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# WHY CONSERVATIVES SHOULD SUPPORT THE FREE MARKET

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# New Direction

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1

# INTRODUCTION

There are many ways of classifying political positions, ideologies and parties. A common one between 'the Right' and 'the Left' arose during the French Revolution: In the French National Assembly of 1789, supporters of the king and 'ancien régime' sat to the speaker's right and supporters of radical change to his left. This was thus a division between conservatives and radicals: conservatives were right-wing, radicals left-wing. It should be noted, though, that in the French Legislative Assembly of 1791, supporters of a constitutional monarchy sat on the right, moderates in the centre and revolutionaries, the Jacobins, on the left. Some supporters of a constitutional monarchy and limited government who now sat on the right, in particular the Girondins, would previously have sat on the left. Incidentally, this may resolve a paradox in Danish politics. The party which calls itself "Venstre" or the Left Party, is in fact rather rightwing: It may have been formed to bring about radical change, in accordance with the ideas of 1789, but once this was accomplished, it wanted to preserve it, in accordance with the ideas of 1791. In other words, it was 'Girondin' throughout. While the French Revolution, leading to terror and then to Napoleon's military coup and war in Europe, scarcely can be considered a success,[1] in France herself there is still a discernible divide between right and left, although it is sometimes difficult to identify and understand the cleavage factors.

Another way of classifying political positions was developed in British politics over centuries. This was the loose division between 'Tories' and 'Whigs' in Parliament after the 1688 Bloodless Revolution which in the nineteenth century solidified into a division between two parties, Conservatives under Benjamin Disraeli and Liberals under William Ewert Gladstone. A major issue of contention between the two parties was free trade, supported by the Liberals and opposed by the Conservatives. However, as liberal philosopher Herbert Spencer noted, in late nineteenth century British liberals slowly moved, or slid, towards interventionism, endorsing legislation which limited economic freedom, whereas British conservatives strongly supported private property rights. "So that if the present drift of things continues, it may by and by really happen that the Tories will be defenders of liberties which the Liberals, in pursuit of what they think popular welfare, trample under foot."[2] In the twentieth century, self-styled liberals in Great Britain moved further towards interventionism, so that economic liberals tended to support, and to influence, the Conservative Party, even if some Tory leaders argued for a 'Middle Way'.[3] In late twentieth century, a forceful leader of the Conservative Party, Margaret Thatcher, successfully combined support for the free market and 'Victorian values', even sometimes being called herself 'a Gladstonian liberal'.[4]

In the twentieth century, socialism became the third force in British politics, largely replacing the moderate interventionism which called itself liberalism. Socialism was represented by the Labour Party which, although dominated by intellectuals, claimed to fight for the interests of workers. In the United States, on the other hand, socialism never became a serious alternative to the ideals of the 1776 American Revolution. Most workers, experiencing upward mobility, did not turn against capitalism: They saw their country as a land

1 Hippolyte Taine, *Le Révolution,* Vol. I–III (Paris: Libraire Hachette, 1878–83), *The French Revolution* (Indianapolis IN: Liberty Fund, 2002).

2 Herbert Spencer, The New Toryism, *The Man Versus the State* (New York: D. Appleton & Company, 1884), p. 17.

3 Harold Macmillan, *The Middle Way* (London: Macmillan, 1938).

4 In an address to the Conservative Party Conference in 1983, Thatcher said: "For it is our party which is dedicated to good housekeeping—indeed, I would not mind betting that if Mr. Gladstone were alive today he would apply to join the Conservative Party."



UK Prime Minister Margaret Thatcher and US President Ronald Reagan listen to the American national anthem at Kensington Palace in London 4 June 1984. Both acknowledged von Hayek as a strong intellectual influence. Photo: Bryn Colton/Getty Images

of opportunity.[5] No great ideological divide emerged between the two main political parties which came to be called Republicans and Democrats. But the term 'liberalism' underwent an even more radical change of meaning there than in Great Britain. The so-called progressives of early twentieth century who were really interventionists called themselves liberals and so did Franklin D. Roosevelt and his New Dealers. On this Austrian economist Joseph Schumpeter acidly commented: "As a supreme, if unintended compliment, the enemies of the system of private enterprise have thought it wise to appropriate its label."[6] Consequently, in the United States nowadays those who call themselves 'liberals' are really leftwingers, whereas those who would be called liberals in Europe are often called conservatives, even if some of them, for example American economist and Nobel Laureate Milton Friedman, emphatically reject that label.

Yet another way of classifying political positions emerged in the twentieth century with the attempt, both in Nazi Germany and Soviet Russia, to create a totalitarian state which would control not only the body, but also the soul of its subjects, a goal which seemed, through new technology, to be within reach. If this classification is adopted, political positions would be placed on a scale from thoroughgoing libertarianism on one end, envisaging little or no role for the state,[7] to full-blooded totalitarianism

5 Werner Sombart, *Warum gibt es in den Vereinigten Staaten keinen Sozialismus* (Tübingen: J. C. B. Mohr, 1906). *Why is There no Socialism in the United States?* (White Plains NY: M. E. Sharpe, 1976), p. 20: "I believe that emotionally the American worker has a share in capitalism."

6 Joseph Schumpeter, *History of Economic Analysis* (New York: Oxford University Press, 1954), p. 394.

7 Murray Rothbard, *Power and Market* (Menlo Park CA: Institute for Humane Studies, 1970); David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (La Salle IL: Open Court Publishing, 1973).

on the other end, grippingly described in dystopian works by Russian authors Yevgeny Zamyatin and Ayn Rand and, of course, in the famous novel *Nineteen Eighty Four* by George Orwell,[8] and to some extent realised in Hitler's Germany, Stalin's Russia and even to this day in North Korea. Thus, national socialists would be regarded as totalitarian rather than right-wing and as being almost as far away on the political spectrum from traditionalists and classical liberals as are communists. One theorist of totalitarianism was English-Austrian economist and Nobel Laureate Friedrich August von Hayek who in *The Road to Serfdom* explored the many common features of Hitler's national socialism and Stalin's communism. Alarmed by tendencies in the United Kingdom towards collectivism which he recognised from the German-speaking countries decades earlier, von Hayek warned that they ultimately, and perhaps not intentionally, might lead to a totalitarian state: In order to implement their comprehensive economic plans, the rulers had to try and gain control of people's minds.[9] While von Hayek's warning was endorsed at the time by Winston Churchill,[10] it was generally not as well received then as in the 1970s and 1980s when Hayek became a celebrated and influential political philosopher.

It is my contention in this report, commissioned by the Brussels think tank New Direction, that in his works on political philosophy von Hayek has articulated a political position which could be called 'conservative liberalism', relying on tradition and the free market process bringing about spontaneous coordination in society, mutual adjustments of individual agents, while rejecting both rationalistic, utilitarian liberalism on the one hand and full-blooded conservatism on the other hand. In this endeavour, combining social conservatism and economic liberalism, von Hayek continues and develops a long and venerable tradition in which Edmund Burke, David Hume, Adam Smith, Alexis de Tocqueville and Carl Menger all stand, alongside other eminent thinkers. Political leaders sympathetic to this tradition include Prime Minister Thatcher, President Ronald Reagan of the United States and, in alliance with and influenced by liberal economists, Konrad Adenauer in Germany and Alcide de Gasperi in Italy.[11]

In the report, I first briefly discuss the ideas of Burke, Hume and Menger, moving on to Hayek and his ambivalent attitude towards conservatism and then turning to the ideas and arguments of two conservative British philosophers, Michael Oakeshott and Sir Roger Scruton. In the chapters that follow, I analyse the most relevant conservative objections to economic liberalism and try to show how they can be met, and accommodated, by conservative liberalism. The main conclusion of this study is that it is perfectly coherent to be both a social conservative, in favour of stability, family values and patriotism, and an economic liberal, supporting free trade and the market process. The captions to the illustrations are also written by me. In the report, I draw heavily on my doctoral dissertation at the University of Oxford, defended in 1985.[12] I have also benefitted much from discussions with fellow-members of the Mont Pelerin Society, not least von Hayek and Friedman, and also American economists James M. Buchanan and Gary Becker, Lord Ralph Harris from the United Kingdom, Professor Antonio Martino from Italy, Professor Victoria Curzon-Price from Switzerland and Dr. Ramon Díaz from Uruguay.

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8 Yevgeny Zamyatin, *We* (New York: E. P. Dutton, 1924); Ayn Rand, *Anthem* (London: Cassell, 1938); George Orwell, *Nineteen Eighty Four* (London: Secker & Warburg, 1949).

9 Friedrich von Hayek, *The Road to Serfdom* (1944), *Collected Works,* Vol. 2 (Chicago: University of Chicago Press, 2007).

10 Winston S. Churchill, *Complete Speeches,* Vol. 7, 1943–1949 (New York: Chelsea House, 1974), pp. 7169–74.

11 Adenauer's Economics Minister, fellow Christian Democrat and successor, liberal economist Ludwig Erhard, was a member of the Mont Pelerin Society, an international association of liberal scholars, journalists and men of affairs which von Hayek founded in Switzerland in 1947. Cf. Ludwig Erhard, *Wohlstand für Alle* (Düsseldorf: Econ-Verlag, 1957), *Prosperity Through Competition* (London: Thames & Hudson, 1958). Liberal economist Luigi Einaudi, a founding member of the Mont Pelerin Society, was Gasperi's Deputy Prime Minister until elected President of Italy in 1948. His small, but influential Liberal Party was long in alliance with the Christian Democrats. Cf. Luigi Einaudi, *Selected Economic Essays,* I–II (London: Palgrave Macmillan, 2014).

12 Hannes H. Gissurarson, *Hayek's Conservative Liberalism* (New York: Garland, 1987).





2

# THE CONSERVATIVE-LIBERAL TRADITION FROM BURKE TO MENGER

There are two foundations of the political position here identified as conservative liberalism. First, there is a conception, usually considered typically conservative rather than liberal, of man as both very ignorant and fallible in his judgement. He need not, however, be very selfish: but since he will not able to know more than a fraction of the people with whom he will have some direct or indirect contact in his life, he will not be able to care much about the rest or to take their interests into account. Our limited altruism is not as much a matter of *will* as *ability*.[13] Second, conservative liberalism can best be understood as the acceptance and indeed enjoyment of a given concrete historical and social reality, the liberal and progressive civilization of the West: it is a moral rather than theoretical commitment to what Adam Smith called the 'Great Society' and Friedrich von Hayek the 'Extended Society'.[14]

Edmund Burke (1729–1797) emphasised the importance of tradition and necessity of gradual reform. Portrait by James Barry.

Conservative liberalism as a social and political theory is the attempt to understand the reasons for the emergence of this civilization, and the necessary preconditions for its continuing existence. It seeks to answer the 'Kantian' question which the combined recognition of individual ignorance and collective achievement force upon us: How is the Extended Society possible, with its individuality, rationality, and so much else which we often take thoughtlessly for granted? How can people cooperate and indeed contribute enormously to one another without knowing one another? The answer offered by conservative liberals is, in brief, that man has developed, but not designed, a system of rules which

13 Hayek's clearest description of his conception of human nature is in Individualism: True and False (1946), *Studies on the Abuse and Decline of Reason, Collected Works*, Vol. 13 (Chicago: University of Chicago Press, 2010).

14 Cf. Hayek, *Law, Legislation and Liberty*, Vol. I (London: Routledge and Kegan Paul, 1973), p. 148, and The Principles of a Liberal Social Order, *Studies in Philosophy, Politics and Economics* (London: Routledge and Kegan Paul, 1967), p. 163.

makes this order possible; he has stumbled upon "establishments, which are indeed the result of human action, but not the execution of any human design," as the Scottish Enlightenment philosopher Adam Ferguson put it.[15] In one paragraph: Conservative liberalism is the recognition of the limits of individual reason, combined with the acceptance of the Extended Society, and the consequent search for the theoretical understanding of the system of rules which enables people to overcome the limits of individual reason and enjoy the fruits of the Extended Society.

An important part of conservative liberalism therefore is traditionalism: the twin ideas that practical, tacit or non-theoretical knowledge is very important, however difficult it may be to theorise about it, and that it is tradition which enables us to use this kind of knowledge. The most early eloquent affirmation of these ideas was uttered by Anglo-Irish statesman Edmund Burke in his deeply felt protest against the French Revolution:

> We are afraid to put men to live and trade each on his own private stock of reason; because we suspect that this stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations, and of ages.

Burke also endorsed a 'research programme' shared by other conservative liberals:

> Many of our men of speculation, instead of exploding general prejudices, employ their sagacity to discover the latent wisdom which prevails in them. If they find what they seek, and they seldom fail, they think it more wise to continue the prejudice, with the reason involved, than to cast away the coat of prejudice, and to leave nothing but the naked reason; because prejudice, with its reason, has a motive to give action to that reason, and an affection which will give it permanence.

Burke gave several reasons for his approval of 'prejudice': it is a civilising influence on man; it renders life more predictable because it coordinates social actions without any conscious (and hence costly) central direction. As Chicago economists would say, it lowers the authentication costs for individuals:[16]

> Prejudice is of ready application in the emergency; it previously engages the mind in a steady course of wisdom and virtue, and does not leave the man hesitating in the moment of decision, sceptical, puzzled, and unresolved. Prejudice renders a man's virtue his habit; and not a series of unconnected acts. Through just prejudice, his duty becomes a part of his nature.[17]

There may have been traces of feudalistic romanticism left in Burke, but later French sociologist Alexis de Tocqueville took this Burkean notion of the civilising (or perhaps disciplining) influence of unreflective habits and transformed it into an argument for what we can only call bourgeois virtue.[18] This kind of traditionalism is not, however, shared by all liberals, and it serves to distinguish conservative from rationalistic, utilitarian or pragmatic liberalism.

While some political commentators claim Scottish philosopher David Hume as a conservative,[19] von Hayek writes that "Hume gives us probably the only comprehensive statement of the legal and political philosophy which later became known as liberalism."[20] Who is right? Which was Hume, a conservative or a liberal? A plausible answer is that he was a conservative liberal. In his historical writings, Hume interpreted English history as a story of the gradual emergence of the rule of law out of a common law tradition.[21] Moreover, he

David Hume (1711–1776) regarded the principles of justice, not least private property, as adaptations to the circumstances of man. Portrait by Allan Ramsay.

provided an account of justice, relating both to its origin in human circumstances, and its unintended, but immensely beneficial, consequences. Hume's main contention was that "the sense of justice and injustice is not derived from nature, but arises artificially, though necessarily, from education, and human convention."[22] The sense of justice is, in other words, a cultural achievement. "Virtue, as it is now understood, would never have been dreamed of among rude and savage men."[23] And, "though the rules of justice be artificial they are not arbitrary."[24] Hume's theory is an 'invisible-hand-explanation' as American philosopher Robert Nozick calls it: the system of justice is the result of human action, but not of human design. Hume expressly said so: "This system, therefore, comprehending the interest of each individual, is of course advantageous to the public; though it be not intended for that purpose by the inventors."[25]

Hume explained

> that justice takes its rise from human conventions; and that these are intended as a remedy to some inconveniencies, which proceed from the concurrence of certain qualities of the human mind with the situation of external objects. The qualities of the mind are selfishness and limited generosity; and the situation of external objects is their easy change, joined to their scarcity in comparison of the wants and desires of men.[26]

Hume's social and political theory, unlike Burke's, was entirely naturalistic. Humean justice is contingent on certain human circumstances, "the concurrence of certain qualities of the human mind with the situation of external objects," rather than ordained by a god (although this line of reasoning does not, of course, rule out the existence of God). If human circumstances were different, the system of justice would also be different, or perhaps not exist at all. Hume argued, for example, that justice would disappear in a world where the generosity of men

15 Adam Ferguson, *An Essay on Civil Society*, ed. by Duncan Forbes (Edinburgh: Edinburgh University Press, 1966, 1st ed. 1767), p. 122.

16 For an analysis of authentication processes, see Thomas Sowell, *Knowledge and Decisions* (New York: Basic Books, 1980).

17 Edmund Burke, *Reflections on the Revolution in France* (Harmondsworth, Middlesex: Penguin Books, 1968, 1st ed. 1790), p. 183.

18 Alexis de Tocqueville, *Democracy in America*, Vol. II (New York: Vintage Books, 1945, 1st ed. 1840), p. 131.

19 Anthony Quinton, *The Politics of Imperfection* (London: Faber and Faber, 1978); Ian Gilmour, *Inside Right. A Study of Conservatism* (London: Quartet Books, 1978). Michael Oakeshott also mentions that the conservatism which he outlines in owes more to Hume than Burke. On Being Conservative, *Rationalism in Politics and Other Essays* (London: Methuen, 1962), p. 195.

20 Hayek, The Legal and Political Philosophy of David Hume, *The Trend of Economic Thinking, Collected Works,* Vol. 3 (Chicago: University of Chicago Press, 1991), p. 105.

21 Friedrich Meinecke, *Die Entstehung des Historismus,* Vol. I (München: R. Oldenbourg, 1936), p. 234; Hayek, The Legal and Political Philosophy of David Hume, *The Trend of Economic Thinking*, p. 109.

22 David Hume, *A Treatise of Human Nature. Books II and III*, Book II, Part II, Section 1, ed. by Páll Árdal (London: Collins, 1972, 1st ed. 1738–40), p. 215.

