You’ve just written a book called *Libertarian Anarchy*. What’s the general idea?

As the name suggests, the point of the book is to make the case for what I call libertarian anarchism. It’s an essay in political philosophy that, negatively, denies the need for anything like the modern state and, positively, claims that the order that any society requires can be generated by the free interaction among individuals and voluntary groups. In the course of the book, I make a case for the natural emergence of law and I attack the notions of representative democracy and constitutionalism.

*So, what is Libertarianism?*

Libertarianism is a philosophical and political position that prioritises the fundamental importance of freedom in human relations. For the libertarian, individual freedom is the essential ground upon which all mature social relations stand. Libertarianism is based on the belief that individuals have an inalienable right to live their own lives as they see fit so long as they observe one limiting condition. This limiting condition can be expressed in what is sometimes called the non-aggression principle (NAP): no one may initiate or threaten to initiate the use of coercive physical violence [aggression] against the person or property of another. It should be noted that what is ruled out by the NAP is the initiation of violence (such as murder, rape, theft, assault); libertarianism does not rule out the use of violence in defence of one’s person or property against aggression.

*Why is freedom important? Surely it’s not the only human good?*

No, freedom is not the only human good nor is it the most important substantive good; it is, however, the foundation and guardian of all the other goods. Human flourishing is linked to the development of the virtues and these presuppose freedom. To be human is to act and human action to be human action must be free. The only limitation on our freedom is the requirement to respect the like freedom of others. Liberty is a constitutive aspect of human existence and unless there are specific reasons to restrict it (such as a person’s using it for the purposes of aggression against others) it cannot be compromised. If liberty is to be restricted, the burden of proof is on those who would restrict it, not on those who defend it.

*What do you mean by the term ‘anarchy’?*

Anarchy is the position in which a society naturally finds itself when it is not subject to the power of a state, the state being that group of people or that organisation which wields a monopoly of allegedly legitimate force over the inhabitants of a determinate territory financed by a compulsory levy imposed on those inhabitants. The theory that argues for the desirability of
such a condition is *anarchism* and it comes in two varieties: philosophical and practical. Philosophical anarchists argue for the illegitimacy of the state regardless of whether or not any of the alternatives to it are productive of better outcomes for individuals apart, of course, from the enhancement of liberty. Practical anarchists, on the other hand, argue that anarchy is feasible, that its outcomes would be better as a whole for almost everybody (though not, of course, for state dependants) and that efforts should be made to bring it about. Of course, there is nothing to stop someone being both a philosophical anarchist and a practical anarchist (I am both) though my primary interest in *Libertarian Anarchy* is articulating and defending philosophical anarchism.

As a matter of fact, the real question we face is not so much whether we shall have anarchy or not, it is, rather, what kind of anarchy shall we have. As things stand, there are several ways in which anarchy is present in our political world. The first and most obvious example of an existent anarchic legal order is the anarchy of international relations between states. Despite the efforts of the United Nations to act as if it were a world government it isn’t. States relate to one another, sometimes violently but for the most part cooperatively, in a context in which there is no ultimate legal or political arbiter of their disputes with one another.

Another example of existent anarchy perhaps somewhat surprisingly, is the operation of the state itself, or at least those states that are not pure autocracies. Within the governing apparatus of the state, its various elements—administrative, legal, executive, legislative—compete and cooperate with each other. If it should be objected that this takes place within the confines of a constitution, it can hardly escape anyone’s notice that constitutions are not self-interpreting and their presence simply moves the intra-state anarchy on to another level.

*You talk about something you call ‘the myth of the state’. What do you mean by this?*

Contemporary political thought is dominated by a myth, the myth of the *necessity* and the *legitimacy* of the state. In describing the necessity and legitimacy of the state as a myth I am not merely saying politely that it is an idea that happens not to be true. Myths are foundational narratives, the ultimate framing devices in the context of which our humdrum day-to-day beliefs and practices find their place. They have the peculiar property that they cannot be called into question from within—from that point of view, their falsity is literally unthinkable. Because we see through myths, that is, by means of them, we find it difficult to see through them, that is, to recognize their lack of foundation, their radical contingency.

The state is considered *necessary* for the provision of many things but most of all for the provision of peace and security by means of its powers of law-making, law-adjudication and law-
enforcement. The ‘necessary’ part of the myth holds that without the state there would be widespread disorder, violence, and chaos in society. Without the state we would live in a world where anyone could do anything with impunity. The state is considered legitimate inasmuch as the force it employs or threatens to employ in pursuit of its goals is considered to be justified ultimately by the consent of those to whom it is applied. Without such consent, the modern democratic state has no authority.

So embedded is that myth of the state that the anarchist claim—which is that the state as we know it today is historically contingent, functionally unnecessary and illegitimate—is typically met with a mixture of bewilderment, incredulity, derision and hostility. For many, if not most, people, such a claim is either practically inconceivable or unimaginable. A moment’s reflection will suffice to displace this prejudice. If human history started at midnight and ran 24 hours to the present, the state would arrive on the scene a little after 15 minutes to midnight—how did human beings survive for the other 23 hours and 45+ minutes?

