

Koch vs. Cato — A Guest Post by Brink Lindsey

BY BRINK LINDSEY ON MARCH 8, 2012

I'm grateful to the folks at Bleeding Heart Libertarians for affording me space on their site to comment on the dispute between the Koch brothers and the Cato Institute. I'm a big fan of the site, for reasons easy to guess: I was a [bleeding heart libertarian](#) before BHLs were cool. And before saying another word, let me make clear that the thoughts to follow are strictly my own and do not in any way represent some official position of this blog.

It's no secret that I've had strong differences over the years with some of my former colleagues at Cato. In some cases I've maintained positions that I now believe were wrong: it took the long occupations of Afghanistan and Iraq to disillusion the hawk out of me. On other fronts, I continue to hold views that are minority positions among Cato's ranks.

But the existence of those differences in no way detracts from my admiration for Cato or my belief that it is an important force for good in American political life. Although many, perhaps most Americans have a libertarian streak of some kind that runs through their thinking, principled support of limited government across the domains of economics, personal life, civil liberties, and foreign affairs sadly remains a rarity. For 35 years and counting, the Cato Institute has been keeping the flame alive and ensuring that a principled libertarian perspective has a prominent place in the national policy debate. All of us who regard ourselves as libertarians, as well as all who have had their thinking challenged and sharpened by exposure to libertarian ideas, owe a debt of gratitude to Cato for this service.

Accordingly, I am deeply troubled by the Koch brothers' recent lawsuit, which I regard as a threat to Cato's ability to continue the fine and important work it has been doing for so many

years. As to the merits of the case, I will say only that there is a serious dispute about the proper interpretation of the long dormant and distinctly curious shareholders' agreement. When the Kochs argue that they are merely upholding the rule of law, they are therefore begging the question. Both sides claim the rule of law is on their side – which is why the case is now in court.

As to why the Kochs are now seeking to take over Cato, I have had no contact with them or their representatives and am therefore not in a position to know for sure. But the evidence available to date points in a deeply disturbing direction. First, there are the changes in the composition of Cato's board of directors that have come as a result of the Kochs' assertion of their shareholder rights. Specifically, deeply committed libertarians and generous financial backers of Cato have been removed in favor of Koch operatives whose commitment to libertarian ideas is, well, less than clear. Furthermore, there are reports of a meeting between David Koch and Cato Chairman Bob Levy in which Koch apparently called for Cato to serve as a resource for the Kochs' political activism – a role completely inconsistent with Cato's longstanding mission as a nonpartisan research institute.

But in the end, the Kochs' plans for Cato are beside the point. Regardless of their intentions, the Kochs cannot take over Cato without destroying it. The mere act of converting Cato into a legally Koch-controlled entity – through a highly public and hotly contested legal proceeding, no less – would change Cato's fundamental character in a way that would fatally compromise its hard-earned reputation for intellectual independence. [Jonathan Adler](#), in one of the first public commentaries on this dispute, made precisely this point and in my view it is decisive. The fact that several Cato scholars and staffers have already either stated or strongly signaled that they would not be able to continue working for Cato after a Koch takeover further confirms that Cato in its present form would not survive a Koch victory in the courts.

Let me now respond a bit to a [decidedly different take](#) on this controversy by my good friend, former Cato colleague, and fellow “liberalitarian” Will Wilkinson. Will and I were on the same side in some of the intra-Cato disagreements I alluded to at the beginning of this post, and both of us ultimately left Cato for greener pastures elsewhere. In light of this history, it's not terribly surprising that Will lacks enthusiasm for Cato's cause in the current dispute – although, in the end, he does express the hope that Cato prevails. I'd like to take a moment to explain why, unlike Will, I come down much more squarely in Cato's corner.

First, I want to address some of the substance of Will's analysis. Specifically, he makes the plausible-sounding point that other institutions, namely the Mercatus Center and the Institute for Humane Studies, have strong ties to the Kochs and nonetheless do good work and are clearly libertarian-oriented. True enough, but neither as far as I know has the same kind of shareholders' agreement that Cato does, and thus neither is legally owned and controlled by the Kochs as Cato would be if the Kochs prevailed in this dispute. Indeed, Mercatus is associated with George Mason University and its director is appointed by the Provost of GMU; its independence from any particular donor is thus institutionally secured. As to IHS, its academic mission is so far removed from partisan politics that legitimate concerns that it is being made to serve some partisan agenda really can't arise. Cato's situation is thus clearly distinguishable from that of these other organizations.

Will is on even weaker ground when he tries to minimize the significance of the recent Koch-engineered changes to Cato's board. Yes, it's true that David Koch has generously donated to Cato and served on its board for years, but there is all the difference in the world between the presence of one individual on the board and legal ownership of the institute by him and his brother. The fact that other new board members have had some connection to Cato in the past – one used to be married to a Cato senior fellow, another once spoke at a Cato event – doesn't make their appointment to the Cato board any less jarring. Barney Frank and Dick Cheney have spoken at Cato events, too – would Will think that their appointment to the board was also no big deal?

I'll close by addressing a larger question that I think lurks behind Will's inability to see much at stake in the current dispute: why stand with Cato if the dominant brand of libertarianism there isn't your own?

That dominant brand features strong intellectual commitments to natural rights theory, minarchism, and Austrian economics – commitments that neither Will nor I share. But nevertheless, Cato has provided a home for many scholars over the years who depart in various respects from the prevailing viewpoint – including Will and me!

And Cato has been open, not only to people of varying intellectual perspectives, but people from widely differing backgrounds. Personally, I owe my career in public policy to Cato's faith that a recovering lawyer could reinvent himself as a policy wonk. And while Will, a

former art student, held other public policy jobs prior to coming to Cato, there is no doubt that his own thinking and writing developed considerably because of the time he spent at Cato. And the number of people who follow his writing was boosted greatly by the platform Cato provided him.

I think our stories illustrate why Cato is special and why it deserves a stout defense. It is simply unique in Washington for the opportunities it affords to smart libertarian thinkers and writers of all kinds to develop their talents and reach a larger audience. Preserving Cato's independence is essential to ensuring that bright young libertarians to come continue to enjoy the same opportunities Will and I had. Which is why I am proud to voice my support for Cato now as it faces this grave threat to its future independence.

P.S. Since I wrote the above, Will has come out with another long post. It starts with a lot of uninformed speculation about the Kochs' possible motives and then transitions to an extended elaboration of his differences with Cato. I don't think he says anything that causes me to change what I've already written, or that I feel I need to respond to, so I'll just stick with what I've got.