23 Ibid., p. 219.

24 Ibid., p. 216.

25 Ibid., p. 256.

26 Ibid., p. 224.

would be extensive and where everything would be in abundance: there, "they render it useless."[27] Since such a world is not logically impossible, justice is not a deliverance of reason alone, Hume believed, contrary to for example German philosopher Immanuel Kant.

Hume's justice, although contingent upon certain circumstances, is however not arbitrary, from the individual point of view. Relativism does not logically entail arbitrariness. The anti-pragmatic (or even anti-utilitarian) aspect of Hume's doctrine is, then, this: The rules and principles of justice have, for the very idea of justice to have any application, to be fixed and perfectly general:

> But however single acts of justice may be contrary, either to public or private interest, it is certain that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual. It is impossible to separate the good from the ill. Property must be stable, and must be fixed by general rules. Though in one instance the public be a sufferer, this momentary ill is amply compensated by the steady prosecution of the rule, and by the peace and order which it establishes in society. And even every individual person must find himself a gainer on balancing the account; since, without justice, society must immediately dissolve, and everyone must fall into that savage and solitary condition, which is infinitely worse than the worst situation that can possibly be suppos'd in society.[28]

It is, in other words, expedient in the long run not to be expedient in the short run. Narrow rationalism or pragmatism is self-defeating.

Underlying Hume's whole social and political theory is a profound scepticism about the power of individual reason, combined with a theory of the 'reason' generated by human interaction and experimentation and therefore embodied in conventions: The system of justice is a successful adaptation to circumstances, not a rational construct. And Hume, like other social theorists in the conservative-liberal tradition, extends 'invisible-hand-explanations' to other social phenomena, albeit somewhat tentatively:

> In like manner are languages gradually established by human conventions without any promise. In like manner do gold and silver become the common measures of exchange, and are esteemed sufficient payment for what is of a hundred times their value.[29]

Thus, Hume's social and political theory relies on tradition and spontaneous coordination; it is a procedural rather than an end-state theory; and it emphasises the self-defeating features of rationalism or pragmatism.

Traditionalism, coupled with a conception of spontaneous coordination, is also to be found in Austrian economist Carl Menger's social and political theory. In a tract on methodology, Menger discussed the social phenomena which remind us of natural phenomena because "they, too, present themselves to us rather as 'natural' products (in a certain sense), as *unintended results of historical development*."[30] This is a clear (and perhaps somewhat crude) expression of evolution through spontaneous coordination. Menger's examples of such phenomena were money, the law (by which he meant the common law), language, markets, communities and the state.

Perhaps the state could be regarded as Menger's most surprising example. In the liberal tradition, the state is usually explained as a rational construct. But in the first part of *Anarchy, State, and Utopia*, Nozick took up Menger's suggestion, offering an explanation of the state as the outcome of an unplanned process wherein protective associations gradually gained dominance over certain territories.[31] Nozick's theory is evolutionary rather than contractarian: it is an 'invisible-hand-explanation' of the state. It is both original and interesting: If

27 Ibid., p. 226.

28 Ibid., p. 227.

29 Ibid., p. 220.

30 Carl Menger, *Untersuchungen über die Methode der Socialwissenschaften und der politischen Oekonomie insbesondere* (Leipzig: Duncker und Humblot, 1883), *Problems of Economics and Sociology* (Urbana IL: University of Illinois Press, 1963), p. 130.

31 Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 18–22.





it can be shown that the state can arise in this way, without violating individual rights (Nozick's 'side-constraints'), then the old problem of its authority may have been bypassed; it may have been 'solved' or rather dissolved. Incidentally, there are some parallels between Nozick's theory of the state as the outgrowth of a protective association and the practice in Iceland during the so-called Commonwealth period, from 930 to 1262, when the Icelandes were ruled by law, which was however privately enforced.[32]

On the social phenomena which present themselves as "unintended results of historical development", Menger observes:

> It is here that we meet a noteworthy, perhaps the most noteworthy, problem of the social sciences; *How can it be that institutions which serve the common welfare and are extremely significant for its development come into being without a common will directed toward establishing them?*[33]

This problem is at the heart of conservative liberalism. How has beneficial development without design been possible? How has an order which has proved itself so very advantageous arisen? Bernard de Mandeville tried to capture it long before Menger with his famous fable of the bees, or the account of how private vices were turned into public virtues.[34] Hume, Josiah Tucker, Ferguson, and Burke all tried to express it, and above all Adam Smith with his 'invisible hand'. And it is the idea behind Savigny's inquiries into the wisdom of traditional law, and in a different form, Frédéric Bastiat's 'economic harmonies'.[35]

This is the idea which von Hayek and Sir Karl Popper have, in the twentieth century, tried to develop both into a research programme for the social sciences and, at least in von Hayek's case, into a particular political position. Hayek says in *The Counter-Revolution of Science* that the aim of social studies "is to explain the unintended or undesigned results of the actions of many men."[36] In *The Poverty of Historicism*, Popper emphatically agrees.[37] Popper contrasts this scientific method with 'conspiracy theories', or the temptation to look for a design or an intention behind all social phenomena, especially unwelcome ones.[38] This contrast is, again, not too different from the one which Nozick draws between 'hidden-hand explanations' and 'invisible-hand explanations'.[39]

A major difference between conservative and rationalistic liberals is that conservative liberals try to apply the concept of spontaneous coordination to non-economic affairs and are therefore usually led to a qualified traditionalism. Menger made a distinction between two schools, the 'pragmatic liberalism' of English utilitarians and the German Historical School of Law, of which Savigny was a prominent member. Pragmatic liberals, according to Menger, always looked at social phenomena as "the intended product of the common will of society as such, results of expressed agreement by members of society or of positive legislation."[40] They were unable to understand that an orderly development could come about without design. Members of the German Historical School of Law, on the other hand, thought that law, like language, is at least not originally the product in general of an activity of public authorities aimed at producing it, nor in particular is it the product of positive legislation. It is, instead, the unintended result of a higher wisdom, of the historical development of the nations.[41]

32 David Friedman, Private Creation and Enforcement of Law: A Historical Case, *Journal of Legal Studies*, Vol. 8 (1979), pp. 399–415; Birgir T. R. Solvason, Institutional Evolution in the Icelandic Commonwealth, *Constitutional Political Economy,* Vol. 4 (1993), pp. 97–125; Sigurdur Lindal, Law and Legislation in the Icelandic Commonwealth, *Scandinavian Studies in Law,* Vol. 37 (1993), pp. 53–92.

33 Menger, *Problems*, p. 146.

34 Hayek, Dr. Bernard de Mandeville (1967), *The Trend of Economic Thinking,* pp. 79–100.

35 Norman Barry, The Tradition of Spontaneous Order, *Literature of Liberty*, Vol. V (1982), pp. 7–58.

36 Hayek, *The Counter-Revolution of Science* (1952), *Studies on the Abuse and Decline of Reason, Collected Works,* Vol. 13 (Chicago: University of Chicago Press, 2010), p. 88.

37 Karl R. Popper, *The Poverty of Historicism* (London: Routledge and Kegan Paul, 1960, 1st ed. 1957), p. 65.

38 Popper, Prediction and Prophecy in the Social Sciences, *Conjectures and Refutations: The Growth of Scientific Knowledge* (London: Routledge and Kegan Paul, 1972, 1st ed. 1963), pp. 341–2.

39 Nozick, *Anarchy*, p. 19.

40 Menger, *Problems*, p. 172.

41 Ibid., pp. 174-5.

Carl Menger (1840–1921) was the founder of the Austrian School of economic thought, analysing the market as a process and stressing time and ignorance.

Menger criticised both views as one-sided. The Pragmatic School "did not know how to value the significance of 'organic' social structures for society in general and economy in particular and therefore was nowhere concerned to *preserve* them." He added that what characterised this School was "the one-sided rationalistic liberalism, the not infrequently impetuous effort to get away with what exists, with what is not sufficiently understood, the just as impetuous urge to create something new in the realm of political institutions, often without sufficient knowledge and experience."[42] There is a striking similarity here to von Hayek who complains that "much of our occasional impetuous desire to smash the whole entangling machinery of civilization is due to this inability of man to understand what he is doing."[43] Again, Menger's contemporary, American sociologist William Graham Sumner, an economic liberal rather than a conservative, spoke dismissively of 'the absurd effort to make the world over'.[44]

Menger contended that the conservative insights of the Historical School acted as a necessary corrective to the reformist urge of the pragmatic liberals:

> The aim of the efforts under discussion here had to be ... the full understanding of existing social institutions in general and of organically created institutions in particular, the retention of what had proved its worth against the one-sidedly rationalistic mania for innovation in the field of economy. The object was to prevent the dissolution of the organically developed economy by means of a partially superficial pragmatism, a pragmatism that, contrary to the intention of its representatives, inexorably leads to socialism.[45]

The strictures of Menger are similar to those of Burke. These two conservative liberals both endorse the same research programme: to try and employ our "sagacity to discover the latent wisdom which prevails" in our inherited institutions, as Burke put it, rather than to design new ones.

When Menger wrote about the "pragmatism that, contrary to the intention of its representatives, inexorably leads to socialism", partly he may have been making the familiar observation, common to Bastiat, A. V. Dicey, and Milton Friedman, that if you look upon matters 'on their own merits' rather than in the light of general principles, then you are almost bound to become an interventionist. You see the hardship of visible victims of circumstances, for example, but ignore the plight of unseen victims.[46] He who is absent is always in the wrong, as the proverb goes. Dicey wrote:

> The beneficial effect of State intervention, especially in the form of legislation, is direct, immediate, and, so to speak, visible, whilst its evil effects are gradual and indirect, and lie out of sight. ... This natural bias can be counteracted only by the existence, in a given society, as in England between 1830 and 1860, of a presumption or prejudice in favour of individual liberty—that is, of *laissez faire*.[47]

This is really the point that the moral vision of the individual is limited and will turn out to be selective, if unaided by general principles.

Partly, however, Menger may have been making the point that concepts applicable to 'purposeful' organisations (such as private firms, run for profit, or associations formed to further some given goals), may not always be applicable to 'purposeless' orders (such as the market order, the common law or language: that is, system of rules which enable individuals and purposeful organizations to further their given goals by coordinating their activities, but which do not have any goals of their own). To use his terminology, he was concerned with concepts on 'pragmatic' phenomena being illegitimately transferred to 'organic' phenomena. But why did this 'inexorably' lead to socialism? Because it consisted in the inability to understand, or at least to accept, unintended and unplanned social phenomena, and in a consequent demand for a rational reconstruction of society, through planning or legislation. It consisted, in other words, in the inability to understand the forces of spontaneous coordination. On Menger's interpretation, socialism is seen, then, less as a utopian, Marxian vision of a future without contradictions than as a failure to grasp the 'invisible hand'. It is a demand for a society in which everything is rational in the sense that it has been thought out, planned or intended.

While Menger criticised the pragmatic liberals, he did not fully endorse the conservative alternative. Respect for tradition was necessary, but hardly sufficient. Menger pointed out, for example, that common law, although sometimes useful, had "also proved harmful to the common good often enough, and on the contrary, legislation has just as often changed common law in a way benefiting the common good."[48] And he stressed that "institutions which came about organically find their continuation and reorganization by means of the purposeful activity of public powers applied to social aims."[49] Menger objected to what he saw as the complete and unconditional conservative surrender of reason:

> The mere allusion to the 'organic origin' of law, to its 'primeval nature' and to similar analogies, is completely worthless. The striving for the specifically historical solution of the above problem is hopeless. There can only be one way to reach the theoretical understanding of that 'organic' process to which law owes its first origin. That is to examine what tendencies of general human nature and what external conditions are apt to lead to the phenomenon common to all nations which we call law.[50]

Menger's real point is that it is not enough to observe the 'latent wisdom' in inherited insitutions, as conservatives do. They have to be explained in general terms and relate to our knowledge of "tendencies of human nature" and of "external conditions", as he says. Thus, Menger was neither a rationalistic liberal nor a full-blooded conservative, but rather a conservative liberal. Moreover, he was the founder of the 'Austrian School' of economics, of which von Hayek was, with Ludwig von Mises, the most distinguished representative in the twentieth century.

42 Ibid., pp. 177.

43 Hayek, *The Constitution of Liberty, Collected Works,* Vol. 17 (Chicago: University of Chicago Press, 2011, 1st ed. 1960), p. 25.

44 William Graham Sumner, The absurd effort to make the world over (1883), repr. in *On Liberty, Society and Politics* (Indianapolis IN: Liberty Fund, 1992).

45 Menger, *Problems*, p. 177.

46 Frédéric Bastiat, *Les Harmonies Économiques* (Paris: Guillaumin, 1850), *Economic Harmonies* (New York: Van Nostrand, 1964); Milton and Rose Friedman, *Free to Choose. A Personal Statement* (New York: Harcourt Brace Jovanovich, 1980), p. 297.

47 A. V. Dicey, *Lectures on the Relation between Law and Public Opinion in England During the Nineteenth Century* (London: Transaction Books, 1981, 1st ed. 1905), p. 257–8.

48 Menger, *Problems*, p. 233 (Appendix VIII).

49 Ibid., pp. 157-8.

50 Ibid., p. 224.

3

# HAYEK AS A CONSERVATIVE LIBERAL

In the twentieth century, Friedrich von Hayek was the thinker who most thoroughly articulated a conservative-liberal position, even if he distanced himself from conservatism, which is, for him, first and foremost the anti-liberal tradition of Coleridge, Bonald, de Maistre, Justus Möser and Donoso Cortes. His most important objection to conservatism of every kind was

> that by its very nature it cannot offer an alternative to the direction in which we are moving. It may succeed by its resistance to current tendencies in slowing down undesirable developments, but, since it does not indicate another direction, it cannot prevent their continuance.[51]

Two variants of this objection to conservatism should be distinguished. First, it is that conservatives cannot really criticise the present because they have no principles with which to criticise it, but since there will often be some unacceptable, even intolerable, features of the present, their creed will also often be unacceptable. Full-blooded conservatives are prisoners of circumstances, rather than their wardens: If they happen to live in an illiberal environment, they are illiberal. If by chance they live in a liberal environment, they are liberal, whereas consistent conservatives in the now collapsed Soviet Union seemingly had to pay their respects to communism. Many of those who called themselves 'conservatives' in the United Kingdom when von Hayek wrote his critique were in fact classical liberals; so are many of those who presently call themselves 'conservatives' in The United States.[52] And it will be difficult, on this argument, to distinguish real conservatives in the United Kingdom and those other countries which have been largely shaped by democratic socialism over the last century, from democratic socialists.

The second possible variant of von Hayek's argument is that conservatives are unable to derive a meaningful political programme from their premises, that they are therefore also unable to distinguish the agenda and non-agenda of government, and, again, that they have no choice but to become political pragmatists and fall victims to the bias for intervention which may be inherent in all political pragmatism. This is the point that without principles people drift, and also, that they necessarily drift in the direction of interventionism and the consequent politicisation of society, not least because their information about visible problems will be better than their awareness about some of the 'invisible' solutions of such problems, possible through spontaneous coordination. Pragmatic conservatism, in other words, is self-defeating.

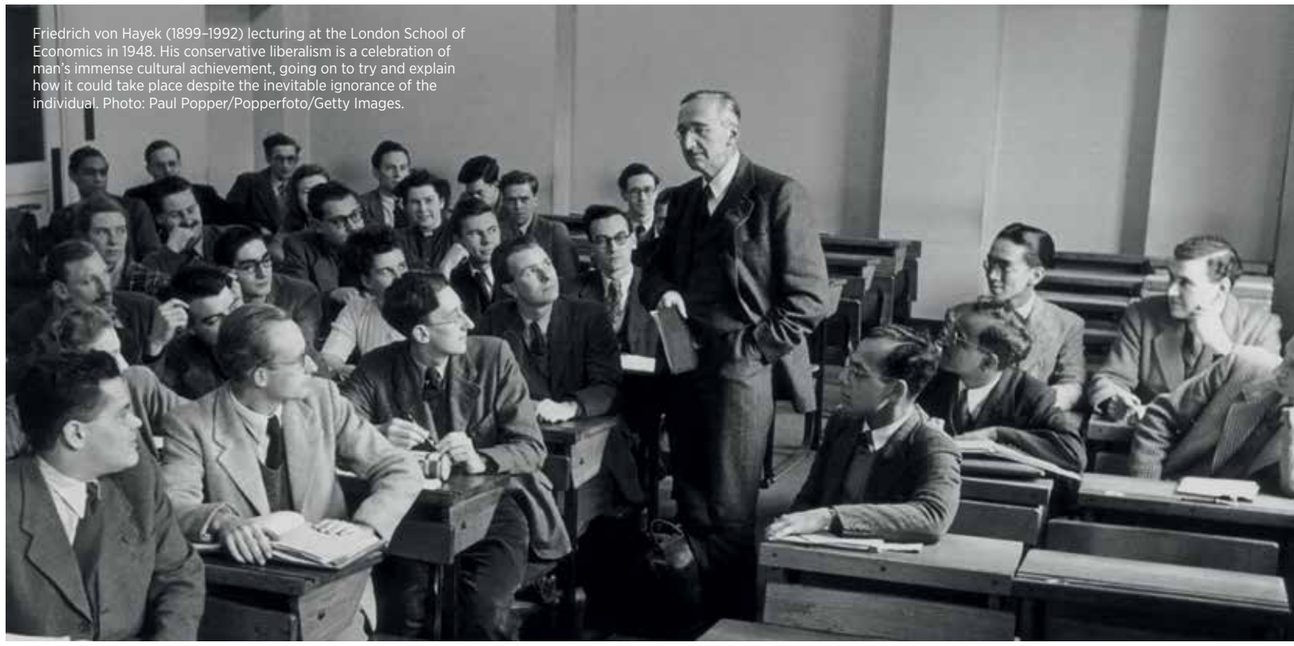
Most people, and not only self-proclaimed classical liberals, find unacceptable a political position which does not enable them to reject the Soviet system and which leads, in Menger's words, "inexorably to socialism". The real question is therefore whether von Hayek's contention that conservatism is not a set of political principles is a fair interpretation of conservatism. Consider the first variant of von Hayek's argument; that conservatives will become the prisoners rather than wardens of circumstances. In the 1980s, this did not seem too far from the truth about some conservative supporters of the Welfare State in the United Kingdom. The British

51 Hayek, Why I Am Not a Conservative, *Constitution*, p. 398. This Postscript to the book was originally Hayek's 1957 presidential address to the Mont Pelerin Society in St. Moritz, Switzerland.