*How did the state come into being?*

If you were to ask David Hume how the state originated he would tell you that almost every government that is or has been has originated in usurpation or conquest with no pretence of consent on the part of those governed. Charles Tilly, the eminent historian, calls his seminal 1985 article, ‘War Making and State Making as Organized Crime’. These authors are simply two from many who have come to the same conclusion regarding the state’s conception in violence.

Given that the core function of the state is said to be the preservation of law and order and the protection of life and property, it is deeply ironic to note that recent history shows that most killing has been done by one state or another or by some armed group seeking to be the government of a state and to control its coercive apparatus. The number of people killed in the twentieth century in state-sponsored conflicts or state-related victimization is, at a conservative estimate, between 175,000,000 and 180,000,000. In contrast, although it is impossible to say for definite, the number of people killed in the twentieth century by what we might call normal criminal homicide is nowhere near that number. The figure derived from the same source as that for state-originated deaths gives us roughly 8,000,000 non-state murders worldwide in the twentieth century which is less than 5 per cent of the state-related figure. Given that states have been and are the major agents of death and destruction, their claim to be the necessary agents of the defence and protection of life will delight lovers of irony if being somewhat less amusing to those who have suffered injury or death.
The greatness of our historical leaders is built on the mangled bodies of the poor, the defenceless and the politically gullible. Without their ability to dispose of the time, chattels and bodies of the many through the apparatus of the state, our Alexanders, Caesars, Napoleons, Hitlers, Stalins, Clintons, Blairs and Bushes and the innumerable legion of petty tyrants that have plagued the world would have been considerably hampered in their efforts to reduce the size of the world’s human population.

It is not only in war that the state has been careless with the lives and property of its citizens. Millions of people have lost their lives or their livelihoods as a result of some of the more insane and nightmarish schemes of social engineering attempted by some states in the 20th century. One has only to recall China’s ironically entitled Great Leap Forward, the USSR’s disastrous attempts at collectivization, the romantic ‘villagizations’ of Tanzania, Mozambique and Ethiopia, and the killing fields of Cambodia. The Harvard historian James Scott believes that these schemes are ‘among the great human tragedies of the twentieth century, in terms of lives lost and lives irretrievably disrupted.’

In saying what I’ve just said about the nature and origin of the state, I don’t want to be misunderstood. The State is not the only source of evil or wrong-doing in the world. There are others, lots of others and in the end, evil finds a ready and welcoming home in the human heart. But the state is unique among wrongdoers in asserting its legitimacy. Your friendly local mugger doesn’t pretend to be doing you a service when he relieves you of your wallet; the chap who steals your TV isn’t licensed by Thieves Inc. with offices in town, headed notepaper, and staff that work from nine to five.

Despite its dubious history, couldn’t the state still be legitimate?

We talk of the government or the state as if these were real entities of a superior order of reality from the mundane things we encounter in daily life. But government is simply a name for a particular group of people acting in particular ways at a particular time and place. The presumption must be that such people are bound by the normal rules of conduct that apply to each one of us. With certain obvious exception, what is permissible for one is permissible for the many; what is impermissible for one is impermissible for the many. As things stand, I’m not allowed to walk up to you and hit you on the nose just for the fun of it. That action doesn’t become any more permissible if I do it in conjunction with or at the bidding of others or if I do it to more than one person. Since the government of a state is simply a group of people, albeit a group acting under a specific description, it is wrong for those who constitute the government of a state to do things that are ethically impermissible to others; ‘the great mystery of democracy’
writes Frank van Dun, ‘is that “representatives” are vested with powers that people who
empowered them are not and should not be allowed to exercise.’ Libertarians have a monistic
conception of the applicability of moral standards, that is, the moral value of individuals’ actions
are the same whether individuals are acting in their own right or on behalf of a state. As
Rothbard notes, sardonically, ‘If you attempted to do to your neighbours what a democratic
government does to its citizens, let us say, tax them, fix their hours of work, force them to send
their children to schools of your choice, or accept the money you have printed, you would very
likely end up in jail.’ And rightly so! ‘No democracy allows you to do such things. Nor does it
allow you to undertake these activities in conspiracy with others. But it does allow you to have
someone else do them in your name and on your behalf’

Without in any obvious way possessing a different moral status from ordinary mortals, the
people making up the government of the state do things that, if done by anyone else, would be
illegal, immoral, and criminal—for example, in waging aggressive wars, they murder; in taxing,
they steal; in conscripting troops for wars or in imprisoning those who have committed non-
aggressive victimless crimes, they kidnap or wrongfully imprison. We read in our histories of
men being snatched from city streets and country lanes to serve in the Royal Navy and are
shocked at the barbarity of such a practice. But the draft laws of the contemporary state are not
in any way different in principle from the operations of the press gang; it is just that the naked
force of the abducting state is somewhat more muted by the bureaucratic apparatus of the draft
board.

