the rules for its use.

The focus on property rights also provides us with the solution to the thorny problem of when the child can own and regulate himself. The answer is: when he leaves his parents’ household. When he

gets out of his parents' property, he then removes himself from his parents' property jurisdiction. But this means that the child must always have, regardless of age, the absolute freedom to run away, to get out from under. It is grotesque to think that the parents can actually own the child's body as well as physical property; it is advocating slavery and denying the fundamental right of selfownership to permit such ownership of others, regardless of age. Therefore, the child must always be free to run away; he then becomes a self-owner whenever he chooses to exercise his right to run-away freedom.

This means that the fundamental tyranny of the parent over the child is not imposing curfews or getting him to eat spinach or preventing cohabitation in the back room; the fundamental tyranny is the current legal power of the parent to seize a child who has run away and drag him back home by force. The parent should, of course, have the right to try to persuade or cajole the kid to return, but he should never have the right to force him to do so, for that is kidnapping and a high crime that violates every person's absolute right to his body. Asserting every child's right to run-away freedom does not imply, of course, that the libertarian advocates running away; that is purely a question of the individual situation of the parent and child. But we must recognize that inherent in even the best of parent-child relations is an essential "class struggle," a struggle rooted in the necessary existential fact that the kid is born into an environment created not by himself but by his parents. And even in the best of circumstances, tastes, values, interests, attitudes will differ from every individual to another, and therefore from every parent to every child. In the natural course of events, then, most children will, upon growing up, seek to create their own environment by leaving the parental nest. That is the way of nature, from the animal kingdom to man.

The absolute right to run away, then; but this means, of course, that the child cannot continue to exert a legal or moral claim upon the parents' continued economic support. In fact, it is rather absurd for the parent to continue supporting the child under those circumstances; independence replacing dependence is a worthy and noble goal, but it must necessarily include being economically independent as well. The child, indeed, has the right either to support himself or to find other adults who will support him voluntarily. In short, he has the right, once out from under the parental roof, to find foster parents who will care for him voluntarily and under whose jurisdiction he voluntarily places himself until he wishes to strike out on his own.

The right to run away clears up most parent-child problems for the libertarian, but two questions remain: (1) what is the moral role of the parent-property-owner so long as the child remains in the parental home; and (2) as a subquestion, what is the moral and the legal role of the parent during those very early years when the child cannot physically leave the parental property? In short, given the parent's legal right to regulate the kid at home, what is his moral duty as parent, and how extensive is his legal right to regulation?

During the early years of babyhood, when the child is helpless and has few if any powers of self-ownership, he indeed becomes a kind of property of his creators, his parents. Some adult must be in charge of each baby, and there are only two alternatives: his parent-creators or outside adults seizing the kid from his parents by force. Surely, the latter is totally illegitimate, whether done by the State or by other parties. We may say that the act of creation gives the parent, and not outside adults, jurisdiction over the baby. And yet, this ownership cannot be absolute, cannot involve the right of the parent to mutilate, maim, or murder the child, for this would be criminal aggression against the body of the child, who, being an independent human entity, cannot come under the absolute jurisdiction of anyone. The role of the parent, then, is to be, not an absolute owner, but a trustee-owner or guardian, with the right to regulate the child but not to aggress against his person (as by forcibly preventing him from running away).

If, then, outside adults find that parents are mutilating or assaulting their children, they do have the right to step in and stop this aggression, as any outside parties do when they see aggression taking place. They have the right, too, to rescue the kid from this aggression and remove it from its subjection to parent-criminals. The moral duty or responsibility of the parents to their children stems also from their act of voluntary creation, from their responsibility for bringing helpless babies

into the world. Their moral responsibility is to raise these children, to bring them from their natural state of infant dependency to the status of rational, self-owning, independent adults. Their moral responsibility is to rear the children to the status of independence. What, then, does this imply? It implies caring, provision of food, shelter, education, etc., to the best of the parents' love and ability. And it implies something else: it implies the moral duty as well as the right of the parents to train the children in the values, self-discipline, and techniques which are needed to become a fully mature adult.