52 Hayek writes, Liberalism, *New Studies* (p. 121) that "what in Europe is or used to be called 'liberal' is in the USA with some justification called 'conservative'."







Friedrich von Hayek (1899–1992) lecturing at the London School of Economics in 1948. His conservative liberalism is a celebration of man's immense cultural achievement, going on to try and explain how it could take place despite the inevitable ignorance of the individual. Photo: Paul Popper/Popperfoto/Getty Images.

conservative politician Sir Ian Gilmour, a staunch anti-Thatcherite, said, for example, in a polemic against von Hayek:

> Indeed the Welfare State is a thoroughly Conservative institution — which is why Conservatives did so much to bring it into existence — and its roots go deep in British history. ... The interventionist state and the welfare state are not going to go away. That is something, as I have indicated, which I welcome. Those who believe otherwise have, in my view, fallen into the trap of ideology and dogma — which is or should be to Conservatives the unpardonable sin.[53]

In a direct response, von Hayek complained that Sir Ian had misrepresented his position and that this was

> probably due to Gilmour's having read only *The Road to Serfdom* but not, as I believe Mrs. Thatcher did, also *The Constitution of Liberty*. Gilmour might have discovered there that I do not reject all aspects of the welfare state, which his wing of the Conservative party is so proud of having created, but regard it as a frightful muddle which badly needs sorting out — a typical result of following expediency and disregarding principle.[54]

Indeed, even if the "roots of something go deep in British history," the argument that therefore it should not go away seems unduly traditionalistic, while the argument that it cannot go away seems unduly historicist. The main point would be whether or not all elements of such a tradition or institution would stand up to critical scrutiny.

Consider, then, the second variant of von Hayek's argument, that conservatives may lack an alternative to socialist and interventionist policies. Various statements by prominent conservative philosophers such as Lord Anthony Quinton, Michael Oakeshott and Sir Roger Scruton seem to support von Hayek's interpretation. Lord Quinton writes that his kind of conservatism "is less a matter of specific policies than of style. It dictates not what should be done, but the manner of bringing it about."[55] Even Sir Roger, who seeks to expound a systematic philosophy of conservatism, says:

53 Ian Gilmour at the Cambridge Union, 7th February 1980. Reprinted in *Britain Can Work* (Oxford: Martin Robertson, 1983), p. 225.

54 Hayek, The Muddle of the Middle, *Philosophical and Economic Foundations of Capitalism*, ed. by Svetozar Pejovich (Lexington MA: D. C. Heath and Company, 1983), p. 91. This paper has the same content as a lecture under the same name that Hayek gave in Iceland on 2 April 1980.

55 Quinton, *Imperfection*, pp. 91-2.

> While conservatism is founded in a universal philosophy of human nature, and hence a generalized view of social well-being, it recognizes no single 'international' politics, no unique constitution or body of laws which can be imposed irrespective of the traditions of the society which is to be subsumed under them.[56]

Hayek's objection therefore seems to have at least some ground.

Hayek offers another important reason why he is not a conservative. According to him, conservatives are fearful of change; they have a timid distrust of the new as such, "while the liberal position is based on courage and confidence, on a preparedness to let change run its course even if we cannot predict where it leads."[57] These are polemical words. Why is it objectionable to be fearful of change? The answer is provided by von Hayek's conception of economic life. People do not have a choice on whether to adjust or not to incessant change: they simply have to. They do not only have to adjust in order to progress, but also simply in order to retain the living standards to which we have become accustomed.

Scarcity of knowledge and the consequent need to overcome it are cornerstones of von Hayek's social and economic theory. Hayek points out that

> there are few points on which the assumption made (usually only implicitly) by the 'planners' differ from those of their opponents as much as with regard to the significance and frequency of changes which will make substantial alterations of production plans necessary.[58]

Conservatives will not long enjoy the good life as they conceive of it in liberal Western societies without adapting to change, much as they may prefer a purely contemplative life to an adaptive one. 'Conservative' pursuits like fishing, gambling and friendship, singled out by Oakeshott,[59] presuppose either the order of economic freedom or the existence of an élite, parasitical on the rest of society. There are always gaps to be filled, needs and wants to be taken into account, mouths to be fed, commodities to be produced: "The continuous flow of goods and services is maintained by constant deliberate adjustments, by new dispositions made every day in the light of circumstances not known the day before, by B stepping in at once when A fails to deliver."[60] Hayek contends that the state must be engaged in removing the obstacles to the free growth of social and economic life, to the experimentation and adaptation which is an inescapable necessity.

Hayek's argument about change is closely linked to his contribution to the great debate in the 1930s about the feasibility of socialism.[61] His contention is, in short, that spontaneous coordination is only possible if people adjust, but that this is in conflict with any conservative resistance to change. His political argument is dependent on, or takes for granted, certain propositions about the way in which society works. It is a cogent argument. Fearfulness of change, or resistance to it, is hardly reasonable. The question is whether his interpretation of conservatism is correct. It is at least not inconsistent with what some conservative thinkers say. Oakeshott, for example, asserts that "to be conservative, then, is to prefer the familiar to the unknown, to prefer the tried to the untried, fact to mystery, the actual to the possible."[62] And Sir Roger Scruton, again, says that "conservatism, which takes its main inspiration from what *is*, has little competence to meddle in what is merely possible."[63]

Hayek states some further objections to conservatism. He complains that many conservatives do not understand the self-corrective forces in society,

56 Roger Scruton, *The Meaning of Conservatism* (London: Macmillan, 1984, 1st ed. 1980), p. 68.

57 Hayek, Why I Am Not a Conservative, *Constitution*, p. 400.

58 Hayek, The Use of Knowledge in Society (1945), *The Market and Other Orders, Collected Works*, Vol. 15 (Chicago: University of Chicago Press, 2013), p. 96.

59 Oakeshott, On Being Conservative, *Rationalism*, pp. 175-8.

60 Hayek, The Use of Knowledge, *The Market and Other Orders*, p. 97.

61 *Collectivistic Economic Planning*, ed. by F. A. Hayek (London: A. M. Kelly, 1935). Hayek's essays are reprinted in *Socialism and War, Collected Works*, Vol. 10 (Chicago: University of Chicago Press, 1996). The very important 'calculation debate' on the feasibility of socialism, or rather the lack thereof, was started by Ludwig von Mises' monumental study, *Die Gemeinwirtschaft: Untersuchungen über den Sozialismus* (Jena: Gustav Fischer, 1922), *Socialism: An Economic and Sociological Analysis* (Indianapolis IN: Liberty Fund, 2014, 1st ed. 1936).

62 Oakeshott, On Being Conservative, *Rationalism*, p. 169.

63 Scruton, *Meaning*, p. 36.





Sir Karl R. Popper (1902–1994) and von Hayek in June 1979. Both Popper and Hayek taught that the main task of the social sciences was to explain unintended consequences of human action: to provide invisible-hand-explanations instead of hidden-hand-explanations or conspiracy theories. Photo: Sodemann/Ullstein Bild/Getty Images.

or spontaneous coordination, and that they have therefore an inclination to call for a strong state to ensure and enforce order. This is certainly a matter of disagreement between conservatives and liberals, however conservative. Furthermore, von Hayek complains that conservatives tend to be élitists and nationalists, whereas liberals reject both these positions as untenable. It should be noted, however, that the complaint about nationalism does not apply as much to Oakeshott's sceptical or 'Hobbesian' conservatism as to some other variants. It may have some relevance however to Sir Roger Scruton, who writes:

> England, far from being a savage society that would justify the imposition of overarching decrees, is founded on the maturest of national cultures, and contains within itself all the principles of social life. The true conservative has his ear attuned to those principles, and tries to live, as a result, in friendship with the nation to which he owes his being. His own will to live, and the nation's will to live, are simply one and the same.[64]

Sir Roger's claim that your will to live and your nation's will to live, "are simple one and the same," will not appear plausible to all, at least outside England. You may love and cherish your country, and respect its traditions. But possibly you do not identify totally with it; you may retain your individuality which is perhaps the greatest gift which a civilised country bestows upon its inhabitants; you may want to move to other countries which offer you better opportunities (as many English academics do); and you may like to disagree with foolish actions, such as petty wars for no clear reasons, undertaken in the name of your country. As the well-known conservative English writer, G. K. Chesterton, once observed: "My country, right or wrong,' is a thing that no patriot would think of saying. It is like saying, 'My mother, drunk or sober.'"[65]

Despite his traditionalism, von Hayek believes that some principles of social and economic life, briefly those principles which enable people peacefully to coordinate their behaviour, are compelling to all reasonable men, while others are implausible. He has always been an uncompromising advocate of theoretical analysis, 'unsoiled' by any considerations of political possibilities. As early as 1936, he said:

> I believe that it is the task of the academic economist to represent the claims of reason without regard to whether it will have any effect in the near future. Certainly, current public opinion may often make the adoption of a reasonable policy impossible; but it is not unalterable, and I am afraid that our predecessors, the economists of the last generation, must bear some of the blame for the current situation.[66]

Perhaps unlike full-blooded conservatives, then, von Hayek believes that there exist "claims of reason." His attitude towards conservatism can best be summed up thus: Conservatives and conservative liberals share the recognition of individual imperfection and the attachment to a concrete historical and social reality, the liberal civilization of the West. But they differ in that conservative liberals have a theory as to why this reality came about and how it can be maintained; hence they have political principles, whereas conservatives lack such principles.

64 Ibid., p. 24.

65 G. K. Chesterton, A Defence of Patriotism, *The Speaker* (4 May 1901), repr. in *The Defendant* (London: J. M. Dent, 1901), p. 125.

66 Hayek, *Money, Capital and Fluctuations: Early Essays*, ed. by Roy McCloughry (London: Routledge and Kegan Paul, 1984), pp. 178-9.

4

# THE CONSERVATIVE CRITICS: OAKESHOTT AND SCRUTON

Is Friedrich von Hayek right that no rational political principles can be derived from conservative sentiments, dispositions and prejudices? While some variants of conservatism are open to von Hayek's charge that they lack a rational alternative to other political 'ideologies' and therefore liable to a collapse into political opportunism, there have been attempts to derive political positions from conservative sentiments. A distinction may prove useful between a 'Hobbesian' and sceptical mode of conservative thought of which Michael Oakeshott is a distinguished representative, and a 'Hegelian' and communitarian mode of conservatism, which has an articulate contemporary spokesman in Sir Roger Scruton. This distinction is, of course, a simplification: Hobbesian and Hegelian elements exist, for example, together in the thought of both these conservative thinkers.

Michael Oakeshott (1901–1990) based his conservatism on scepticism and the diversity of goals pursued by different individuals. Library of the LSE.

Oakeshott holds that a certain political position, which easily can be recognised as a liberal one, may be grounded in a conservative disposition. The starting point, he tells his readers, is neither a definite conception of human nature nor an abstract principle like the absolute value of human personality. It is, rather, that conservatives prefer facts to dreams, and the great fact of life, at least in free Western societies, is certainly the diversity and almost endless variety of human beings, and their different choices and capabilities:

> I and my neighbours, my associates, my compatriots, my friends, my enemies and those who I am indifferent about, are people engaged in a great variety of activities. We are apt to entertain a multiplicity of opinions on every conceivable subject and are disposed to change these beliefs as we grow tired of them or as they prove unserviceable. Each of us is pursuing a course of his own; and there is no project so unlikely that somebody will not be found to engage in it, no enterprise so foolish that somebody will not undertake it.[67]

Hence, Oakeshott argues, a conservative thinker will support a non-interventionist government: it is more likely to maintain peace and order than a socialist government. If you and I disagree, we can at least agree to leave one another alone in order to avoid war which certainly would make our lives nasty, brutish and short. Government has to be an umpire, laying down rules which enable us to live together, not a player in the game. It has to accept people as they are, not as they ought to be, according to some abstract principle.

Oakeshott calls a state which acts as such an umpire a 'civil association', contrasting it with an 'enterprise association' which fulfils a pre-designed purpose. His civil association is purposeless, even if it is certainly not pointless. It is supposed to gain its authority from the fact that it does not, according to him, infringe upon the liberty of any of its members; it rather structures their liberty.[68] Thus, it becomes somewhat similar to Nozick's aforementioned conception of the minimal state which arises in a process without infringing individual rights. According to Oakeshott, the collectivisation of society in modern times can best be understood as a slow change of the modern state from a civil association to an enterprise association.[69] In a similar vein, von Hayek, especially in *Law, Legislation and Liberty*, argues that socialism can be interpreted as the transformation of a spontaneous order into an organisation.

This argument for non-interventionism from variety (and our "acquired love of making choices" for ourselves, as Oakeshott puts it)[70] is an important and powerful argument, at least from a historical point of view, and it is also used, albeit in a different way, by English philosopher Sir Isaiah Berlin who would by no means consider himself a conservative.[71] If it is a plausible argument, then von Hayek may be misguided in his critique of conservatism: a political position, and indeed a liberal one, can be derived from a conservative disposition. But arguably, Oakeshott's argument from variety is not sufficient (although it may be necessary) to establish a liberal position or indeed any general political position. It does not amount to much more than a preference for the Western way of living; it is contingent upon a special historical situation, the diversity fostered by Western freedom.

Because this argument is contingent upon this special historical situation, it has nothing to say about neither the present non-liberal part of the world nor a possible future world of a monotonous mass culture and voluntary conformity. A liberal, however conservative, would hardly find this acceptable. Consider Oakeshott's cryptic remark immediately after his description of the endless variety of human choices, projects and pursuits: "And one half of the world is engaged in trying to make the other half want what it has hitherto never felt the lack of." It is obvious from the context that Oakeshott thinks that this is useless behaviour, perhaps even harmful.[72] But does this mean that we cannot oppose slavery if the slaves are content and have never "felt the lack of" freedom? Does it mean that nations that have never developed a strong culture of liberty, as the British have, are somehow not as fit for freedom as the British are? A liberal would maintain that even if their members were not prepared for it, they would be fit for it in the sense that they could learn to live as free individuals or, as Oakeshott puts it,"acquire the love of making choices". He would find a certain insularity in Oakeshott's argument; an unwillingness to extend the argument for liberty to other times and places. The universalism which would be an integral element in any kind of liberalism, also conservative liberalism, is absent in Oakeshott. One might ask, again, whether conservatives like Oakeshott only support liberty because it happens to exist here and now.

Furthermore, Oakeshott's argument would not suffice to refute autocratic élitism or racism. The Southern apologists of slavery in the nineteenth century

67 Oakeshott, On Being Conservative, *Rationalism*, p. 184.

68 Oakeshott, On the Character of a Modern European State, *On Human Conduct* (Oxford: Clarendon Press, 1975), p. 314.

69 Cf. Oakeshott's comments on Marx and Engels, Rationalism in Politics, *Rationalism*, p. 26.

70 Ibid., p. 185.

71 Isaiah Berlin, Two Concepts of Liberty, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), p. 169.

72 Oakeshott ironically says in the sentence next to the one here quoted (p. 184): "There are those who spend their lives trying to sell copies of the Anglican Catechism to the Jews." Would he also make fun of the Anti-Slavery Society?

could respond to it by saying that Blacks are not people, that they are subhuman, and hence that the principle of toleration or, in modern terms, of non-interventionism should not be extended to them. Likewise, the racists of the twentieth century could try to argue that Jews, or some other easily identifiable minority, or majority for that matter, are subhuman, and should therefore be subdued, enslaved or even exterminated. There are similarities between apes and also between apes and men, but few would be prepared to argue that therefore apes should enjoy the rights which are extended to men. This point can be stated differently and more briefly: From the fact that individuals are different, nothing follows about who are to count as people.

Moreover, the cost of subduing a segment of a population in a country may be significantly lower than Oakeshott and other Hobbesians presume, which would mean that there would be few objections to subduing it on their grounds. A defence of liberty as a means to peaceful and orderly life may not be able to defeat other and more effective means to such a life. And Oakeshott's argument carries little weight against those who are anyway not inclined to count the cost, such as moral and religious fanatics. He says that if a man of his "disposition is asked: Why ought governments to accept the current diversity of opinion and activity in preference to imposing upon their subjects a dream of their own? it is enough for him to reply: Why not?"[73] This would hardly be a compelling argument against somebody who would not share Oakeshott's conservative disposition.