In the not so distant past, those who claimed the right to govern others did so because they
had, they claimed, a mandate from God or were better than the common run of man by virtue of
their outstanding intellects, sterling characters, Nietzschean will, or distinguished family tree; or
had more money than the peasantry; or were simply more powerful than most other people.
Whatever persuasive character such justifications may have had in the past, they have none now.
Divine Rule theories of government are at an all-time low ebb in the intellectual market,
 aristocratic theories of government are simply incredible, oligarchic theories scarcely less so, and
‘might is right’ theories are now, as they always have been, morally bankrupt. In the arena of
state justification, democracy is the only game in town, for if there is a fundamental article of
faith in the contemporary world, it is that democracy is a GOOD THING, so good, in fact, that
the whole world must be given it, whether the whole world wants it or not.

In addition to all this, there is a fundamental problem with representative democracy—it isn’t
democracy and it isn’t representative. It is simply not possible (extraordinary conditions apart)
for a public representative to represent a large and diverse group of people. For a start, it would
be next to impossible to know what each of the people allegedly represented actually thought on any matter and, moreover, it is extremely likely that there will in fact be diverse opinions on any topic of substance. The would-be representative must then decide which of the two (or more) groups he will represent and which he will not. In fact, as Michael Bakunin noted, democracy is a form of [elective] oligarchy that differs from ‘normal’ oligarchy only inasmuch as the oligarchs change from time to time by means of elections. That our erstwhile representatives change from time to time doesn’t, of course, ‘prevent the formation…of a body of politicians, privileged in fact though not in law, who, devoting themselves exclusively to the direction of the public affairs of a country, finally form a sort of political aristocracy or oligarchy.’

*Taxes first, then death. Governments need taxes for roads, bridges, etc. but these taxes are probably used to pay the politicians and upgrade their standard of living. What are some alternatives to this arrangement?*

Public choice theory should have put paid once and for all to the comforting notion that our public servants are motivated by a disinterested concern for the welfare of others. A thousand years ago, rulers were supposed to subsist on revenues from their own properties and to fund their routine governing activities in the same way. A king might, occasionally, with the consent of the would-be taxpayers, be allowed to request revenue for some extraordinary purpose, such as a war, but such revenues had to be assented to by those who would bear the burden of them. The English Parliament developed as a body to represent potential taxpayers in considering such extraordinary requests for funding from the King. In the development of the modern European state, tax systems have their origin in the state’s need for extraordinary revenues. Where the extraordinary became ordinary—where, for example, war was more or less permanent, as in Castile during the *reconquista* or in France during the Hundred Years’ War—then the taxes were correspondingly permanent; where war was intermittent, the granting of taxes was generally subject to the consent of those about to be taxed, either directly or through representative bodies such as parliaments, as in England.

War taxes were temporary and conditional; kings wanted them to be permanent and unconditional. The solution? Well, then—let war be perpetual! In France, by the middle of the 15th century, given the condition of almost perpetual war in which the country found itself, the once extraordinary taxes had become ordinary; in England, in contrast, extraordinary royal taxes did not escape the watchful eye of Parliament. It is one of history’s ironies that when Parliament succeeded in the 17th century struggle between king and commons, it would give rise to a situation in which the new national executive would be drawn from the ranks of parliament so
that there was no longer any real distinction between the tax-seekers and the tax-approvers and so no possibility of resistance to now-ordinary extraordinary taxation.

In the end, however, the ever-increasing costs of war steadily eroded the distinction between the extraordinary and the ordinary not just in England but also more or less everywhere in Europe. The transition from feudal levies to professional armies connected with the displacement of cavalry and its replacement with massed infantry required substantial financial support:

The making of the modern state and the making of war go hand in hand, and money, other people’s money, lots of it, is required for both. Expansive and expensive administrative apparatuses, modelled on those pioneered by the Church as early as the 11th century, were established and the tentacles of the state at once began to spread into more and more areas. Particularly notable was the attempt to create a national consciousness by homogenizing language, laws, and customs throughout the various kingdoms established after the Treaty of Westphalia in 1648. This was a long-term project that was probably incapable of being realized before the age of mass communication. Even as late as the mid-19th century, fewer than half of the people living in the French republic spoke French!

Let’s go way back to Greece and the so-called city-states of Athens and Sparta. What services did those city-states provide for the people?

In modern terms, not very much! No health service, no education, no welfare, rudimentary roads, water and sewage, no universal postal service, no regulatory bodies on food, drugs or medicine, no environmental agencies (or any other agency, for that matter). From the perspective of the 21st century, the ancient Greek polities hardly resemble what we would call a state. The same is true even of more politically sophisticated and complex forms of political organisation such as Rome. Roman law is almost entirely private law and regulates the affairs of one citizen viv-a-vis another.

States of one kind or another may have been around for about 10,000 years or so but the modern state is a relative newcomer, emerging in the 16th and 17th centuries in Europe. This state, while sharing the essential characteristics of all states throughout the ages—a monopolization of allegedly legitimate violence and the coercive extraction of taxes and tributes—developed bureaucracies and administrative systems that have permitted it to penetrate further and deeper and more intrusively into civil society than could ever have been dreamed of by Alexander or Augustus.
What does the contemporary state actually do?