We see here the fundamental flaw in the progressive notion that parents should allow their young children unlimited freedom to do as they wish and not to "impose" training, values, or education on them. For the young child, still not in possession of knowledge, values, self-discipline, or much rationality, is hardly in a position to be able to decide what he should be doing or wishing. Failure to function as rational "authorities" or failure to provide that training and those values to the best of their ability, is a tragic abdication of the basic parental responsibility—which is not simply to provide food and shelter but also mental and moral training. This moral abdication accounts for the tragedies of our current "child-centered" culture, in which the parents make themselves the literal slaves of the untutored and inchoate whims of the child; while the child, yearning for direction and guidance by his parents, only finds these parents dancing in attendance upon his every blind caprice. Later on, the abdication of parental authority subjects the child to the blind tyranny of his own, equally ill-formed, peer group. The individual then becomes often permanently subjected to the tyranny of his "crowd" or "gang," and later to the rest of society.

One of the wisest and most brilliant critiques of progressive education was written by the great libertarian-theorist Isabel Paterson. Paterson quotes the writer Lafcadio Hearn on the contrast between old-fashioned Western education, which first trained the child by parental authority until the child was fit for independence, after which he became a selfstarting, self-owning individual; and the Japanese (read progressive) system, which gives children unlimited freedom, only to subject these undisciplined children to greater and greater control as they become adults. Mrs. Paterson quotes Hearn that, in the West, education began in early childhood: with the repressive part of moral training. . . . It is important to inculcate the duties of behavior, the "must" and "must not" of individual obligation as soon as possible. Later on, more liberty is allowed. The well-grown boy is made to understand that his future will depend upon his personal effort and capacity; and he is therefore left, in great measure, to take care of himself, being occasionally admonished and warned, as seems needful. . . . Throughout the whole course of mental and moral training, competition is not only expected but required. . . . The aim is the cultivation of individual ability and personal character the creation of an independent and forceful being.

In contrast:

"Japanese education has always been conducted on the reverse plan. Its object has never been to train the individual for independent action, but to train him for cooperative action. . . . Constraint among us begins with childhood, and gradually relaxes; constraint in Far Eastern training begins later, and thereafter gradually tightens . . . by the common opinion of his class; and a skillful teacher is able to direct that opinion. . . . The ruling power is always class sentiment. . . . It is always the rule of the many over the one; and the power is formidable".

The result in Japan is that "the individual was completely sacrificed to the community." Mrs. Paterson then points out that progressive education is an application of this Japanese system. Class activities, group interests, social influences have become predominant. And the prevailing philosophy with which pupils are indoctrinated is that of "instrumentalism," which denies that there can be any universal or permanent moral values or standards. Mrs. Paterson adds that the most striking result of all this is what Hearn found in Japan: a "sinister absence of moral freedom"—the absence of the right to act according to one's own convictions of justice. "When called upon to

think,” the children cannot, “because they have been trained to accept the class, the group or the ‘social trend,’ as the sole authority.”¹

Parents, then, have not only the moral right but the moral obligation and responsibility to raise their young children in preparation for adulthood, to care for, shelter, educate, and train their persons and their character. But suppose some parents do not perform such moral obligations? Can we say that the law—that outside enforcement agencies—have the right to step in and force the parents to raise their children properly? The answer must be no. For the libertarian, the law can only be negative, can only prohibit aggressive and criminal acts by one person upon another. It cannot compel *positive* acts, regardless of how praiseworthy or even necessary such actions may be. And so a parent may be a moral monster for not caring for his child properly, but the law cannot compel him to do otherwise. It cannot be emphasized too strongly that there is a host of moral rights and duties which are properly beyond the province of the law. In a purely libertarian society, the young child is not as bereft as might at first appear. For in such a society, every parent would have the right to sell their guardianship rights to others. In short, there would be a free market in babies and other children. What? A free market in babies? Isn’t this equivalent to slavery, to the treating of babies as mere objects? No, what it would mean is that parents who now neglect or dislike their children would be able to sell their offspring to those parents who would desire and care for them properly. Every party involved would gain by the actions of such a market: the child would be shifted from cruel or neglectful parents to those who would desire and care for it; the neglecting parent would acquire the preferred amount of money instead of the unwanted child; and the new foster parents would at last be able to adopt a child. William Rickenbacker, in his column in *National Review*, has, in fact, recently advocated such a free-baby market.