Perhaps the most relevant objection to this argument in today's world is that it offers no guidance on how to evaluate conflicting claims and can therefore induce people to make claims which they otherwise would not have made. Therefore, it offers for example at least some scope for hiding our real preferences, in the hope of strengthening our bargaining position. You can cash in on your nuisance value; charge too high a price for peace; create an artificial scarcity. This is an insight which von Hayek develops in the third volume of *Law, Legislation and Liberty* where he criticises what could be called "the dynamism of democratic bargaining."

The Hobbesian argument, important though it is, is inconclusive. No universal political position can be deduced from Oakeshott's argument for non-interventionism (although in certain circumstances a local one can be deduced). Oakeshott may himself not be much bothered by this, as he did not set out to compile a universal political programme. But what these considerations establish is that such an argument does not meet von Hayek's challenge to conservatism. It is too indeterminate to derive non-interventionism from it, too contingent on a special historical situation. We cannot either, it is true, derive autocratic élitism from it, as there are no rational grounds on which to choose the élite. It is, however, not surprising, given this inherent difficulty about the sceptical mode of conservatism, that it has so often collapsed into irrationalism and autocratic élitism. Sir Isaiah Berlin has, for example, described how Hume's scepticism influenced some of the early German mystics and conservative irrationalists.[74]

While the 'Hobbesian' mode of conservative thought just discussed may be interpreted as an argument from conservative premises to liberal conclusions, the 'Hegelian' mode is a rejection of liberalism as such. It is an attempt to establish a political position different from liberalism on a basis which is also different from the liberal emphasis on individuality. Sir Roger Scruton says:

> The condition of man requires that the individual, while he exists and acts as an autonomous being, does so only because he can first identify himself as something greater — as a member of society, group, class, state or nation, of some arrangement to which he may not attach a name, but which he recognizes instinctively as home. Politically speaking, this bond of allegiance ... is of a value which transcends the value of individuality. For the majority of men, the bond of allegiance has immediate authority, while the call to individuality is unheard.[75]

It may be true that "for the majority of men" in the whole world, "the call to individuality is unheard", if only because people in most parts of the world have

73 Oakeshott, Rationalism in Politics, *Rationalism*, p. 187.

74 Berlin, Hume and the Sources of German Anti-Rationalism, *Against the Current. Essays in the History of Ideas* (Oxford: Oxford University Press, 1981), pp. 162-87.

75 Scruton, *Meaning*, p. 34.

Sir Roger Scruton (b. 1944) criticises liberalism for disregarding all the unchosen aspects of man, including his social identity. Photo: Frantzesco Kangaris/Eyevine/Redux

only known non-individualist traditions. It is, however, much less plausible as an assertion about the majority of people in Western countries who indeed share a strongly individualist tradition.

What Sir Roger seems to be saying is that the liberal insistence upon choice is misconceived because most people most of the time are born into traditions, rather than choosing them; after all, people do not choose their families, and their nationality, and they can never escape their social identity. The choices they make, the preferences they have, their conceptions of the good life, are informed by the society into which they have been born:

> For what, after all, has been the prevailing weakness of the liberal ideal? Surely, this: that it reposes all politics and all morality in an idea of freedom while providing no philosophy of human nature which will tell us what freedom really is. It isolates man from history, from culture, from all those unchosen aspects of himself which are in fact the preconditions of his subsequent autonomy. ... Such a philosophy presents no idea of the self, over and above the desires which constitute it: it therefore has no idea of self-fulfilment other than the free satisfaction of desire. It tries to stretch the notion of choice to include every institution on which men have conferred legitimacy, without conceding that their sense of legitimacy stems precisely from their respect for themselves as being formed, nurtured and amplified by these things.

And again:

> The conservative, like the radical, recognizes that the civil order reflects not the desires of man, but the self of man. Neither will hesitate to propose or defend a system which frustrates or diverts even the most innocent of human choices, if he sees those choices in conflict with the order that breeds fulfilment.[76]

76 Ibid., p. 120.

The political programme of conservatism, according to Sir Roger's version, seems to be to maintain the established social order, even at the cost of liberty, the argument being that the individual is what he is in and through society. It involves a policy of stability rather than the imposition of ends and ideals like liberty, or for that matter, equality.

In the following chapters, Sir Roger's charges against liberalism, on some of which von Hayek might agree with him, will be discussed. The question here and now is however whether an acceptable political programme can be constructed from Sir Roger's 'Hegelian' thesis. A conservative liberal might offer three observations on that. First, the individual seems to have a much wider choice among certain social groups than conservatives typically believe, such as the family and the nation. Individuals do not choose the families into which they are born, but they surely choose the familues which they establish, at least in Western societies. Marriage, which is the establishment of family, is a matter of choice; it is a contractual relationship because consent is involved; it is usually not considered a marriage if a man forces a woman to marry him, or vice versa. And from the point of view of the individual, the family which he establishes is usually much more important than the family into which he was born and which had been formed by his parents.

A somewhat similar argument applies to the nation, at least from a long-term perspective. From a liberal point of view there may be some difficulties about the concept of a nation,[77] but leaving them aside there is the possibility of emigration. It is indeed difficult to name a modern nation which has not been formed by emigration. The Anglo-Saxons came to Britain during the Dark Ages, the Normans invaded in 1066; the Canadians, Australians, and New Zealanders originally settled their respective countries. Did those peoples do anything reprehensible on conservative principles? The heart of the matter is that nations are, in a special sense, formed by choice; the choice of our forefathers who left their countries and settled for something else.

The second point is that while individuals may be moulded by traditions and institutions in their societies, the fact is that they are not, and do not remain, all alike. Some of them, for example, want to, and manage to, escape a tradition into which they have been born. A miner's son who is sent to Oxford on a scholarship may lose his social identity as a member of the mining community, but he gains another identity. It may be right that he will never escape his roots; that his childhood memories will always be with him; that he will always be 'different' from the other Oxford graduates; but this is a truism, and the other Oxford graduates are anyway different from one another. Consider the play by one of the first committed individualists, Romeo and Juliet by William Shakespeare. On the one hand a conservative seems to be bound to give Juliet the advice not to leave behind her family, her community with its history, its inherited traditions, ties and loyalties, and go for Romeo. On the other hand he waxes eloquently about love and the family as specifically conservative values, not fully comprehended by the narrow-minded liberal. A conservative liberal would respect traditions, and old loyalties, but he would also respect those people who prefer one tradition to another, and want to form new loyalties. He would not resist the further development of traditions, the formation of new families, even new nations. The process of history must not be arrested; the present must not become our end state. Oakeshott makes this point well when he says that our social identity must not be "a fortress into which we may retire."[78]

The third point follows. It is that a meaningful programme has to take into account the conflicts between values in modern society, the differences between individuals, and the human propensity to move from one place to another, from one social role to another, to choose others and to be chosen by others. It is interesting that what the 'Hobbesian' mode of conservative thought, expressed by Oakeshott, makes its premise, namely the variety of human choices, lifestyles, preferences, and values, is tacitly denied or at least understated by the 'Hegelian' mode of conservatism, represented by Sir Roger Scruton. On this problem, fundamental to modern political philosophy, von Hayek comments:

77 Popper criticizes the notion of nationality in The History of Our Time, *Conjectures and Refutations*, saying that the only case which he can think of where state and nation coincide is that of Iceland (p. 368). For a somewhat 'Hayekian' analysis of nationalism, see Elie Kedourie, *Nationalism* (London: Hutchinson, 1985, 1st ed. 1960). Kedourie shares with Hayek and Oakeshott the conception of politics as the accommodation of individual plans rather than the imposition of any one plan.

78 Oakeshott, On Being Conservative, *Rationalism*, p. 171.

Claire Danes and Leonardo DiCaprio as Juliet and Romeo in Shakespeare's play about the conflict between individual choice and social identity. In modern times, family is based on choice. 20th Century Fox.

> When I say that the conservative lacks principles, I do not mean to suggest that he lacks moral conviction. The typical conservative is indeed usually a man of very strong moral convictions. What I mean is that he has no political principles which enable him to work with people whose moral values differ from his own for a political order in which both can obey their convictions. It is the recognition of such principles that permits the coexistence of different sets of values that makes it possible to build a peaceful society with a minimum of force. The acceptance of such principles means that we agree to tolerate much that we dislike. There are many values of the conservative which appeal to me more than those of the socialists; yet for a liberal the importance he personally attaches to specific goals is no sufficient justification for forcing others to serve them. ... To live and work successfully with others requires more than faithfulness to one's concrete aims. It requires an intellectual commitment to a type of order in which, even on issues which to one are fundamental, others are allowed to pursue different ends.[79]

If people in the West have any shared values, then they are the values of individuality, toleration and liberty, which only play a secondary role in Sir Roger's theory, although he certainly is in favour of them. If a political programme consists in maintaining the established social order, then it does not consist in suppressing individual choices, as Sir Roger implies ("even the most innocent of human choices", as he puts it), but in searching for principles which enable us to live together. It has already been briefly indicated which these principles are: respect for tradition coupled with support for the free market, or in other words a combination of social conservatism and economic liberalism. In the following chapters, some more specific conservative objections to economic liberalism will be analysed. It hopefully will be seen that conservative liberals may have the resources to meet them, either by refutation or accommodation.

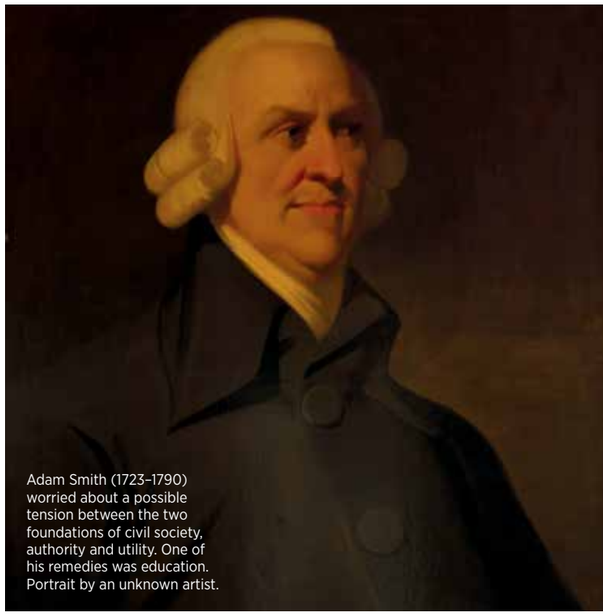
79 Hayek, *Constitution*, p. 402.

5

# IS THE FREE MARKET UNINSPIRING?

Some conservative arguments against the free market have in common a certain scepticism about the goods delivered by it. The problem, it is said, is not as much what we *have*, or can have, as what we *are*, or ought to be: What ought to matter is our identity, not the efficiency achieved in the marketplace. The social order in which we live has to fit us; it has to take into account our system of shared values rather than erode it, as market forces may do. If grounded in the principle of utility alone, the market order is unable to command allegiance, and is consequently liable to disintegration. As the American conservative Irving Kristol once put it, ironically in a lecture to von Hayek's Mont Pelerin Society, "no society that fails to celebrate the union of order and liberty, in some specific and meaningful way, can ever hope to be accepted as legitimate by its citizenry."[80] This argument is not confined to conservatives. Canadian philosopher Charles Taylor, a socialist, argues against utilitarian liberalism that "this modern theory has not provided a basis for men's identification with their society. In the intermittent crises of alienation which have followed the breakdown of traditional society, utilitarian theories have been powerless to fill the gap." Taylor goes on:

> It is now clearer that the utilitarian perspective is no less an ideology than its major rivals, and no more plausible. Utilitarian man whose loyalty to his society would be contingent only on the satisfactions it secured for individuals is a species virtually without members. And the very notion of satisfaction is now not so firmly anchored, once we see that it is interwoven with 'expectations', and beliefs about what is appropriate and just. Some of the richest societies in our day are among the most teeming with dissatisfaction.[81]



Adam Smith (1723–1790) worried about a possible tension between the two foundations of civil society, authority and utility. One of his remedies was education. Portrait by an unknown artist.


Market Square, Krakow, Poland. While the free market certainly dissolves some traditional loyalties and ties, it also serves to bring people together. If you see a potential customer in someone, you are less inclined to shoot at him. Wikipedia Creative Commons.

Kristol and Taylor claim that supporters of the free market can hardly explain the recurrent dissatisfaction in affluent societies. Allegedly, they do not understand that environmentalists, communitarians, religious fundamentalists and other opponents of the free market order are not searching for new means to commonly agreed ends. They are rather rejecting those ends in themselves: they are rebelling against the principles, values and traditions of the free, individualist society.

Long before Kristol and Taylor, German revolutionaries Karl Marx and Friedrich Engels gave an eloquent account of the dissolution and disintegration allegedly brought about by the free market:

> The bourgeoisie, wherever it has got the upper hand, has put an end to all feudal, patriarchal, idyllic relations. It has pitilessly torn asunder the motley feudal ties that bound man to his "natural superiors", and has left remaining no other nexus between man and man than naked self-interest, than callous "cash payment". It has drowned the most heavenly ecstasies of religious fervour, of chivalrous enthusiasm, of philistine sentimentalism, in the icy water of egotistical calculation. It has resolved personal worth

80 Irving Kristol, Capitalism, Socialism, and Nihilism, *The Portable Conservative Reader*, ed. with an Introduction by Russell Kirk (Harmondsworth, Middlesex: Penguin Books, 1982), p. 643. The lecture was delivered to the Mont Pelerin Society in Montreux, Switzerland, in September 1972.

81 Charles Taylor, *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979), pp. 112–3.

> into exchange value, and in place of the numberless indefeasible chartered freedoms, has set up that single, unconscionable freedom—Free Trade. In one word, for exploitation, veiled by religious and political illusions, it has substituted naked, shameless, direct, brutal exploitation. The bourgeoisie has stripped of its halo every occupation hitherto honoured and looked up to with reverent awe. It has converted the physician, the lawyer, the priest, the poet, the man of science, into its paid wage labourers. The bourgeoisie has torn away from the family its sentimental veil, and has reduced the family relation to a mere money relation.[82]

What conservatives worried about, Marx and Engels however welcomed: they saw the disintegration process as severing or reducing the allegiance of people to the established order.


Campaign poster for William McKinley in the 1896 presidential elections. Nowhere was, and perhaps still is, what Adam Smith called 'the commercial spirit' as prominent as in the US. Library of Congress.

While utilitarian liberals may have underestimated or even ignored the problems of allegiance and social integration, conservative liberals have worried much about them, recognising with Burke that "To make us love our country, our country ought to be lovely."[83] Thinkers like Adam Ferguson, Adam Smith and Alexis de Tocqueville have at least seen, if perhaps not fully solved, these problems. Smith for example envisaged a possible conflict between the two principles of authority and utility which served, according to him, to uphold society.[84] He wrote that there were certain "inconveniencies ... arising from a commercial spirit." First, the division of labour made the workers mindless, turned their work into a dreadful routine, "in every commercial nation, the low people are exceedingly stupid."[85] In the second place, education was not profitable in such a system, and hence underproduced. Consequently, the young lost respect for their elders. Thirdly, the commercial spirit weakened certain qualities and dispositions, and in particular military vigour and prowess. Perhaps most importantly, society became atomised, and as a result individuals lost their social incentives to behave morally.

Perhaps utilitarian liberals have an unattractive conception of man. But the two most prominent economists in the tradition of conservative liberalism, Smith and von Hayek, certainly have a different conception. It is not solely of man as a being with given ends, seeking appropriate means. For them, man "is as much a rule-following animal as a purpose-seeking one." They would agree with 'communitarian' and conservative critics of utilitarian liberalism that man has an inescapable social identity. But for a different reason: "thinking and acting are governed by rules which have by a process of selection been evolved in the society in which he lives, and which are thus the product of the experience of generations."[86]

For conservative liberals, the concept of economic man or *homo economicus* is not used as an ethical postulate, but only as a methodological tool. The nineteenth century utilitarians may have abused it, but certainly neither Smith nor von Hayek. Their contention is not that man is selfish, but that he

82 Karl Marx and Friedrich Engels, *Manifest der Kommunistischen Partei* (1848), *Werke,* Vol. 4 (Berlin: Dietz, 1959), pp. 464–5. *Manifesto of the Communist Party*, tran. by Samuel Moore in cooperation with Friedrich Engels (1888).

83 Burke, *Reflections*, p. 172.

84 Smith discussed these two principles in some detail in *Lectures on Jurisprudence*, Report dated 1766, ed. by R. L. Meek, D. D. Raphael, and P. G. Stein (Oxford: Oxford University Press, 1978), pp. 401–2.

85 Adam Smith, Report dated 1766, *Lectures on Jurisprudence*, p. 539.

86 Hayek, *Law, Legislation and Liberty*, Vol. I, p. 11.

'A scout is loyal,' by Norman Rockwell. Even if historically market forces have had freer play in the United States than in most other countries, loyalty to traditional institutions has also been more widespread there.

has limited information about, and hence limited sympathy for, people who are not in his immediate vicinity. Neither is it their contention that good consequences will always and in all circumstances flow from self-interested behaviour, but that it is only likely to do so under certain constraints, both moral and legal. To put it differently, they are not anarchists, but constitutionalists. Hayek writes:

> Perhaps the best illustration of the current misconceptions of the individualism of Adam Smith and his group is the common belief that they have invented the bogey of the 'economic man' and that their conclusions are vitiated by their assumption of a strictly rational behaviour or generally by a false rationalistic psychology. They were, of course, very far from assuming anything of the kind. ... All the possible differences in men's moral attitudes amount to little, so far as their significance for social organization is concerned, compared with the fact that all man's mind can effectively comprehend are the facts of the narrow circle of which he is the centre; that, whether he is completely selfish or the most perfect altruist, the human needs for which he can effectively care are an almost negligible fraction of the needs of all members of society.[87]

Hayek and other conservative liberals are, in other words, showing the empirical rather than moral limits of benevolence and fellow-feeling. They are showing what we, in the free market order, *cannot* do rather than what we ought, or ought not, to do.