The contemporary state does many things. It provides extensive financial support to a large segment of the population (at considerable cost to yet another segment of the population); it organizes and pays for the education (or, at least, the schooling and certification) of the masses from elementary school to university; in many countries, it organizes (after a fashion) and pays for (after another fashion) the health services that most people have access to either at no cost or minimal cost to users (but at a staggering cost to the taxpayer); it provides roads, sewage and refuse services; it regulates business, industry, agriculture, and so on. Although the modern state is an enormously large and complicated business, its diverse operations can be grouped together in various ways. Law and order, justice and defence make up its core functions (or should, according to the usual justification). In addition to this, the state engages in operations to facilitate economic growth, keep inflation low and increase the level of employment—or so it says. Yet another level of state activity includes the unholy trinity of health, education and welfare, and the final level takes in public utilities—water, roads, and suchlike.

There would appear to be nothing in the nature of the relief of poverty, the provision of education and health, the construction and maintenance of roads, sewage and other utility services that support an argument to the effect that they can only be provided by a state. It is at least arguable that the only thing a state can do to improve the economic welfare of its citizens as a whole is to resolutely refuse to interfere in the economy. In the past, many services such as education or transport and roads were provided by private enterprise and some of them are once again being supplied by non-state means. Arguments on most of these matters tend to be practical and come down, in effect, to the question of which way is the best way, or at least, the better way to provide some particular service. There is, however, one set of functions that is generally regarded as unique to the state and which, it is alleged, cannot be provided at all by any other body: this is the creation, the administration and enforcement of law (the innermost circle). To refute this claim is the task of libertarian anarchy.

Doesn’t the state provide an essential safety net for the poor and incompetent, without which they would be condemned to destitution?

Yes—but badly and at an enormous financial and social cost. Here, as everywhere else, the state is part of the problem, not part of the solution. The state has no wealth or assets of its own. Everything it has it obtains by taking it by force from productive members of society. When libertarian anarchists propose dismantling the state, most people think that what we will have is
exactly what we had before, minus the welfare protections. But this is not what libertarian anarchists have in mind at all. What we will have when the state is deconstructed is a society in which all are encouraged to work for themselves, their families, their friends and their communities, to produce and to dispose of their production without having a huge portion of it confiscated by the idle ruling class and diverted towards welfare, whether of the individual or corporate variety. Individual welfare is the latter-day equivalent of bread and circuses and corporate welfare is the latter-day equivalent of hand-outs to courtiers and wealthy merchants.

The current crisis in Euroland is a creation of the states and their reckless support of their crony-capitalist allies in banking, all at the expense of the ordinary workers and producers.

In institutionalising (relative) poverty, the state creates and maintains a client underclass which it can count on to vote for it when needed. This underclass, fed on bread and entertained by the modern-day equivalent of the circus, is infantilised and systematically deprived of the opportunity to escape from their spiritually crippling condition. The tragedy is that they all too readily believe that their gaolers are their benefactors.

Will the libertarian anarchist world be a paradise? No. No matter how you structure society, there will always be some who are less able, less energetic, less competent than others. The issue is not one of creating the perfect society but creating the conditions for a better society. Freedom, for the libertarian, is not only instrumental in the creation of such a society but is a constitutive part of it; material poverty is not the only kind of poverty. One thing that will, however, disappear in the libertarian world is the institutionalised poverty of the welfare state and its segregated underclass together with an increased capacity for philanthropy by the many who can dispose of the wealth they create in ways that serve the needs of those with less than they need.

In rejecting the state, aren’t you rejecting society?

State and society are not the same thing, however much we may be tempted to conflate them. Human beings are not isolated individuals. We are born in, live in and can only flourish in society where ‘society’ signifies the sum of the complex, overlapping system of voluntary relations between individuals. But it doesn’t follow that because we need society that we need the state! Peter Kropotkin claims that the centralised state comes into being in the 16th century and Murray Rothbard remarks on the fallacy of those who jump from asserting the necessity of society to asserting the necessity of the state.

Not only are they not the same, state and society are not related as complementary modes of social organisation but are in fact competitors. In the matter of power, state and society are engaged in a zero-sum game. What the state gains, society loses; what society gains, the state
loses. Society operates on the basis of love or money. People do things for others either because they love them and desire their welfare (as, for example, parents do for the most part or lovers in the first flush of romantic attachment) or they provide services and goods to others in exchange for money. The state, by contrast, relies for its effects on force and coercion.

Once in existence, the state becomes more and more intrusive. Finding its role as the preserver of civil order unrewarding, expensive and time-consuming, the state intrudes coercively upon other areas into which it has no business going. In a classic strategy of distraction and displacement, the state, bored with and indifferent to those things for which, allegedly, it primarily exists becomes ever more interested in curtailing and interfering with the lives, liberty and property of its citizens in ways that are more systematically devastating and irresistible than any danger posed by the ordinary criminal. Lovers of the grotesque must surely cherish the irony that the dubiously moral organisation known as the state, besides purporting to provide services that are genuinely required (albeit doing so inefficiently and expensively) should also set itself up officiously as the guardian of public morals.

Despite relentless propaganda to the contrary, statelessness doesn’t mean disorganisation or imply the disappearance of the need for order. The principles of division of labour and comparative advantage still hold. Under anarchy, suitable enforcement procedures will develop, most likely by means of the specialization of existing risk-distribution firms such as insurance companies.