In actual fact, of course, we have a baby market now, except that it is regulated by government—which imposes a maximum baby price of zero. A parent is not allowed to sell his kid; he can only give it away for nothing. As with all maximum price controls, fixing the price at zero means a great shortage of valuable babies on the baby market; as a result, government-licensed adoption agencies are granted the monopoly privilege of acquiring and rationing out those babies to the foster parents clamoring at their doors. Often, would-be foster parents must grovel before the social workers at the adoption agency, prove they are “fit parents,” pay a fee to the agency, etc. The result is that unwanted babies remain with bad parents, and good foster parents are deprived of the right to care for and bring up offspring. In the free-baby market, of course, there would be no title to absolute ownership of the baby; only guardianship rights would be traded. Typical of State repression of the baby market and its consequences was an incident some years ago in New York City. The New York press heralded the fact that an evil, enslaving “baby ring” had been broken up by the vigilant government authorities. Babies were being smuggled in from Greece by diligent entrepreneurs, and sold (horrors!) to relatively affluent foster parents in New York City. The busting of this baby ring, I suppose, gave the snoops and enforcers a sense of high accomplishment. But what exactly did they accomplish? They busted up a situation where babies were being sold by their impoverished parents in Greece, there to leave a life of starvation, for a life of comfort, love and care in New York; both sets of parents, as well as the babies themselves, benefitted from the transaction; yet busybody Big Brother had to step in and outlaw voluntary arrangements for mutual benefit.

Parents, then, have the legal right and the moral obligation to nurture their children as guardians, as trustee-“owners”; no law or enforcing agency has the right to seize these children from their creators or regulate them except as they are being aggressed against by their parents. Above all, every child must always have the right to run away to freedom, to get out from under parental

¹ Isabel Paterson, “Our Japanized Educational System,” in *The God of the Machine* (New York: G.P. Putman’s Sons, 1943), pp. 251–54. Those libertarians who may feel that it is a contradiction for a libertarian to call for parental authority are suffering from the grave modern confusion between authority and coercion, or power. Thus, libertarians accept the authority of sound values, civilization, and especially reason; it is those who refuse to accept such authority who turn instead to outside coercion and violence. On the confusion between authority and power, see the brilliant article by Robert A. Nisbet, “The Nemesis of Authority,” *The Intercollegiate Review* (Winter–Spring, 1972): 3–13.

property—otherwise enslavement is indeed involved. In the present society, of course, the State imposes many aggressions against parents and children alike. Through compulsory attendance laws, the state governments force children either into public schools or into those private schools certified as legitimate and proper by the state authorities. The whipsawing of the kid is reinforced by child labor laws, which prevent the child from entering the labor force even if he and his parents wish to do so. By coercively keeping kids out of the labor force, the State cuts the unemployment rate (by the way that rate is defined), and keeps out competition that might lower restrictive union wage rates. All this, of course, is supposedly done for the child's "benefit," even though the kid in question may be suited neither in ability nor in interest for continued schooling. This idea that every child must have a higher schooling is strictly a modern concept; in all past ages it was taken for granted that the child not suited for schooling was far better off being allowed to enter the labor force. In recent years, this supposedly "reactionary" view has been brought back to prominence by such "New Left" educational theorists as Paul Goodman and Ivan Filich. The abolition of compulsory attendance laws would free children and parents alike, and the abolition of the public school system would remove an enormous weight of taxes off parents (and nonparents!) and allow them to purchase that amount of schooling and in those forms which they particularly desire. What is needed, above all, is the liberation of both child and parent from the domination of the State apparatus.