In this context, a distinction may be made between two variants of the argument: one is that the utilitarian case for the liberal or free market order is psychologically unsatisfactory because uninspiring, the other that it is self-defeating. The conclusion is identical: the free market order is liable to disintegration. Admittedly, the former variant is rather vague, as some people may find inspiring what others consider repellent. Be that as it it may, what is the evidence? The radical reaction against the free market order seems to be confined to a small, albeit vocal, part of the population. Ordinary citizens have hardly been influenced by it. In practice, if not in theory, they appear to be supporters of the free market, welcoming economic development, and when given the chance, moving from a less to a more prosperous community (for example from Mexico to the United States, or from North to South Korea). Consequentialist considerations seem sufficient to retain the loyalty of many ordinary citizens. In the United States, rightly or wrongly seen as the most advanced free society in the world, the masses certainly appear to be patriotic and loyal to liberal institutions. This may not be the case in countries like France and Germany, but the reason may be that these countries do not enjoy the same deep rooted liberal traditions as the United Kingdom and the United States. The problem may not be the loyalty of ordinary citizens. It may, as Joseph Schumpeter argued, rather be the dissatisfaction of intellectuals.[88]

Two facts should be taken into account in a discussion about stability and disintegration in the free market order. First, the United States is one of the relatively few countries in the world whose problem is rather that more people want to enter it than to leave it. Second, the United States has enjoyed a stabler

87 Hayek, Individualism: True and False, *Studies on the Abuse*, pp. 57 and 59.

88 Joseph Schumpeter, *Capitalism, Socialism, and Democracy*, (London: George Allen and Unwin, 1976, 1st ed. 1942), pp. 145-155. Cf. Raymond Aron, *L'Opium des intellectuels* (Paris: Calmann Lévy, 1955), *The Opium of the Intellectuals* (New York : W. W. Norton & Co., 1957).

political arrangement than any other Western country, except perhaps the United Kingdom, for the last two hundred years. Neither fact suggests that the serious problem in the United States is alienation, or lack of loyalty to that country's liberal institutions.

After all, as the Arch-Tory Dr. Johnson observed, a man is seldom as innocently employed as in making money.[89] At the American frontier, people were so busy making money that there was never a sizeable segment of the population which was left behind, idle and dissatisfied. In autocratic Russia, under the tsars, there was at the same time widespread dissent and unrest and a lot of people, especially intellectuals, who devoted their lives to overthrowing the regime. This included trying to assassinate all those who might implement necessary changes and thus reduce the likelihood of a revolution, two tragic examples being the liberal tsar Alexander II in 1881 and reformist Pyotr Stolypin in 1911.

Second, is it true that the 'man of low station' is more stupid in the market order than in pre-commercial society, as Adam Smith feared? Is the life of ordinary people in commercial or industrial society really degrading? Intellectuals who speak about the dehumanising effects of the division of labour, seem to have in mind a contrast between some pre-industrial idyll and the assembly line in a modern car factory ('Fordism').[90] This is a false contrast. Life was pretty unpleasant for most people in pre-industrial time, while most employees nowadays work in a much more attractive environment than a car factory. Work may be monotonous, but only for a small part of the labour force; and there is much less work and much more leisure for the whole of the labour force than some nineteenth century critics of laissez-faire could have foreseen.[91]

Third, there is the well-known argument for the free market that the less government interferes with what individuals consider their legitimate pursuits, the more loyalty it is likely to command. It can be argued that it is not the free play of the market forces which has brought about social disintegration, but the increasing politicisation of society where struggle for government favours has replaced peaceful trade. Indeed, Oakeshott observes

> that a government which does not sustain the loyalty of its subjects is worthless, and that while one which (in the old puritan phrase) 'commands for truth' is incapable of doing so (because some of its subjects will believe its 'truth' to be error), one which is indifferent to 'truth' and 'error' alike, and merely pursues peace presents no obstacle to the necessary loyalty.[92]

This is a weighty argument, even if not necessarily conclusive: indifference, although better than oppression, is not very inspiring. Not to present an obstacle to loyalty is not the same as to be able to command loyalty.

Fourth, another well-known argument for the free market is that the social interdependence of civil society is in itself an integrating factor. People come to realise that they benefit one another. The cash nexus is after all a nexus; it brings people together. This is the argument which nineteenth century liberals advanced for free trade. As John Prince Smith put it, a little crudely, but effectively: "Had we advanced so far as to see a good customer in every foreigner, there would be much less inclination to shoot at him."[93] Or as the saying goes, when goods do not cross borders, armies will.

Thus, the case for economic liberalism is neither as unsatisfactory nor uninspiring as some conservatives hold. By the considerations stated above the problem of disintegration has been put in perspective while some doubt has been thrown on any political solution of it. But it remains a problem: for some people at least, civil society is a society of strangers for which they feel little affection. The other variants of the argument from disintegration should therefore be examined.

89 James Boswell, *The Life of Samuel Johnson* (1791), Vol. 2 (Oxford: Talboys & Wheeler, 1826), p. 283. 27 March 1775.

90 For a typical such conservative fantasy from the early 19th century, The Sins of Manchester (Letter XXXVIII of *Letters from England,* first published in 1807) by Robert Southey, printed in *The Portable Conservative Reader*, pp. 120-127. Cf. the eloquent and persuasive critique of Southey by Lord Thomas Babington Macaulay, Southey's Colloquies, *Edinburgh Review,* Vol. 50 (January 1830), pp. 528–65. Lord Macaulay would, with Lord Acton, be one of the most distinguished conservative liberals in Great Britain in the nineteenth century.

91 Nozick points out that in the 1970s assembly-line workers totalled less than 5% of manual workers in the United States. *Anarchy*, p. 249.

92 Oakeshott, On Being Conservative, *Rationalism*, pp. 189–90.

93 John Prince Smith, On the Significance of Freedom of Trade in World Politics, speech delivered to the Third Congress of German Trade, September 13th, 1860, repr. in *Western Liberalism. A History in Documents from Locke to Croce*, ed. by E. K. Bramsted and K. J. Melhuish (London: Longman, 1978), p. 357.





6

# DOES THE FREE MARKET ERODE MORAL VALUES?

While the first variant of the argument from disintegration, discussed above, is that the free market order is psychologically uninspiring, the second variant is that *homo economicus*, encouraged by market forces, erodes values and rules necessary for the maintenance of the market order. The process bringing this about might be the following: Man being imperfect and not too moral needs some social monitoring, if he is to be expected to heed the rules of society. But in the market order he is encouraged to take (or at least there is nothing to discourage him from taking) a narrow and short-sighted view of his interests. With the disappearance of religion, a traditional code of conduct and perhaps an élite offering guidance, he is left on his own. But if everybody behaves like a maximizer, then life may become almost intolerable. People may enter a Hobbesian state of nature where life is solitary, nasty, brutish and short; they may find themselves in something like a prisoners' dilemma. The mutual trust, bred by people inhabiting the same community and monitoring one another (and thus ensuring moral behaviour), may slowly, but surely, be eroded. Therefore, any utilitarian defence of the market order may in the end be self-defeating.

Against this argument, it should be stressed that the freer a society is, the stronger some (but perhaps not all) self-regulating or civilising forces are likely to be. Transactions are repetitive. Nothing is as valuable in business as a good reputation. In the marketplace, the crook, the cheat or the liar may be successful once or twice, but hardly many times. In a famous passage, the conservative liberal Alexis de Tocqueville, for example, wrote convincingly about the civilising forces of capitalism:

Viscount Alexis de Tocqueville (1805–1859) stressed the civilising impact of spontaneous social and economic cooperation and much preferred it to commands from above. Portrait by Théodore Chassériau.

> The principle of self-interest rightly understood produces no great acts of self-sacrifice, but it suggests daily small acts of self-denial. By itself it cannot suffice to make a man virtuous; but it disciplines a number of persons in habits of regularity, temperance, moderation, foresight, self-command; and if it does not lead men straight to virtue by the will, it gradually draws them in that direction by their habits. If the principle of interest rightly understood were to sway the whole moral world, extraordinary virtues would doubtless be more rare; but I think that gross depravity would then also be less common.[94]

Here, Tocqueville stresses spontaneous social forces rather than commands from above.

Another closely related observation is that the less free a society is, the weaker some self-regulating or civilising forces are likely to be. Such social forces will probably be less effective in the black market in a socialist country like Cuba, or North Korea, for example, than they are in the West. In the black market, after all, transactions are much less repetitive. The struggle for government favours, which invariably will to some extent replace peaceful transactions in socialist countries (and, some would say, also in Western welfare states), is not likely, either, to exert a very civilizing influence on people. In such a struggle, we are inevitably strangers to one another, because we are participants in a zero-sum game: if you win, I lose.

Perhaps such civilising forces within civil society, useful as they may be, are not sufficient. What other remedies are there for the loss of authority, decline of social monitoring and consequent disintegration? Education is an obvious remedy, proposed by Adam Smith.[95] But if it is established that compulsory education is compatible with the free order, perhaps even necessary for its maintenance, two questions immediately appear. One is whether education should be privately or publicly produced (as opposed to publicly financed). Conservative supporters of the free market would regard this as an open question, but they would indeed have a bias against education by the state, and prefer education in private schools and first and foremost within the family. As Smith wrote: "Domestic education is the institution of nature; public education, the contrivance of man. It is surely unnecessary to say, which is likely to be the wisest."[96] Milton Friedman advocated parental choice of private schools with public funding to the extent that education was deemed to be a public, rather than private, good. Friedman's 'voucher scheme' was endorsed by von Hayek.[97]

From the fact that a good may be underproduced in an unhampered market, nothing follows about whether it should be produced publicly or privately with a public subsidy. Parents have a strong incentive to educate their children, either themselves or at their own cost in institutions. It could even be argued that in an advanced society, private education is less likely to be underproduced than public education. As a part of the populace does not have children, a decision procedure wherein the whole populace participates (a political procedure) is likely to produce less education of children than a decision procedure wherein only the parents participate (a market procedure). Smith's position, apparently in favour of government intervention, could thus perhaps be reversed to become an argument for government non-intervention.

The other difficulty is about the content of education. Given the premises, it seems that its content has to be informed by the traditions of the relevant society. Education has to be the transmission of conventional morality, honesty, good manners and other civil virtues. It has to be education in the history, language and literature of the given country. Conservative supporters of the free market, with their emphasis on tradition as a means of coordination, would have a position here much more congenial to conservatives than would libertarians. Hayek writes, for example:

> It is important to recognize that general education is not solely, and perhaps not mainly, a matter of communicating knowledge. There is a need for certain common standards of values, and, though too great emphasis on this need may lead to very illiberal consequences, peaceful common existence would be clearly impossible without any such standards.[98]

But the content of education is a problem less to be solved in theory than practice; it must be left to particular societies in particular times.

There is another possible remedy, and a very important one, for the potential social disintegration caused by the decline of social monitoring. The argument about disintegration can be interpreted as one about size rather than liberty.[99] Is it not about the loss of authority involved in moving from a small village to a big city? What conservative critics of the free market were saying, perhaps without fully realizing it, was that social monitoring costs were much lower in a small community than in a large one, and hence that in the former social discipline was much more spontaneous. They were contending, in other words, that the self-corrective forces of conventional morality were stronger in a small community than in a big and anonymous society. This seems plausible. The reason for much less crime *per capita* in Iceland than in the United States is surely not the nationalistic, or even racist, one that Icelanders are any less inclined, either by nature or nurture, to commit crimes than citizens of the United States, but that monitoring costs are much lower in Iceland.

This leads directly to the most concrete and perhaps convincing remedy which conservative liberals can offer for disintegration. In civil society or the market order there are all kinds of associations, groups and communities. There are churches and congregations, small close-knit national communities, such as the Irish, the Italian and the Polish in the United States, and the Asian and West Indian communities in the United Kingdom, voluntary associations, neighbourhoods, the family in a wide sense, and thousands and millions of other organizations. Consider the city of New York, apparently the most anonymous and abstract society in the world, often thought of as a heartless, concrete jungle. There is the business community with a strict code of conduct (not to speak of dress), the legal and medical professions, the Catholic Church, the Jewish community, the gay community, and so on. This does not, of course, dispose of the problem: the crime rate in big American cities is relatively high. But it shows that there are resources within civil society to deal at least partly with it, resources which are often overlooked by its critics.

The social role of autonomous communities, associations, and clubs, formal and informal, was clearly understood and explained by Tocqueville in the nineteenth century. According to Tocqueville, the coexistence of democracy and freedom in the United States could not least be attributed to the wide network of voluntary associations there, and the widespread participation in them. In American society, perhaps the purest civil society to be found in Tocqueville's days, such associations served as substitutes for aristocratic authority:

> When the members of an aristocratic community adopt a new opinion or conceive a new sentiment, they give it a station, as it were, beside themselves, upon the lofty platform where they stand; and opinions or sentiments so conspicuous to the eyes of the multitude are easily introduced into the minds or hearts of all around. In democratic countries the governing power alone is naturally in a condition to act in this manner, but it is easy to see that its action is always inadequate, and often dangerous.

Tocqueville argued that democratic government could not replace aristocratic authority as an effective guide in social and moral affairs: "Governments, therefore, should not be the only active powers; associations ought, in democratic nations, to stand in lieu of those powerful private individuals whom the equality of conditions has swept away."[100]

At the same time, Tocqueville rejected and combined liberal and conservative ideas. He argued, with conservatives and against liberals, that aristocratic authority is useful. And he argued, against some conservatives, that government does not need to provide social monitoring and the sense of

94 Tocqueville, *Democracy*, Vol. II, p. 131.

95 Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Vol. II, Bk. V, i, ed. by R. K. Campbell and A. S. Skinner (Oxford: Oxford University Press, 1979, 1st ed. 1776), p. 788.

96 Smith, *Moral Sentiments*, p. 222.

97 Milton Friedman, *Capitalism and Freedom*, Ch. VI (Chicago: University of Chicago Press, 1962). Hayek, *Constitution*, p. 381.

98 Hayek, *Constitution*, p. 377.

99 Cf. James M. Buchanan, Ethical Rules, Expected Values, and Large Numbers, *Freedom in Constitutional Contract: Perspectives of a Political Economist* (College Station TX: Texas A&M University Press, 1977), p. 151, where he says that "ethical theorists have neglected the apparent importance of group size."

100 Tocqueville, *Democracy*, Vol. II, p. 117.

participation and identity, which is lost with the development of civil society. His idea can be described as 'participation without politics'.[101] The point is this: as communities and associations lower the social monitoring costs, discipline becomes more voluntary and less compulsory, and thus it relieves the state, with all its inherent dangers, of some duties.

However, this proposed remedy for social disintegration in civil society may be criticised on the ground that many communities within the market order, while lowering monitoring costs, may be deeply hostile to the market order. Is this not a case of conflict between traditional practices and liberal principles? What about the miners' communities in England and Wales? Or religious sects in the United States? Or the resistance of villagers in the Alps to new ways of life? Or an old family firm which has been run on the same lines for generations? While these examples are superficially similar, they are in fact quite different from one another, and hardly counter-examples to the spontaneous coordination valued by conservative supporters of the free market. A miners' community may of course be hostile to the free market. But the traditions and practices which have evolved there, have only evolved spontaneously in a very limited sense. They have evolved spontaneously once government intervention ensured that no signals were given to the miners' community either to adapt and adjust or to suffer some (at least relative) decrease in income. But they would hardly have gained much strength if not for government intervention. They may be unintended consequences of government action, but they are not examples of how a spontaneously evolved moral order may be in conflict with the free market, because they cannot be said to be spontaneously evolved.

On some religious sects in the United States and elsewhere, whose practices may be rather anti-liberal (or, at least, anti-individualist), it suffices to say that a free society is committed to tolerating such communities within it, provided that they do not break the law (or do not engage in actions whose logic can only lead them to breaking the law, the definition of which is a practical, legal problem). The free market order can accommodate non-liberal communities within it, although the reverse is hardly true. The freedom in an individualist society is certainly the freedom to reject individualism both in theory and practice, on a voluntary basis. However, the argument does not necessarily apply to children; there is, as has already been indicated, a case for compulsory education in the values of the free society.

But the two other examples, of the Alpine village and the old and established family firm, surely are examples of a conflict between traditional practices and economic liberty? Indeed they are. But conservative liberals are not committed to the view that all traditional practices will maintain the moral capital of the market order; such an assertion would plainly be absurd. Of course some people resist and resent change, the never-ending necessity to adapt. Conservative liberals would have no quarrel with them if they want to preserve some peculiar ways of living, either in the Alpine village or in the old family firm. But in a free society such people cannot expect others to bear the costs of their own refusal to heed the signals of the free market, respond to consumer choice.