*How does libertarianism relate to conservatism and liberalism?*

The standard political options in modern democracies are liberalism and conservatism. Though they differ from each other in many respects, both are content to use the power of the state to promote their policies. Liberals are content (or were, until recently) to use the power of the state to enforce their economic views on all in respect of what they consider to be the appropriate distribution of goods and services while they claim as large a liberty as possible for personal, especially sexual, morality. Conservatives, on the other hand, generally wish to have as much liberty as possible for economic activities while recruiting the forces of the state to enforce their moral views on others. Libertarians differ from both contemporary liberals and conservatives in that they reject the use of force in all cases except where it is necessary to resist or punish aggression. For libertarians, liberty operates as a fundamental principle across the whole range of human endeavour in contrast to both liberals and conservatives who are selective about the areas in which liberty holds sway.
Where a libertarian differs from the conservative in the matter of custom, habit, and tradition is not necessarily in his lack of appreciation of their social, moral and cultural value but simply in refusing to allow their maintenance or propagation by means of force or coercion. If coercion is ruled out, then many libertarians are only too willing to entertain a presumption in their favour. It is often claimed that libertarianism and conservatism come to much the same thing. If we take a look at some practical policy issues it is difficult to see how people could believe this. Conservatives believe in: limited government, private property, free markets and individual liberty except for:

- state-controlled social security and social welfare
- state-funded and state-controlled healthcare
- state prohibitions on the manufacture, exchange and use of certain drugs
- state-enforced, state-funded and state-controlled public schooling
- state-generated and enforced economic regulations
- state-generated minimum-wage laws and price controls
- state-produced fiat currencies
- state-levied income taxes; state-arranged trade restrictions
- state-imposed immigration controls
- state-produced monopolies (such as the postal service)
- state-controlled foreign aid
- state-sponsored wars of aggression and foreign occupations
- standing armies; a military-industrial-banking-state complex; ever-increasing infringements on civil liberties by the state and its agencies; and out-of-control state spending funded by confiscatory taxation and monetary inflation to pay for all this.

Libertarians, on the other hand, believe in individual liberty, free markets, private property, and either a severely limited government or (non-voluntary) government at all—without exception.

Isn’t libertarianism just an attempt to provide a respectable cover for libertinism?

Libertarianism is not the same thing as libertinism. It is true that libertarianism will not admit the physical restraint and physical punishment of acts that do not aggress against others but it nowhere implies moral approval of such acts or rules out their restraint by other methods such as exhortation, boycotting or loudly expressed disapproval. Take the issues of pornography, prostitution, adultery and homosexuality. In dealing with issues such as these, the libertarian invokes the distinction between the immoral and the illegal. The crux of the matter is not whether pornography, for example, is immoral or degrading or whether it is an exuberant
expression of spontaneous sexuality. Such matters are relevant in determining the morality of pornography; they are irrelevant to the question of whether or not pornography should be legally prohibited. The only question here, for the libertarian, is whether the law should be used to enforce a particular morality where the issue in question does not pertain to the matter of defending people against aggression directed at their persons or property. And the libertarian answer is clear—the law has no business enforcing purely moral considerations. Libertarians may well find such activities morally reprehensible (or not) but they will argue that it is no part of the law to prohibit or regulate such activities unless they involve aggression.

The conflation of libertarianism and libertinism is given some credibility, I regret to say, by the antics of those ‘lifestyle’ libertarians who teeter on the edge of the abyss of libertinism, if they don’t fall right into it, and who appear to be concerned only with garnering the maximum amount of freedom to do whatever they want, regardless of how irritating, offensive or dangerous it may be to others. When he left the Libertarian Party in 1989, the preeminent libertarian of the 20th century, Murray Rothbard, remarked on what he called the general flakiness and counterculturalism of a large section of the Libertarian Party rank-and-file. No political theory would stand scrutiny if it were to be judged by the antics of its most bizarre would-be adherents.

Libertarianism does not imply that all modes of conduct are equally valuable or have equal merit. There may well be those who think of themselves as libertarians who think this but such a view, is not a necessary consequence of libertarianism as such. A libertarian may choose to be a libertine but there is nothing in libertarianism to constrain him to be one. Libertarianism is compatible with a whole variety of ethical positions—virtue ethics, deontology, even consequentialism. Libertarians can and do disagree about which of these ethical positions is most compatible with libertarianism but this is a family quarrel within libertarianism. Any system of morality or politics that does not infringe upon individual liberty is acceptable to libertarianism; any system that infringes upon individual liberty is not.

When it comes to considering whether to recognize actions or behaviours as criminal, we must ask if they involve aggression against the person or properties of others. If not, whatever view one may entertain of their morality or their social desirability, they should not be the subject of legal prohibition.

Much confusion will be prevented and many possible objections can be summarily deflected if it is realised that libertarianism is not, nor is it intended to be, a complete moral theory. To see what the claim that libertarianism is not a complete moral theory means, let me take as a typical example the libertarian attitude towards drugs. Libertarians hold that one should be free to eat,
ingest, inject or in any way introduce into one’s body any substance that one chooses. Barring specific contractual obligations, no one else has a right to regulate or prohibit such activity. However, it is one thing to uphold this right to substance-introduction and another thing altogether to recommend or endorse it.

