THE DAILY BANTER

Original Reports

Exclusive: The Rule of Oligarchy Law – From Boris Yeltsin's Russia to Aubrey McClendon's Oklahoma

May 21,2012

By Mark Ames: At the end of the 1990s, after the total collapse of the mass-privatization experiment in Boris Yeltin's Russia, some of the more earnest free-market proselytizers tried making sense of it all. The unprecedented collapse of Russia's economy and its capital markets, the wholesale looting, the quiet extermination of millions of Russians from the shock and destitution (Russian male life expectancy plummeted from 68 years to 56 years)—the terrible consequences of imposing radical libertarian free-market ideas on an alien culture—turned out worse than any worst-case-scenario imagined by the free-market true-believers.

Of all the disastrous results of that experiment, what troubled many Western free-market true-believers most wasn't so much the mass poverty and population collapse, but rather, the way things turned out so badly in Russia's newly-privatized companies and industries. That was the one thing that was supposed to go right. According to the operative theory—developed by the founding fathers of libertarianism/neoliberalism, Friedrich von Hayek, Ludwig von Mises, Milton Friedman and the rest—a privately-owned company will always outperform a state-run company because private ownership and the profit-motive incentivize the owners to make their companies stronger, more efficient, more competitive, and so on. The theory promises that everyone benefits except for the bad old state and the lazy.

That was the dominant libertarian theory framing the whole "shock doctrine" privatization experiment in Russia and elsewhere. In reality, as everyone was forced to admit by 1999, Russia's privatized companies were stripped and plundered as fast as their new private owners could loot them, leaving millions of workers without salaries, and most of Russia's industry in far worse shape than the Communists left it.

Most of the free-market proselytizers—ranging from Clinton neoliberal Michael McFaul (currently Obama's ambassador to Moscow) to libertarian Pinochet

fanboy Andrei Illarionov (currently with the Cato Institute)– blamed everything but free-market experiments for Russia's collapse.
But some of the more earnest believers whose libertarian faith was shaken by what happened to Corporate Russia needed something more sophisticated than a crude historical whitewash.

Lucky for them, Milton Friedman provided the answer to a Cato Institute interviewer: Russia lacked "rule of law"—another neoliberal/libertarian catchphrase that went mainstream in the late 80s. Without "rule of law," Friedman and the rest of the free-market faithful argued, privatization was bound to fail. Here's Friedman's answer in the Cato Institute's 2002Economic Freedom of the World Report:

CATO: If we reflect upon the fall of communism and the transition from the centrally planned economy to a market economy, what have we learned in the last decade of the importance of economic freedom and other institutions that may be necessary to support economic freedom?

MILTON FRIEDMAN: We have learned about the importance of private property and the rule of law as a basis for economic freedom. Just after the Berlin Wall fell and the Soviet Union collapsed, I used to be asked a lot: "What do these ex-communist states have to do in order to become market economies?" And I used to say: "You can describe that in three words: privatize, privatize, privatize." But, I was wrong. That wasn't enough. The example of Russia shows that. Russia privatized but in a way that created private monopolies-private centralized economic controls that replaced government's centralized controls. It turns out that the rule of law is probably more basic than privatization. Privatization is meaningless if you don't have the rule of law. What does it mean to privatize if you do not have security of property, if you can't use your property as you want to?

Others expanded on Friedman's rationalization, arguing that without this "rule of law" to protect their private property, the new private owners of Russia's industries were *incentivized*to plunder their companies as quickly as possible for fear that the state would steal their companies back. Of course, all this rationalizing was undermined by fact that Russia's oligarchs stole their companies in the first place, and thieves do tend to steal what they've stolen. But never mind—the libertarian ideology was salvaged, as Russia's privatization experiment was declared "not a real free-market" without Friedrich Hayek's "rule of law" in place.

The reason I'm bringing this up now is because over the past month, one of America's most rapacious oligarchs, Aubrey McClendon, was exposed by Reuters for plundering Chesapeake Energy, the second-largest natural gas producer in the country after Exxon-Mobil. McClendon, co-founder, CEO and until a few weeks ago Chairman of Chesapeake, was discovered running a hedge fund inside of Chesapeake, personally profiting on the side from large trading positions that his public company Chesapeake took in the gas and oil markets.