Those who think that these examples are counter-examples to a conservative case for economic liberalism do not seem fully to realise the distinction which should be made between individual rules of just conduct and the abstract order arising from people adhering to those rules.[102] What is essential, according to conservative liberals, is not that people accept the abstract order itself, but that they adhere to the individual rules of just conduct. The moral capital of the market order has been maintained if people learn those rules, whether or not they will be able to understand them, or, which is even less likely, the order arising out of their adherence to them. There is not much evidence that, within the free market order, rules of conduct are apt to evolve spontaneously which are not conducive to the maintenance of moral capital. On the contrary, members of some communities and sects that seem from the outside to be rather anti-liberal apparently are eminent practitioners of capitalism precisely because their code of conduct is very rigid, or in other words because the social monitoring within the community is pretty strict: consequently, they tend to be trustworthy, honest and thrifty. The Quakers and Jews in America, and the Sikhs in India may be some examples. The

101 Cf. Samuel Brittan, *Participation Without Politics* (London: Institute of Economic Affairs, 1978).

102 Hayek, Notes on the Evolution of Systems of Rules of Conduct, *Studies*, p. 67.


'Nighthawks' by Edward Hopper. The common image of inhabitants of big cities as being rootless, lonely strangers may be exaggerated: There are ample resources found in cities to develop new social identities.

problem is the transmission within the group of those rules of conduct, not the explicit acceptance (or the intellectual recognition) of the abstract order arising from the adherence to those rules.

A further observation, referring to the possible loss of aristocratic authority, is that there are many different 'élites' (and corresponding social monitoring) in the free market order, because different communities set different standards and have different systems of rewards and punishments. Many academics prefer professorships in prestigious universities with relatively low salaries to teaching positions in some disreputable colleges, even if the salaries there are much higher. This does not imply that they do not like money or do not respond rationally to prices: it only means that there are many different walks in life. For most people, save the miser, money is a means, not an end. It is "encapsulated choice."[103] Moreover, it is not at all clear that a free society needs any one élite to sustain itself. Hence, the alleged fact that the 'élite' of the marketplace, consisting of speculators, pop singers and the like, is not very attractive or imitable is not necessarily important. The 'authority' which Adam Smith spoke about as complementing utility, may be the authority of traditions without being the authority of a particular élite. Traditions may maintain themselves without a part of the community occupying itself in defending them, and they would indeed hardly be liberal traditions if they could not so maintain themselves.

Thus, even if 'moral capital' is consumed by the market forces, as Irving Kristol believes, it does not follow that it has been depleted, because new moral capital may be produced (for example by the formation of autonomous associations, and the revival of religion); and in some cases it is by no means obvious that moral capital is in fact consumed. And even if a free market order is, in fact and at some times, depleting its moral capital and even coming close to collapse, this may not be a convincing criticism in a world of uncertainty where there is simply no guarantee of the maintenance of moral capital.

103 John R. Lucas, *On Justice* (Oxford: Clarendon Press, 1980), p. 218.

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# DOES THE FREE MARKET CREATE EXCESSIVE EXPECTATIONS?

Another conservative argument against the free market refers to systemic disappointment rather than to moral or social disintegration. It is that the market order generates expectations, but is then unable to fulfil them, with widespread resentment as the inevitable result. What can be called 'the dialectic of excessive expectations' leads to the instability of the market order, if not its collapse. This argument has been developed in particular by German philosopher Georg W. F. Hegel and his followers. They certainly seem to have identified a real problem. Expectations are much higher in the free market order than in any other political order which we have known. Conservative liberals might however wonder whether this is not because of the very success of the free market order in protecting and fulfilling expectations. They might refer to research into the movements of wages and prices in the eighteenth and nineteenth century, conducted by Sir John Clapham, T. S. Ashton and other historians, demonstrating that in the United Kingdom there was a "slow and irregular progress of the working class" during this period.[104] This conclusion has since been reinforced by the research of Max Hartwell and others.[105]

Hayek has tried to explain why the opposite view came to be dominant. In the first place, he contends, there was "evidently an increasing awareness of facts which before had passed unnoticed. The very increase of wealth and well-being which had been achieved raised standards and aspirations."[106] Secondly, and perhaps more importantly, British landowners had a vested interest in depicting the conditions in the industrial areas of the North as darkly as possible, in their political struggle with the industrialists. Thirdly, most of the historians who were interested in economic history in the nineteenth century were sympathetic to socialism.

This is only a preliminary point about historical facts, not a refutation of the argument from excessive expectations. Conservative critics of the market order are concerned about human expectations, rather than historical facts. If anything, von Hayek's observation that the "very increase of wealth and well-being which had been achieved raised standards and aspirations" strengthens their premise. Should hard-working, conscientious people suffer a significant fall in their living standards, even lose their jobs, because of the whim of fashion or a sudden change in production techniques in another country? And, perhaps more importantly: Should communities go under because of blind market forces, lose their hard-won identity, their long history, and their cherished traditions?

It is instructive to look at what Hegel himself said on the matter. In his analysis of civil society in the *Philosophy of Right*, he argued that if society is to be legitimate, it has to have 'universality'; in other words a sense of citizenship, of people identifying with the state, of feeling at home there. But in civil society as such what exists is only 'particularity'; the relationship of one man with other people is based on self-interest, on the mutual fulfilling of needs, not on any common identity. Civil society is a society of strangers. Thus, a sense of loss, or alienation, is created; some members of the community do not feel as its members; they experience the community as something external and unintelligible. There is, then,

104 Hayek, Introduction, *Capitalism and the Historians*, ed. by F. A. Hayek (Chicago: University of Chicago Press, 1954), p. 14.

105 *The Long Debate on Poverty. Eight Essays on Industrialisation and 'the Conditon of England'* . (London: Institute of Economic Affairs, 1974, 1st ed. 1972).

106 Hayek, Introduction, *Capitalism*, p. 18.





Georg W. F. Hegel (1770–1831) had a modern notion of poverty as the counterpart of wealth rather than a sign of personal inadequacy. He worried about social disintegration and alienation of the poor in the free market order. Portrait by Jakob Schlesinger.

individual became the prey of blind and uncontrolled market forces with all their unpredictability and uncertainty. Overproduction forced people into poverty, turning them into "a rabble of paupers",[108] and creating alienation in the process. At the same time, other people gained economic power. Hegel concluded:

> This inner dialectic of civil society thus drives it—or at any rate drives a specific civil society—to push beyond its own limits and seek markets, and so its necessary means of subsistence, in other lands which are either deficient in the goods it has overproduced, or else generally backward in industry, etc.[109]

Hegel had, as Oakeshott once remarked, a modern notion of poverty, as "the counterpart of modern wealth rather than a sign of personal inadequacy".[110] Hegel was well aware that poverty had existed before capitalism, and he was familiar with the argument of Adam Smith and the other classical economists that capitalism created wealth, not poverty. But his thesis was that in the context of capitalist or progressive society the existence of poverty was a *social* problem, whereas in pre-capitalist society it might have been an *individual* problem. Poverty became relative rather than absolute. The poor in a progressive society were left behind, while others prospered; they became a class of their own, perceiving themselves as outcasts. By their membership in a progressive society they had come to form certain expectations, which were legitimate, Hegel apparently thought, but unfulfilled.

On the level of practical politics, what this amounts to is the idea of poverty as relative deprivation which has to be relieved by the state, and the notion that socially generated expectations are legitimate and that the state has, likewise, to step in and to fulfil them. The 'inner dialectic' of civil society consists in the idea that it creates needs that it is not itself able to satisfy, and that it is therefore pushed beyond its own limits. The laissez-faire state—the state as confined a conflict between Adam Smith's "commercial spirit", and the demands of the community in which man can fulfil his role as man. It is a conflict between civil society and the state which can only be overcome by the *Aufhebung* of civil society into the state, or in other words the simultaneous inclusion of civil society in the state and its abolition (as an independent or autonomous social entity) by the state. This means, if translated into modern terms, an interventionist state, correcting the outcomes of the 'blind' play of the market forces.

Hegel thought that the unhampered free market had two undesirable consequences. In the first place, the division of labour, although on the whole beneficial, caused the individual to be enervated; he was deprived of the intellectual development which was only possible within a community.[107] Secondly, the

107 G. W. F. Hegel, *Grundlinien der Philosophie des Rechts* (Berlin: Nicolaischen Buchhandlung, 1821), *Hegel's Philosophy of Right*, tran. by T. M. Knox (Oxford: Clarendon Press, 1942), §243. These themes are also discussed at some length in Hegel's *Jenaer Realphilosophie* (Berlin: Akademie, 1969, written in 1805–6).

108 Ibid., §244.

109 Ibid., §246.

110 Oakeshott, The Character of a Modern European State, *On Human Conduct*, p. 305. Cf. Hegel, *Grundlinien*, §230: "But the right actually present in the particular requires ... that the securing of every single person's livelihood and welfare be treated and actualized as a right, i. e. that particular welfare as such be so treated." But the problem is precisely, as Hegel saw, that in the marketplace one can never rest in "secure confidence" about other people's behaviour.

to civil society—is not enough. It is, in the Hegelian scheme, almost a contradiction in terms. Underlying the argument is a conception of man as a being who gains his identity from and within a community and whose wants and needs are socially developed. Man can only capture his essence or find himself in the state, by which Hegel meant the ethical community, the community of shared ideals and ends. Man is free only in so far as he is a member of such a community, participating in its *Sittlichkeit*. As a citizen of the state, he has duties towards his fellow-citizens; but he has also rights against them which transcend the contractual rights of civil society; hence the welfare state with its conception of social justice is rational, indeed inescapable.


'Freedom from Want' by Normal Rockwell. Modern prosperity cannot be taken for granted. It is the result of incessant adaptations to new situations, made possible by the price system transmitting information and encouraging innovation.

In a response to Hegel's argument, three questions should be distinguished. First, what expectations *can* be protected? Second, what expectations *need* to be protected? Third, what expectations *ought* to be protected?

Economic liberals can give a a fairly straightforward answer to the first question. In all economic and political systems, always and anywhere, some expectations will be disappointed. It is necessary that they are. For in all economic systems there has to be a process in which people are assigned to the tasks for which they are deemed qualified. In all systems those who make mistakes have to become aware of this themselves; otherwise they cannot correct their mistakes. Under socialism everybody is supposedly assigned to that station in life where he can best realise his capacities. But the problem is that the rulers may make mistakes as well as others, and also that the ruled may want to do something which has not been assigned to them. In the marketplace, on the other hand, nobody is directly assigned to any one station in life; it is left to people to decide, and then they get 'feed-back' from society, in the form of their market price, on how successful they have been. If one is a miner's son in Wales, for example, then he chooses whether or not to become a miner himself in the light of the information available to him. The ensuing feed-back may be positive (the demand for coal may go up); it may also be negative (his coal mine may be exhausted); what is essential, however, is that there should be some feed-back because otherwise he and others will not obtain enough information about his performance at choosing and their prospects in choosing. Thus, if present living standards are to be maintained, people cannot be protected by the state from bankruptcy or losses in the marketplace.

What expectations *need* to be protected by the state? Perhaps the problem of disappointed expectations is not as serious as Hegelian conservatives believe, while there may be solutions to it within civil society. Hegel's dilemma was that he wanted at the same time to retain civil society and to reform it. On the one hand, the 'particularity' of civil society implied freedom, variety and individuality; on the other it implied the alienation of those who were deprived by civil society of the fulfilment of needs which history or civil society had generated. The way out of this dilemma appears to be through the modern welfare state, where the market forces are allowed to operate, but where government 'corrects' or mitigates their operation by intervention. Hegel wrote: "When the masses begin to decline into poverty, the burden of maintaining them at their ordinary standard of living might be directly laid on the wealthier classes, or they might receive the means of livelihood directly from other public sources of wealth (e. g. from the endowments of rich hospitals, monasteries, and other foundations)."[111]

Hegel was nevertheless well aware that such a welfare state might create as well as solve problems. It might be true that civil society caused the alienation of those who were not chosen by the market, but charity, whether voluntary or involuntary, also caused the alienation of its beneficiaries; a welfare recipient did not have the sense of dignity and responsibility enjoyed by a citizen. As Hegel observed: "In either case, however, the needy would receive subsistence directly, not by means of their work, and this would violate the principle of civil society and the feeling of individual independence and self-respect in its individual members."

Another solution, Keynesian before Keynes, was the creation of jobs through public works: "As an alternative, they might be given subsistence indirectly through being given work." But there was a problem about that which Hegel identified: "In this event the volume of production would be increased, but the evil consists precisely in an excess of production and in the lack of a proportionate number of consumers who are themselves also producers, and thus it is simply intensified by both of the methods by which it is sought to alleviate it." Civil society, or the free market order, thus could not ensure the consumption of its production since it tended, according to Hegel, to over-production. Hegel also mentioned that civil society might tend to extend its boundaries to what is nowadays called the 'underdeveloped nations'. But such kind of 'imperialism' was only, of course, a temporary solution.

Therefore, the solution proposed by Hegel was not necessarily better than the problem which it was supposed to solve. The welfare state with its security and dependency was not necessarily superior to civil society with its insecurity and individuality. But perhaps Hegel exaggerated the problem. Consider over-production. Hegel's belief that markets do not clear—his denial of Say's Law—is implausible.[112] The concept of a price is curiously absent from his analysis. The question in the marketplace is not whether to take a good or to leave it, but what price is exacted for it. If people are willing to charge a lower price for their goods, then they can sell them. In other words, there is no such thing as over-production. There is only production at a price which other people are unwilling to pay. There is also, of course, occasional dis-coordination in the economy which can be ascribed to lack of information about available opportunities: Even if the price of a good is lowered, potential buyers may not be aware of it. The task of the state, then, should be, if Hegel's premise is to be accepted, to try and eliminate rigidities in the labour market and other markets and the distortion of information, and this it can only do by allowing the market forces freely to operate.

In the second place, money spent by government on public works would alternatively be spent by profit-seeking individuals. Such profit-seeking individuals are more likely to find opportunities for growth and hence for the creation of jobs than government officials. This is not primarily because they have a greater incentive to do so, although that is certainly true, but because they operate under a more efficient feed-back and 'filter' system where mistakes are costly and eventually lead, through bankruptcy, to the removal from the marketplace of those who make them.

Thirdly, while a permanent rabble of paupers may be created by public (and private) charity, as Hegel recognised, those who are rejected by the market are only rejected so long as they try to exact for their services a price deemed unreasonable by the rest of society. As soon as they lower their price, or improve their services, they are accepted again by the market. On balance, it can be argued that a consistent Hegelian would, indeed should, prefer bankruptcies of a few businessmen, and the temporary hardship of those hit by market forces, to permanent pockets of poverty as in the slums of Bronx and the Muslim ghettos of Scandinavia where individuals may lose all sense of responsibility and do nothing but collect

111 Hegel, *Grundlinien*, §245.

112 Cf. W. H. Hutt, *The Theory of Idle Resources* (Indianapolis IN: Liberty Press, 1975, 1st ed. 1939).

their weekly or monthly cheques from government.[113] Crucially, the market is an adjustment process; it allows those who make mistakes to correct them; hence, it gradually eliminates alienation. The problem of relative deprivation in the marketplace is not as serious as Hegel thought, although a few poor people will always be with us, such as the permanently handicapped. The relative deprivation which undoubtedly exists is not necessarily the result of market forces: it is sometimes the result of political forces (such as minimum wage law) or of individual unwillingness to adjust to change.

This leads directly to a second strand in the argument about which expectations need to be protected by the state. Can they not be protected spontaneously in the marketplace, without government intervention? Here, Hegel offers an interesting idea about at least a partial spontaneous solution. This is individual membership in social classes (or estates, as Hegel called them) and corporations. Such classes and corporations, provided there is freedom of entry and exit, may not be very different from Tocqueville's autonomous associations, mentioned previously, or the competing utopias described by Nozick in the last part of *Anarchy, State, and Utopia*. By membership in such classes and corporations the individual could enjoy security from losses in the market (and, of course, forsake some gains). This Hegelian idea seems to be implemented to a certain extent in Japan where workers and management in many big corporations form what can almost be described as an organic unity. It seems also to be manifest in some workers' cooperatives. Private insurance companies, autonomous associations and of course families fulfil some such functions. Again, secret societies or brotherhoods, such as the Freemasons, are supposed to be informal insurance companies of some kind.

The third question is which expectations *ought* to be protected by the state? Clearly, since not all expectations can be protected, what is needed is a criterion to distinguish between legitimate and illegitimate expectations. Conservative supporters of the free market give a clear reply: it is property rights, in a wide sense, which ought to be protected. Hayek writes that

> the only method yet discovered of defining a range of expectation which will be ... protected, and thereby reducing the mutual interference of people's actions with each other's intentions, is to demarcate for every individual a range of permitted actions by designating ... ranges of objects over which only particular individuals are allowed to dispose and from the control of which all others are excluded.[114]

Nozick brings out perhaps more clearly than von Hayek what must be the main issue: that the legitimacy of individual expectations depends crucially on other people's choices. If my expectations remain unfulfilled simply because other people do not choose the goods which I provide, then I hardly have a justified complaint; my expectations have not been legitimate. Nozick gives an example:

> Arturo Toscanini, after conducting the New York Philharmonic Orchestra, conducted an orchestra called the Symphony of the Air. That orchestra's continued functioning in a financially lucrative way depended upon his being the conductor. If he retired, the other musicians would have to look for another job, and most of them probably would get a much less desirable one. Since Toscanini's decision as to whether to retire would affect their livelihood significantly, did all of the musicians in that orchestra have a right to a say in that decision?[115]

There does not seem to be any essential difference between this example and the cases which Hegelian conservatives obviously have in mind. If the good which I produce diminishes in value because of a change in fashion, it is because other people choose other things. It is difficult to see on what grounds they should be forced to choose my goods (or, rather, in the case of government subsidies to me, to pay me for it as if they had chosen it). This would be a real deprivation: the deprivation of their freedom of choice. If my good diminishes in value because of an innovation in another country, then presumably it is because this innovation is cheaper or better than my good. Why should my countrymen not be able to enjoy this innovation?