Many activities that are currently banned or prohibited by the State—the ingestion of various chemical substances, various forms of consensual sexual congress, contractual relations of various kinds between consenting adults such as prostitution, unrestricted free speech—would all be permissible from a libertarian perspective but not necessarily morally defensible. The libertarian as libertarian makes no judgement on the morality of such acts. That such activities should not be legally prohibited doesn’t mean that they are necessarily morally defensible, good, edifying, or sensible. Libertarians can and do make moral judgements on many matters but unless the subject matter of those judgements impinges on human freedom, they do so not as libertarians but wearing some other hat.

Isn’t there an irreconcilable tension between liberty and morality?

Libertarians value freedom as a hard core without which morally significant human action is simply not possible but, while libertarianism as such has nothing to say beyond asserting and defending individual liberty, this is not at all the same as thinking that libertarians in living out their lives are concerned with nothing other than liberty. Liberty may be the most important political end but it is not the highest end. Libertarianism does not deny the importance of love, community, discipline, order, learning, or any of the many other values that are essential to human flourishing. Libertarians as much as anyone else can cherish these values but, however much they might cherish them, they reject any and all attempts to produce them by force, coercion or intimidation. They regard such attempts at coercion as both wrong in themselves and as ineffective. In the end, the question for the libertarian is this: ‘Should virtuous action (however we define it) be compelled, or should it be left up to the free and voluntary choice of the individual?’ No third road is possible here; one must choose compulsion or liberty. And if compulsion is the conservative’s choice or the liberal’s, then a further embarrassing question awaits him: who will do the compelling? Our political masters? If recent history has taught us anything (and history teaches us many lessons that we never seem to learn) it is that our erstwhile political superiors are rarely our moral superiors and, given the grubby nature of practical politics, very often our moral inferiors. One of the reasons, historically, why libertarians generally prefer to avoid the topic of virtue is not that they are intrinsically opposed to it but because the promotion of virtue has often been used as an excuse to legitimate coercion. All too many
conservatives and liberals are keen to use the power of the state to enforce their particular vision of the human good so that people may be compelled to be good.

Isn’t libertarianism tolerant of everything?
Yes—except aggression. Libertarianism has one and only one basic principle—that all should be free to do whatever they wish to do provided only that in so doing they do not aggress against others.

What tends to divide libertarians from conservatives is the conservatives’ failure to realize or unwillingness to concede that toleration is not equivalent to endorsement. It should be obvious (but apparently it is not) that to tolerate something is not the same thing as to approve of it. If toleration required approval, toleration would not be a virtue. What value is there in being prepared to tolerate only those things of which you approve?

Of course, in a society constructed on libertarian principles you have the right to license or to refuse to license whatever behaviour you choose on your own property provided, of course, you are prepared to accept the economic and social consequences if other people disapprove of your licensing arrangements. It would follow, therefore, that in such a society that one would be within one’s rights (however inexpedient it might be to do so) to prohibit types of behaviour of which one morally disapproved to licensees on one’s property on pain of the withdrawal of the licence, just as one is entitled to require a visitor to one’s home to leave if his behaviour should become unacceptable or for any other reason whatsoever or for none. Such a right subsists whether a property is owned by one person or by a whole community. In such a way, then, but only in such a way, could conservative principles obtain traction in a libertarian society.

The libertarian anarchist has to be prepared to tolerate whatever arrangements may be arrived at by particular social groups provided only that no coercion is used on their members and provided also that whatever arrangements are made apply only to those who have freely signed up to them.

In a more contemporary vein, there was a time period when Hitler invaded various countries in Europe. While some “states” or governments were ineffectual, is not some form of security needed for the protection of citizens? The first obvious point to note is that if there are no states, there can be no state aggression! Still, it is always possible (even if unlikely without a state apparatus) for a group of people to gang up against others and in that case, what can a libertarian do? In libertarian thought, you have the right, as a corollary of the non-aggression principle, to defend yourself against aggression. Of course, as with many other activities that you might engage in, this may not be
something that you are either competent or willing to do for yourself. You are then entitled, if you wish, to employ someone else to perform this task for you, say, a defence agency. This agency works for you, not you for it. There would be many of these agencies, just as now there are many insurance companies; and just as insurance companies work out their relationships to one another in advance of claims, so too the defence agencies will work out their relationships to each other in advance of claims. Of course, none of this rules out the organisation and operation of purely voluntary defence groupings (something like obtains now in Switzerland, the country with the highest rate of gun ownership in the world!) in addition to or in place of defence agencies.

In a sense, is not social order “spontaneously generated” vis-a-vis money, social class, and socio-economic status? Social order is spontaneously generated simply because human beings are essentially social beings. While it is (barely) possible to survive on your own, such a mode of living could hardly be described as flourishing. In seeking to better our own conditions, we can do so only through mutual cooperation. In a libertarian society, money, social class, to the extent that they would exist, could persist only if those with money and in those classes rendered a service to other human beings. Without a state to accord them special privileges and without state-backed monopoly power, social mobility (upwards and downwards) would be an ever-present fact of life.