Reuters also discovered that McClendon took small personal stakes in natural gas wells bought by Chesapeake, then borrowed against the wells' reserves from the same banks that Chesapeake borrowed from—basically, the banks kicked back sweet lending deals to McClendon on the side as McClendon arranged less-than-sweet loans to his publicly-owned company, Chesapeake, kicking profits from Chesapeake's shareholders and employees' pockets into the banks and into Aubrey's accounts.

The loser in all this, as always: Employees, retirees, and shareholders. As Reuters reported, Chespeake is one of a small handful of companies whose employee 401k retirement packages consist mostly of Chesapeake stock, and the company requires employees to hold on to their stock for the maximum amount of time allowed by law:

> Thousands of Chesapeake workers have retirement portfolios that are heavily invested in Chesapeake stock, which has declined sharply following revelations about Chief Executive Aubrey K. McClendon's business dealings.
>
> But while retail and institutional investors have sold the stock, employees don't always have that option.

It's not the first time McClendon has been caught plundering Chesapeake at the expense of shareholders, pension fund investors and employees: In 2008, McClendon bet and lost about $2 billion worth of Chesapeake Energy stock he owned—94% of Aubrey's personal stake in Chesapeake– on a margin call when natural gas prices collapsed. Aubrey bet that natural gas prices would continue soaring, you see.

But like his peers in the oligarchy class, Aubrey's loss became everyone but Aubrey's loss: He was awarded a "CEO bailout" by his board of directors, who honored Aubrey with a $75 million "bonus" to bring his total pay in 2008 to $112 million, making Aubrey McClendon the highest-paid CEO in Corporate America that year. Even though Chesapeake's earnings dropped in half, and its stock fell 60%, wiping out up to $33 billion in shareholder wealth.

Now, we're learning, Aubrey was profiting in other ways off of Chesapeake that same year.

There is so much more to hate about Aubrey McClendon than this—the millions McClendon poured into Gary Bauer's gay-bashing outfit "Americans United To Preserve Marriage" and the Swift Boat Veterans for Truth, the role McClendon and his Whirlpool heiress wife played in stealing waterfront land from Benton Harbor, an African-American slum and the poorest city in Michigan, in order to expand an exclusive golf course country club for residents of St. Josephs, where McClendon owns several plots of land. McClendon's wife, Katie, is from St. Joseph's; so is Katie's cousin, Fred Upton, the Republican Congressman from St. Joseph's. Aubrey and his wife are what pass for royalty (*sans noblesse oblige)* these days: Katie from the Whirpool fortune, Aubrey an heir to the Kerr-McGee fortune. (If you've seen the movie*Silkwood*, you might remember Kerr-McGee as the company that iced the labor union activist played by Meryl Streep.)

This is just one of many stories about how publicly-traded companies have been and can be transformed into elaborate schemes to loot and steal from the public and enrich a tiny handful of oligarchs. We saw this in the 1980s when Reagan deregulated the Savings & Loans, which were quickly transformed into a means of looting, fraud and plunder; we saw it in the 2000s, after the de-regulation of the financial sector.

The problem goes much deeper than Milton Friedman's "rule of law" fetish. "Rule of law" is just another red herring diversion to provide cover for continued oligarchy plunder, failure and barbarism. The problem is systemic, and more importantly, ideological. We still operate under the same neoliberal/libertarian major premises we inherited from the Hayek-Mises-Friedman era, an ideology that considers notions like "the public good" to be quaint delusions at best—as opposed to today's still-dominant, still-standing foundational ideology, which says that freedom equals the ruthless pursuit of individual self-interest, the unlimited acquisition of private property and wealth, framed within a cold, dystopian "rule of law."

That is where the problem starts. That is why, every week, I could tell another story about another Aubrey McClendon or Dick Parsons, and it will never end until the ideology that enables them is buried.