113 See, for example, Hermione Parker, *The Moral Hazard of Social Benefits* (London: Institute of Economic Affairs, 1982).

114 Hayek, *Law, Legislation and Liberty*, Vol. I, p. 107.

115 Nozick, *Anarchy*, p. 269.





The crux of the matter is that there are other people around, and that your life is affected by their choices. But it does not mean that you are entitled to thwart their choices when they turn out to be different from what you expected. By their defence of property rights conservative supporters of the free market are making visible the multitude of people who affect your life, but whose choices you have to respect. What may appear to you as arbitrary and external, is in fact the outcome of the choices of other people. The real question is this: Which is, on balance, better in Hegelian or conservative terms, less likely to create resentment, disappointment and a consequent estrangement from society: to have your station in life chosen by others in a direct manner, or to choose it yourself, thereby having of course to accept the similar choices of others? There is little doubt that the second alternative is less likely to create estrangement, even if there are situations where I may be entitled to expect certain choices from other people and to insist on them. There are contracts which courts should strike down because you have acted under duress or because I have driven too hard a bargain. But normally one is not entitled to expect more from other people than that they do not violate his own protected domain.

There is, however, a possible Hegelian response. It is that this normative argument may apply to those human relationships which are purely contractual, but that many human relationships are not contractual; that people are interdependent; and that individual expectations are shaped by society, or in other words partly by those who then refuse to fulfil them; and that in this sense people are victimised. The rejoinder must be this: First, while many important social relationships are indeed non-contractual such as that between mother and daughter or, say, between two Icelanders who share a great historical heritage, and while such relationships may create duties as well as rights, it is by no means obvious that the relationship between a seller and a buyer (with a resulting distribution) is of this kind, or even if it is of this kind, that it should be enforceable. Non-contractual social relationships are not relationships where we normally calculate gain and loss. They are non-economic. You support your old mother, because she is your mother, not because you are repaying a loan. But I am a stranger, and I am not obviously entitled to your custom (or to a part of your taxes). Why should the state compel you to support me because I have not chosen my job wisely? Or to change the example, why should the state compel you to support me because

St. Patrick's day celebrated in New York. Even in the concrete jungle, people form ties and new communities, replacing those they left behind elsewhere. Photo: Andrew Burton/Getty Images.

I happen to belong to some community which would hardly survive without government subsidies?

Second, even if it is right that people are interdependent in civil society, it does not follow that they are *equally* interdependent. It is their market value, their price, as agreed in voluntary transactions, which reflects the dependence of others on them. If they carry a lower price than expected, it only shows that society is not as dependent upon them as they had thought. This is not to say, however, that such people are worthless in the eyes of society, and hence totally rejected by society. Everybody can carry a price in the 'system of needs', but it may be quite low.

Third, it is true that expectations are to a large extent shaped by society. In modern affluent society, poverty, for example, does not mean starvation: it means the inability to keep up with the Joneses. But the response of a conservative supporter of the free market is the rather Hegelian one that people must understand that they cannot expect the Joneses to slow down; they themselves have to run faster, assert themselves, or perhaps choose another race in which they will do better than the Joneses. It is a misunderstanding, moreover, that the only race in modern society is the competition for pecuniary rewards. Modern society is pluralistic, there are many games going on simultaneously. Scholars, scientists, athletes and artists, although usually welcoming pecuniary rewards, are not pursuing their careers solely in order to obtain them.

Hegelian critics of the free market may offer some responses. They may, for example, point out that a transfer of resources from taxpayers to members of a particular community is perhaps not a question of one community losing and another gaining. The taxpayers do not constitute a community as such; they do not perceive themselves in any meaningful sense as the community of taxpayers; self-awareness is to some extent, it can be argued, a necessary condition of a community. The rejoinder to this argument would focus on the relationship between a member of the particular community and another citizen of the same country. The real and independent community in this example is the country itself. In it, all citizens are supposed to be equal. Yet, some (who can, if they want to, adjust to the market forces) are involuntarily subsidised by others.

Moreover, the whole idea of community seems to lose its attractiveness if the community is not self-sufficient or autonomous in some sense. There has to be a reciprocity between communities rather than the dependence of one on another. This was indeed clearly seen by Hegel. If a part of the population becomes dependent upon another part of it for its livelihood, it soon loses its independence of mind, its self-esteem, its moral autonomy. Is the spirit of the pauper worth conserving? The conservative argument for subsidising communities may, again, if followed through, have counter-intuitive consequences. If the 'legitimate' expectations of communities are dependent, not on their absolute but their relative, standard of living, then it seems that the rich in Beverly Hills are as justified in claiming subsidies to maintain their (relative) standard of living as, say, Detroit car workers. If they suffer a loss because the demand for their services has fallen relative to the demand for other services, for example because films have been superseded by other forms of entertainment, are they then entitled to have enough resources transferred to them from others to enable them to carry on in their customary lifestyles?

In his discussion of the subsidisation of communities, von Hayek focuses on the moral arbitrariness of our membership in many such communities. We are usually members by chance, not choice:

> This demand is in curious conflict with the desire to base distribution on personal merit. There is clearly no merit in being born into a particular community, and no argument of justice can be based on the accident of a particular individual's being born in one place rather than another. A relatively wealthy community in fact regularly confers advantages on its poorest members unknown to those born in poor communities. ... There is no obvious reason why the joint effort of the members of any group to ensure the maintenance of law and order and to organize the provision of certain services should give the members a claim to a particular share in the wealth of this group.[116]

116 Hayek, *Constitution*, pp. 100–1.

But perhaps the problem has been bypassed rather than solved in this discussion. The problem is not whether some unfulfilled expectations are or are not legitimate, but that some people will *feel* that their unfulfilled expectations are legitimate, and turn against the free market.

The problem can be put in different terms. Much more information is available to many people about their possible losses than their gains in the market game, and hence this game will in their eyes come to lack legitimacy. People who are experiencing a diminished demand for their services know what they are losing, but they do not know what they may be gaining (for example by rapidly adapting). They are not aware of the opportunities provided by the market. The process will appear to them as unintelligible; the market forces will appear as external, hostile forces. This can surely explain much of modern economic history. Those who perceive themselves to be on the losing side in the market game, for example French farmers or American workers in car factories, and some big companies, have combined to try to ensure their relative security from competition, by legislation or other political means. Then, one intervention has made another necessary; a vicious circle has developed; and an invisible hand has led people to an ever-increasing state.

This process is, in a sense, made intelligible by Hegelian arguments. The demand by interest groups for government intervention has been an inevitable, although perhaps misconceived, reaction to the vicissitudes of the market forces, simply because people have a better sense of such vicissitudes than of the benefits conferred upon them by those same market forces. Hegel's "inner dialectic of civil society" can then be interpreted not as an apology for the welfare state, but as the dialectic of excessive expectations or, in other words, as an explanation for the transformation of the liberal order into a welfare state. However, this would not preclude a judgement to the effect that this development was undesirable for the many reasons already stated, or attempts to reform the welfare state, for example by introducing more individual choice within it and thus giving greater scope to personal initiative and enterprise.

It is an open question, moreover, whether there are any alternatives to the possible alienation in civil society which are not in fact worse than it: in other words, whether the suggested cure is not worse than the supposed sickness. It is indeed a shortcoming of some of the communitarian theories about alienation and self-expression through participation, that they do not include a very realistic model of politics. There communitarian conservatives might learn something from the neo-Hobbesian analysis of politics, as pursued especially by James M. Buchanan, Gordon Tullock, and other members of the Virginia School in economics.[117] What is emphasised by this school of thought is that man does not change his nature by moving from a market setting to a non-market setting. Much follows from this apparently trivial point. It is difficult to see, for example, why we should not expect selfish behaviour from bureaucrats, if we expect it from managers of private enterprises. (And if we are allowed to postulate moral constraints in non-market settings, why should we not also postulate them in market settings?) Recent experience of public enterprises, labour unions and the bureaucracy does not suggest that we can be as optimistic about their public spiritedness as some Hegelian conservatives may be.

117 James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor MI: University of Michigan Press, 1962). Also: Buchanan, *The Economics of Politics* (London: Institute of Economic Affairs, 1978); William Niskanan, *Bureaucracy. Servant or Master?* (London: Institute of Economic Affairs, 1973); Tullock, *The Vote Motive* (London: Institute of Economic Affairs,1976).

8

# IS DISTRIBUTION BY CHOICE MORALLY UNACCEPTABLE?

Conservative critics of the free market argue that in it people are bound to become disappointed, with the result that they turn against the system, which they view as unjust. Already two variants of the 'argument from disappointment' have been analysed, that in the marketplace some expectations are not protected, and therefore subject to great uncertainty; and that some expectations are generated, but not fulfilled, by the free market. A third variant is that distribution of goods in the marketplace is perceived to be arbitrary rather than according to moral merit. For example, Hegel, in his treatment of the poverty problem, worried about conditions within civil society "which greatly facilitate the concentration of disproportionate wealth in a few hands."[118] Sir Roger Scruton writes:

> A citizen's allegiance requires fixed expectations, a settled idea of his own and others' material status, and a sense that he is not the victim of uncontrollable forces that might at any moment plunge him into destitution or raise him to incomprehensible wealth.[119]

And Irving Kristol says:

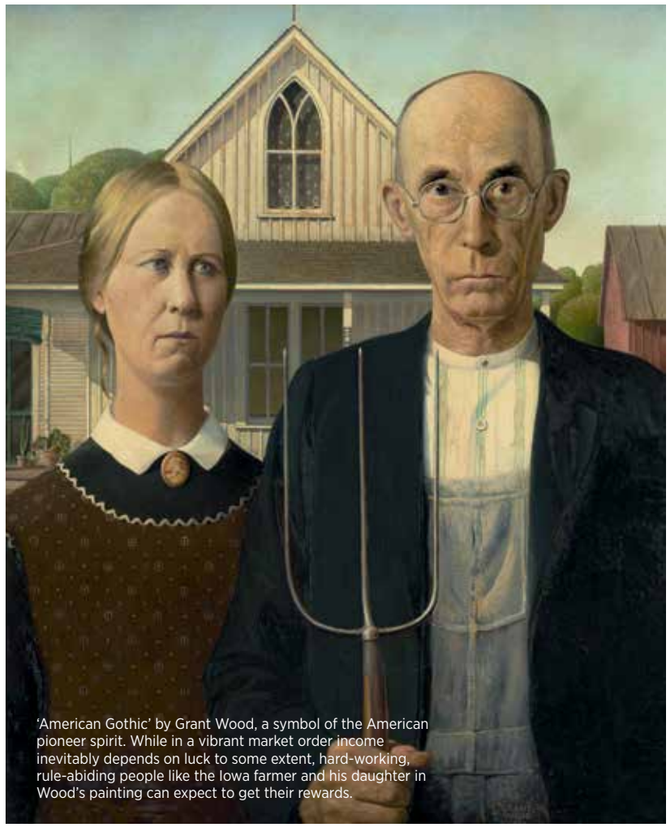
> The problem does not arise so long as the bourgeois ethos is closely linked to what we call the Puritan or Protestant ethos, which prescribes a connection between personal merit—as representated by such bourgeois virtues as honesty, sobriety, diligence, and thrift—and worldly success. But from the very beginnings of modern capitalism there has been a different and equally influential definition of distributive justice. This definition, propagated by Mandeville and Hume, is purely positive and secular rather than philosophical or religious.

Kristol adds:

> Only a philosopher could be satisfied with an ex post facto theory of justice. Ordinary people will see it merely as a self-serving ideology; they insist on a more 'metaphysical' justification of social and economic inequalities. In the absence of such a justification, they will see more sense in simple-minded egalitarianism than in the discourses of Mandeville or Hume.[120]

From a different political perspective, drawing on Hegel's ideas, British philosopher Raymond Plant, a socialist, makes the same point.[121] He argues that luck is not a basis for a sense of social solidarity, and that there is a need for an agreed rational *Sittlichkeit* which will yield a system of principles to constrain the market forces.

A conservative liberal could offer several counter-arguments against this third variant of the disappointment thesis. First, income distribution in the marketplace is bound to be perceived as to some extent arbitrary, simply because it *is*, and has to be, to some extent arbitrary. Accident, or luck, good or bad, is an inescapable feature of economic life, more so in the free market order, where ever less of what will affect you is predictable or controllable by you, much less than in the household economy. It is a direct consequence of the uncertainty and increased complexity of economic life: you cannot predict, let alone control, changes in consumers' taste or production techniques five or ten years from now, but some such changes will certainly affect you. Foresight is not moral merit; it is sometimes accidental, or a matter of sheer luck. It is important, however, if we are to cope with uncertainty, to 'reward' those people who display foresight (for whatever reason), by not hindering the transfer of resources to them, and to 'punish' those who do not, by allowing resources to be removed from them. But it is also important to remember that although income distribution in the marketplace is to some extent arbitrary, it is not entirely so: our remuneration depends to some extent on our own effort.



'American Gothic' by Grant Wood, a symbol of the American pioneer spirit. While in a vibrant market order income inevitably depends on luck to some extent, hard-working, rule-abiding people like the Iowa farmer and his daughter in Wood's painting can expect to get their rewards.

Second, income distribution in the marketplace cannot be according to moral merit, for two reasons. One reason, stated by David Hume, is that people can hardly agree on a criterion of moral merit:

> It were better, no doubt, that every one were possessed of what is most suitable to him, and proper for his use. But besides, that this relation of fitness may be common to several at once, it is liable to so many controversies, and men are so partial and passionate in judging of these controversies, that such a loose and uncertain rule would be absolutely incompatible with the peace of human society. The convention concerning the stability of possession is entered into, in order to cut off all occasions of discord and contention; and this end would never be attained, were we allowed to apply this rule differently in every particular case, according to every particular utility which might be discovered in such an application.[122]

Perhaps, however, this argument will not appear as very persuasive to everybody. People have a rough, if conventional, idea of distribution according to moral merit. We all agree that you, who are able and industrious, ought to get more than I who am lazy and rather inefficient.

The other argument, put forward by Friedrich von Hayek, may be more effective. It is that even if people could agree on a criterion of moral merit, they would not be able to implement it. Hayek writes about the conception of 'social justice':

> The reason why it must be rejected by consistent liberals is the double one that there exist no recognized or discoverable general principles of distributive justice, and that, even if such principles could be agreed upon, they could not be put into effect in a society whose productivity rests on the individuals being free to use their own knowledge and abilities for their own purposes.[123]

Indeed, how can people, with their very limited knowledge, identify individual moral merit? How can they obtain all the information on the special

118 Hegel, *Grundlinien*, §244.

119 Scruton, *Meaning*, p. 96.

120 Irving Kristol, Capitalism, *The Portable Conservative Reader*, p. 638.

121 Raymond Plant, Hegel on Identity and Legitimation, *The State and Civil Society. Studies in Hegel's Political Philosophy*, ed. by Z. A. Pelczynski (Cambridge: Cambridge University Press, 1984), p. 229.

122 Hume, *Treatise*, p. 231.

123 Hayek, Liberalism, *New Studies*, p. 140.

Radcliffe Camera, Oxford. Some intellectuals mistakenly think that they can transfer notions such as just distribution, developed within and applicable only to institutions, to the unintended consequences of a myriad of market transactions.

circumstances of time and place, for example, which would enable them to pass a reasonable judgement on everyone's motivation and effort? The knowledge required is essentially personal or private knowledge. Conservative critics of the free market cannot simply evade what could be called the prohibitive identification costs of merit. Ought implies Can. If distribution according to moral merit is impossible in the free market order, encompassing thousands of millions of different people, in the United Kingdom, Japan, Brazil, South Africa and innumerable other countries, then it is hardly a legitimate criticism of the free market order that it is unable to bring about such a distribution.

Third, even if people perceive distribution in the marketplace to be arbitrary rather than according to merit, it does not necessarily follow that they therefore turn against the system, as Kristol seems to believe. This is a point which von Hayek takes up in *Law, Legislation and Liberty* where he refers directly to Kristol. He offers the very rise of the market order as counter-evidence to the argument that people support the market order only when they believe that differences in remuneration correspond roughly to differences of merit:

> The market order, however, does not in fact owe its origin to such beliefs, nor was originally justified in this manner. This order could develop, after its earlier beginnings had decayed during the middle ages and to some extent been destroyed by the restrictions imposed by authority, when a thousand years of vain efforts to discover substantively just prices or wages were abandoned and the late schoolmen recognized them to be empty formulae and taught instead that the prices determined by just conduct of the parties in the market, i. e. the competitive prices arrived at without fraud, monopoly and violence, was all that justice required. It was from this tradition that John Locke and his contemporaries derived the classical liberal conception of justice for which, as has been rightly said, it was only 'the way in which competition was carried on, not its results', that could be just or unjust.[124]

Some counter-arguments to von Hayek's claim can however be put forward. First, how can he explain the development of intervention in order to protect certain groups in society over the last hundred years? And second, Locke and his contemporaries indeed tried to provide a moral justification of distribution: people were, according to these thinkers, entitled to that which they had created by their labour. However, von Hayek's point is undoubtedly partly valid: The connection between people's perception of distribution in the marketplace as arbitrary and their rejection of the market order is not a necessary one.