Rather than having any essential connection to the state, ancient or modern, it is much more likely—indeed, how could it not be the case—that law, in the sense of fundamental regulative norms, is constitutive of every functioning human society. Try to imagine what it would be like to have a society, any kind of society, without regulative norms. It is true that these laws are not likely to have been made by a specialist body of legislators nor will they be published in an official gazette; nonetheless, they are recognizably laws and perhaps the most fundamental kind of laws we can have.

Violence is expensive and inherently risky. It is expensive in that if a dispute escalates into an open conflict, the increase in overall wealth resulting from the division of labour and comparative advantage will diminish or disappear altogether and that is mutually non-beneficial, and that’s not to mention the possibility of collateral damage. As Virgil ‘the Turk’ Sollozzo says to the Corleone’s consigliere, Tom Hagen, in The Godfather, “I don’t like bloodshed, I’m a businessman and blood costs too much money.’ Violence is inherently risky inasmuch one or other of the disputants could be killed or injured which is why ‘One of the first causes of a legal system is the desire to prevent or discourage feuding and private warfare…’ Both parties to the
dispute (and their neighbours also) therefore have an interest in its peaceful resolution. As Bruce Benson notes, even in primitive societies ‘the cost of violence and the benefits of order...were enough to induce the establishment of recognized rules of conduct with an emphasis on individual rights and private property...’

*Just as we need hospitals, do we not need prisons, and jails for those violent, aggressive, assaultive, destructive individuals- in order to prevent harm to children and the elderly?*

A common objection to an anarchic legal order is that it would be inaccessible to most people. Once we are comparing one real system with another and not with some unattainable perfection, this is not a problem. In fact, the opposite is the case. In a modern sophisticated society with a busy legislature, who can be said to know the law? Take a stroll through any half-decent law library and confine your attention only to the volumes containing statutes. Ask yourself—who knows all this? The answer is, of course, nobody. To the extent that accessibility is necessary, the basic legal principles of an anarchic society *are* accessible. To the extent that principles require practical elaboration in the context of a living society, accessibility is an issue only for those who need to know the law in order to operate well. If I am not engaged in commerce, I have little need to know commercial law but if I am, then its basic principles would, in an anarchist society, be readily available to me.

In fact, if any kind of law is inaccessible, it is the law of the state. In societies with a central political authority and busy legislatures, the legislature will either duplicate the law as it would emerge from an anarchic order or it will produce laws that deviate from such order and which, to the extent that they so deviate, are unnecessary and unjustified. Such law, the law that weighs down the bookshelves of most law libraries, is inaccessible. As Hasnas note, ‘Not only is government not necessary to ensure that the rules of law are accessible, it inevitably renders them less so.’

Our imaginations are limited by the tyranny of the present. We tend to believe, unthinkingly, that the way things are is the ways things always have been and always have to be. The legal systems we have—with their sharp distinction of criminal law from the law of tort, with their idea of crime as an offence against the state, with their presumption that there can be only one system of law in a given territory, and with their theory of punishment radically disconnected from any notion of restitution—are historically contingent and mutable. A non-hegemonic legal system (better still, a plurality of legal systems) based on the principles of customary law, shorn of its irrational particularistic elements, could well answer the needs of social order without
permitting the paternalistic interference with liberty that is characteristic of contemporary legal systems.

On core issues, and understood formally, all customary systems tend to converge on the prohibition of what has sometime been called *mala in se*—acts that are wrong in and of themselves everywhere and always. Thus, there is no functioning human society the permits the indiscriminate killing of one of its members by another. A given society may have a severely limited conception of who is to count as one of its members but that is a material, not a formal, matter. Similarly, no society permits the indiscriminate appropriation of the property of one of its members by another. Again, a given society may have an historically conditioned notion of what counts as property but some conception of property or other every society must have and whatever that may be it must be generally respected. It should come as no surprise, then, to find that all societies prohibit homicide, assault, and theft and require the making good of damage done to persons or property even where the acts causing the damage are inadvertent.

Besides the requirements of *mala in se* that apply to everyone in a given society, contacts made in the proper form must be respected by those who are party to them. Also, every society has a large category of rules or regulations that are made to facilitate the smooth co-existence of cohabitants in matters that are intrinsically morally indifferent. In many cases, it doesn’t matter for the most part precisely how things are done in a society provided that everyone does them in the same way. So, for example, there is no particular moral status attached to driving either on the right or the left side of the road but on busy roads where traffic moves at speed it is expedient that everyone drive either on the right or on the left. This is not an area in which creative differences can be permitted expression. Things that are prohibited in this way are said to be *mala prohibita*.

I would like to put your book in context. You are at University College in Dublin, Ireland. Ireland has had a history of British oppression, rule, and military events. Has this history of British skulduggery or oppression fostered your thinking at all?

Unlike the situation in England where its government could, with some degree of plausibility, be taken to govern with the tacit consent or, at least, the acquiescence of its people, British rule in Ireland was openly repressive and alien. Given that, you might have thought that this experience would have induced a healthy political scepticism in the Irish people but, oddly, there is hardly a more centralised, state-dependent group of people on the planet. The quasi-instinctive reaction of the average Irishman in trouble is to ask, “What is the Government going to do about it?” The astonishing spinelessness of the Irish population in the face of the so-called austerity
measures currently enforced on the population by what is, in effect, a puppet government, operating on orders received from the IMF and the EU, is little short of amazing. One tenth of what has been inflicted on the Irish population would have had Frenchmen tearing up the pavements in Paris!

In order for the state to function, the mass of the people has to believe in its legitimacy. To ensure that that happens, the state employs a class of professional apologists and controls the means of propaganda, often by dominating the education system. The task of the State apologist is to convince persuade people that what the State does isn’t what it looks like, namely crime on a gigantic scale, but something necessary and good that must be supported. In return for their services, the apologists are rewarded with power and status and allowed to share in the booty obtained from the masses.

We are brought up from birth to believe in the legitimacy of the state, our state-sponsored and state-controlled education confirms us in this belief, everything around us in society supports this belief and nothing appears to count against it. The belief in the legitimacy of the state is all the more effectively planted in the minds of its citizens if it is never actually argued for or justified (that might raise doubts) but simply conveyed inchoately as a foundational principle. As death is an inescapable fact of natural life, so too does the state and its legitimacy appear to be a fact of social life. The state can get away with murder, literally, if it can foster the notion that what it does is legitimate.

The Berlin Wall fell a few years ago—what similar events have fostered or encouraged your thinking relative to the newfound liberty of the East German people?

The first effect the fall of the Berlin Wall had on me was to dramatically illustrate the point that what seemed like an eternal verity—the Soviet Union and its satellites—was anything but. It also showed just how fragile political entities really are, despite their ability to command awesome power. In the end, truth will out and the living lie that the Soviet system was could not, in the end, be believed in not just by the ordinary people who had long ago given up any faith in it, but even by its leaders and apparatchiks.

Perhaps one of the hardest things to realise is the sheer contingency of most of our political institutions. There was a time when they didn’t exist and it is very likely that there will come a time when they cease to exist. The British Empire has come and gone; so too the Holy Roman Empire and its Austro-Hungarian Successor. Napoleon and Hitler’s adventures came to nothing. The United Kingdom is just over 200 years old and is about to disintegrate. Spain is a fragile construct that emerged in the 15th century and is still unstable. Germany and Italy in their present
forms are 19th century products. As Jean-Jacques Rousseau is supposed to have said, “If Rome and Sparta could perish, what state could hope to live forever?” Norman Davies, in his wonderful book, Vanished Kingdoms: The History of Half-Forgotten Europe, presents us with a fascinating account of a number of now almost completely forgotten entities that once seemed like permanent features of the political landscape.

I daresay that many people are dissatisfied with the political philosophies in place and the political machinations and clandestine operations in political centers. What are you advocating, if anything?

What I’m advocating is the elimination of the state, particularly in the form which it has taken since the 17th century, and its replacement by a system of voluntary organisations operating and cooperating at various levels. Some libertarians would, if they could, press a button that would instantly destroy the state edifice. However, given that it has taken so long to build up and is so intertwined with people’s lives, I think it would be better to deconstruct state structures from the top down as quickly as it is possible to do so. First, get the state out of all involvement with the provision of services, such as mail delivery and the like. There is no reason and never has been a reason why the state should be involved in such enterprises. Happily, this is occurring already in most developed countries and we simply need it to be completed thoroughly. Secondly, get the state out of the provision of health, education and welfare (all welfare, corporate welfare as well as individual welfare). In all these areas, the state operates incompetently and expensively, and that’s not even to consider that its involvement in education is a major plank in sustaining its own supportive ideology. Third, get the state out of economics and economic planning. Apart from having no authority here, it also has no competence. When all this has been done, the only area remaining is that of law, order, and defence.

But must you not concede that anarchy won’t work since it is fundamentally unstable. Human beings desire power and someone always tries to grab it. Nothing is going to change that.

The existence of the state offers a prize that those who are hungry for power can contend for. Not all human violence has its origin in the state but wars, the most extreme and extensive form of inter-human violence, are fought either between states or within states as one group or another attempts to seize hold of the reins of state power. The existence of states only facilitates those few people with anti-social desires who want to dominate others.

A deeper problem with this criticism is that it poisons the wells. If all human beings are intrinsically power-hungry and savage, how can we solve our problems by giving ultimate law-making and law-enforcing authority to one particular group of such appalling animals? There is a
fundamental problem with the ‘we need the state’ argument if it is based on a conception of human beings as essentially diabolical. Whoever is to operate the levers of state power are those very same demonic people whose need to be restrained led us to create the state in the first place. Who will restrain those to whom we have given all the power and all the weapons? And if they don’t need to be so restrained, why do the rest of us need to be? As Sartwell puts it: ‘...to cure people of the selfishness and violence at our hearts, we will heavily arm some of them and authorize them to restrain, imprison, or execute others of them.’ Hmmm. Yes. Sounds like a good idea.