On the basis of the arguments offered above, the conclusion would be that this conservative complaint against the market order is not as plausible as it seems. In a world of uncertainty and imperfect information, distribution is to some extent arbitrary; and it cannot be and need not be according to moral merit. This does not imply that the notion of distribution according to merit is meaningless, as von Hayek sometimes seems to suggest: it implies, rather, that its application can only be limited. The distribution of income and wealth in a free economy is *distribution by choice*, the unintended consequence of all the myriad decisions made by individual agents in society. There is no central distributor, no heap of goods waiting to be distributed. Justice in this case only requires that people have not acted unjustly. This kind of distribution as the ever-changing result of the market process is quite different from distribution of given goods as a conscious action, undertaken within an institutional framework or in a game. As Aristotle argued,[125] and many philosophers after him, justice requires that the latter kind of distribution be according to merit, or rather to the relevant goal of the game being played. The best singer should get the prize in a singing contest, not the best-connected one; a judge should mete out punishments according to the seriousness of the crimes, as defined by law and precedent, not by the race or creed of the perpetrator; a teacher should grade her students by their intellectual accomplishments as displayed in tests and given tasks, not by their sex or class.

It is true, though, that income distribution by choice can become unacceptable, and indeed unjust, when desperate people find themselves in extraordinary situations. In such circumstances choice can become almost meaningless, as von Hayek recognised in his discussion of the famous example of the spring in the oasis:

> A monopolist could exercise true coercion, however, if he were, say, the owner of a spring in an oasis. Let us say that other persons settled there on the assumption that water would always be available at a reasonable price and then found, perhaps because a second spring dried up, that they had no choice but to do whatever the owner of the spring demanded of them if they were to survive: here would be a clear case of coercion.[126]

Hard-core libertarians have however taken issue with von Hayek's conclusion. For them, results of market exchanges should be respected, come what come may. "Fiat justitita, and pereat mundus." Let justice be done, though the world perish. Canadian philosopher Ronald Hamowy writes:

> I assume that Hayek here means that any contract between the owner of the spring and the settlers for water by which the owner received any but a 'reasonable price' would be coercive. But how are we to determine what a 'reasonable price' is? It is possible that Hayek here means to suggest that a 'reasonable price' is the 'competitive price'. But how is it possible to determine what the competitive price is in the absence of competition? Economics possesses no way of predicting the cardinal magnitude of any market price in the absence of a market. What, then, can we assume to be a 'reasonable' price, or, more to the point, at what price does the contract alter its nature and become an instance of coercion? What if the owner of the spring demands nothing more than the friendship of the settlers? Is such a 'price' coercive? By what principle can we decide when the agreement is a legitimate contractual one and when it is not?[127]

This is an implausible argument. First, from the probably true proposition that people are unable to discover what would be a reasonable price for the water in this kind of situation, Hamowy argues that they are also unable to pass a judgement on whether or not a given price is unreasonable. But this does not follow. One may not always be able to recognise a just

124 Hayek, *Law, Legislation and Liberty*, Vol. II, pp. 73-4.

125 Aristotle, *Nicomachean Ethics,* Book V, tran. by J. A.K. Thomson (Harmondsworth, Middlesex: Penguin, 1977).

126 Hayek, *Constitution,* p. 136.

127 Ronald Hamowy, Law and the Liberal Society: F. A. Hayek's Constitution of Liberty, *Journal of Libertarian Studies,* Vol. II (1978), p. 289.

situation, whereas one may be able to recognise an unjust situation. And it would appear that a situation where the owner of a sole spring in the oasis would exact an exorbitant price for his water, would be unjust. The owner would not only be driving a hard, but also an unfair, bargain. One qualification is in order, though: If the owner would not in fact exact an exorbitant price, the situation would not be unjust, although this is what von Hayek seems to suggest. It is not that people have become dependent upon the owner of the sole spring which is unjust, but that he uses the sudden and unforeseen scarcity of water to demand an exorbitant price.

But secondly, and perhaps more importantly, the main point is different. In the example, the assumption is that other persons settled in the oasis "on the presumption that water would always be available at a reasonable price." Most transactions are not essentially private. They have an inescapably public aspect, because they take place to a background of accepted expectations and settled practices. You expect the shop on the corner to stay open from 9 o'clock in the morning to 6 o'clock in the evening and to follow certain business practices. You do not expect its owner to take advantage of your sudden, unforeseen and even desperate need for something to charge an exorbitant price. This may be a trivial example, but consider the example under discussion, of the persons who settled in the oasis on the presumption that water would always be available at a reasonable price. Their expectations might be looked upon as a part of their protected domains so that these people would indeed have a just complaint if the owner of the spring took undue advantage of the sudden, and crucially, unforeseen, scarcity of water.

Moreover, the situation should be regarded not only on the basis of past expectations, but also present intentions. The situation arising in the oasis is special in the sense that the owner of the sole spring clearly foresees the consequences of his actions and can therefore be held responsible for them. Here, the distinction between foresight and intention breaks down, and the moral principle called 'Doctrine of Double Effect' (where you foresee, but are not responsible for, a certain undesirable consequence of your action, because your aim solely is to bring about another desirable consequence) does not apply.[128] If the owner refuses, for example, to sell the water at any price, he can be held responsible for the ensuing death of the other settlers. He is then simply trying to eliminate the rest of the population. His foresight as to the certain consequences of his action (and the refusal to sell can be regarded as an action) cannot be separated from his intention.

An oasis in the Libyan desert. Conservative liberals like Hayek argue that in the case of a sudden scarcity, for example of water, the owner of the relevant resource is not within his rights if he tries to exact an exorbitant price for its utilisation.

128 St. Thomas Aquinas, *Summa Theologica* (New York: Benziger Brothers, 1947), Vol. II, Part II, Q. 64, §7. Cf. Philippa Foot, The Problem of Abortion and the Doctrine of the Double Effect, *Virtues and Vices and Other Essays in Moral Philosophy* (Oxford: Basil Blackwell, 1978), pp. 19–32.





Examples of desperate people in extraordinary situations do not show, however, that the distribution of income or wealth brought about by individual choices in the market order is unacceptable or unjust. It only shows that property is not always equivalent to liberty and that exchanges are not only constrained by legal statutes, but also by ethical principles, moral standards and social conventions. Be that as it may, the problem Hegel identified of poverty as relative deprivation remains. Oakeshott offers an interesting interpretation of Hegel's analysis:

> [G]reat disparities of wealth were an impediment (though not a bar) to the enjoyment of civil association; and this hindrance could and should be reduced by imposing civil conditions upon industrial enterprise (similar perhaps to those designed to prevent fraud or the pollution of the atmosphere), and where necessary by the exercise of a judicious 'lordship' for the relief of the destitute.[129]

Oakeshott's Hegelian remedy seems to be an anti-trust policy, combined with poverty relief.[130]

For several reasons, however, such a policy may not be prudent. First, it may have unintended consequences. There has been a tendency for the regulated, possessing most of the relevant information and being able to offer some incentives, unduly to influence the regulators.[131] Second, some disparities in income, and indeed those to which people may most object, may be caused by government intervention rather than unhampered market choice; the relatively high income of doctors and lawyers may, for example, be caused by their ability to limit entry into the professions.[132] Third, as has already been made clear, conservative liberals would not rule out poverty relief, provided it is done outside the market and not by interfering with the price mechanism.[133] Nevertheless, Oakeshott and Hegel pose a challenge: Does the competitive order somehow tend to generate an unacceptable concentration of economic power? Does spontaneous coordination, so dear to conservative supporters of the free market, tend to break down in the marketplace? This is the question dealt with in the next chapter.

129 Oakeshott, On the Character of a Modern European State, *On Human Conduct*, p. 305.

130 Not surprisingly, as Oakeshott seems to have learned most of his economics from Henry C. Simons who firmly believed in the efficiency of anti-trust policy. Cf. The Political Economy of Freedom, *Rationalism*, pp. 37-58.

131 George Stigler, *The Citizen and the State: Essays on Regulation* (Chicago: University of Chicago Press, 1975).

132 Friedman, *Capitalism*, Ch. IX.

133 Ibid., Ch. X.

9

# IS THE FREE MARKET SELF-DEFEATING?

Some conservatives believe that if economic power tends to concentrate in a few hands, then the case for unregulated competition in the marketplace may not be very strong. In fact, this is probably the most common objection to the free market, shared by conservatives and socialists alike and succinctly captured in George Orwell's verdict on Friedrich von Hayek's political message: "The trouble with competition is that somebody wins it."[134] In a discussion of conservatism, British political philosopher Noël O'Sullivan offered this as the crucial objection, for example, to a possible conservative attempt to combat collectivism by drawing upon the theory of the free market. Such an attempt was bound to be unsuccessful, according to him. There had been two parallel tendencies, O'Sullivan said, first, for managers to become independent of the owners of their firms, and second, for more and more firms to become large and seek a monopoly position, either through individual or collective restrictive practices. There had indeed been what "could be described with some plausibility as a bloodless social revolution."[135] Conservatives who wanted to support the free market, against which an earlier generation of conservatives had struggled, did not, he contended, reckon with the fact

> that the industrial order was no longer the natural ally of those values, and that any ideological advantage which might result from taking up the liberal cause was consequently gained only at the expense of finding themselves at odds with the actual course of events, as well as with much conservative political practice which made a constant series of piecemeal concessions to the growing pressure for more state intervention.[136]

The competitive order was, in other words, a passing episode, not a basis for policy. Collectivism had come to stay.

There is a trace here of the historicist argument that collectivism is somehow inevitable. But behind this statement there may be a certain theory about the competitive market order, propounded by collectivists and shared by some conservatives: that the competitive order has already more or less been transformed into monopoly capitalism and thus lost its *rationale*. Thus, Sir Roger Scruton writes: "The unbridled law of the market breeds monopoly—or if not monopoly, business oligarchy—which not only stifles competition, but which may also set up an independent corporation or cartel in rivalry to the state."[137]

If true, this theory might make a synthesis of conservative dispositions and market principles impossible or at least implausible. Support for the free market might be nothing but lament for a lost age. Hayek's economic and political theory would indeed be, in the disparaging words of Lord Quinton, like a

134 George Orwell, Review of *The Road to Serfdom*, Etc. *Observer*, 9 April 1944, repr. in *Collected Essays, Journalism and Letters*, Vol. III (Harmondsworth, Middlesex: Penguin Books, 1970), p. 143.

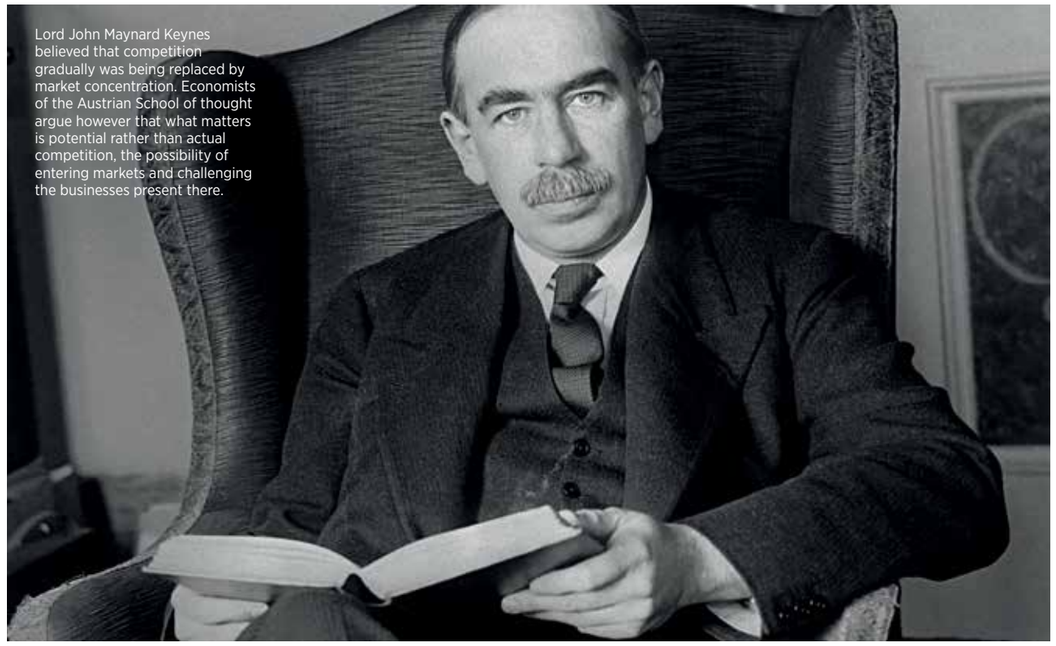
135 Noel O'Sullivan, *Conservatism* (London: J. M. Dent, 1976), p. 122.

136 Ibid., p. 123.

137 Scruton, *Meaning*, pp. 109-10. In a footnote at the end of his book Scruton makes a qualifying comment (p. 207): "The theory behind this assertion is in fact unproven and often disputed. While Baran, Sweezy, and Galbraith affirm that something like it must be so (deriving inspiration from the original cynical portrayal of the industrial process in the works of Veblen), there is some evidence that its truth is confined to business in America. Legislation governing monopoly is of such antiquity in Europe that business customs seem to have incorporated many of its tenets and aims."







Lord John Maynard Keynes believed that competition gradually was being replaced by market concentration. Economists of the Austrian School of thought argue however that what matters is potential rather than actual competition, the possibility of entering markets and challenging the businesses present there.

"magnificent Dinosaur."[138] Many conservatives do not as much dislike the competitive market order as dismiss it as irrelevant. Conservatives have to be realists, they say; they prefer fact to fantasy, an acre in Middlesex to a principality in Utopia. Now, Orwell, O'Sullivan and Sir Roger Scruton are no economists; they derive their argument about the transformation of competition from economists. Its two most influential proponents would seem to be Lord John Maynard Keynes and Joseph Schumpeter.[139] O'Sullivan quotes Lord Keynes's well-known essay, "The End of *Laissez-faire*" and Schumpeter's *Capitalism, Socialism and Democracy* in support of this theory.[140] Sir Roger also refers to Lord Keynes. Having stated that a citizen's allegiance "requires fixed expectations" and "a sense that he is not the victim of uncontrollable forces that might at any moment plunge him into destitution or raise him to incomprehensible wealth," he adds:

> But, as conservatives have until recently always realized, this argues not for a free market but for something like its opposite. Indeed, it has led to the acceptance by the Conservative Party of economic theories—such as that of Keynes—which regard the interference of the state in the market process as a social and economic necessity.[141]

This passage brings out the political conclusions drawn by some conservatives and how they are connected to the arguments discussed in previous chapters: Since the self-regulation of the marketplace is not strong enough, government interference is necessary.

In the essay quoted by O'Sullivan, Lord Keynes says:

> One of the most interesting and unnoticed developments of recent decades has been the tendency of big enterprise to socialise itself. A point arrives in the growth of a big institution—particularly a big railway or big utility enterprise, but also a big bank or a big insurance company—at which the owners of the capital, i. e. the shareholders, are almost entirely dissociated from the management, with the result that the direct personal interest of the latter in the making of great profit

138 Quinton, Introduction, *Political Philosophy* (Oxford: Oxford University Press, 1967), p. 2.

139 Although the academically most substantial argument was found in A. Berle and G. Means in *The Modern Corporation and Private Property* (New York: Macmillan, 1933).

140 O'Sullivan, *Conservatism*, pp. 121-2, and p. 146.

141 Scruton, *Meaning*, p. 96. In the 3rd edition of his book (2001), p. 89, Scruton adds "at times" before "led to the acceptance".

> becomes quite secondary. When this stage is reached, the general stability and reputation of the institution are more considered by the management than the maximum of profit for shareholders.

And he goes on:

> In fact, we already have in these cases many of the faults as well as the advantages of State Socialism. Nevertheless we see here, I think, a natural line of evolution. The battle of Socialism against unlimited private profit is being won in detail hour by hour.[142]

Lord Keynes's argument turns on the separation of ownership and management in big enterprises and on the consequent disappearance, it seems, of real-life competition for profit.

Sixteen years later, Schumpeter wrote in *Capitalism, Socialism, and Democracy:* "Can capitalism survive? No, I do not think it can. "[143] His argument was that entrepreneurial capitalism was slowly, but surely, being transformed into corporate capitalism, the main reason being that monopoly was more efficient than competition. In the process, it was becoming more and more dependent upon government intervention. It was being transformed into "capitalism in an oxygen tent."

How do conservative liberals respond to the transformation argument? Perhaps it is not as important as its proponents think.[144] So long as there is free entry into a particular market, competition there, or the lack of it, may not be much of a problem; it is *potential*, rather than *actual* competition which matters; it is the fact that producers in the particular market know that if they raise their prices too much, it will become profitable for others to enter, which in turn ensures discipline. But while this is a highly relevant consideration, it may not be a conclusive counter-argument. Therefore the evidence for the transformation argument should be briefly examined.

One variant of the argument is that ownership is becoming meaningless in a modern corporation, and that all real control has been transferred to management. How are managers of private companies controlled? How are they monitored? The answer is in two parts. First, little or no empirical evidence is usually given to support the alleged separation of ownership and control. Second, there are a number of reasons why managers may be less in control and why they may be subject to more monitoring than would appear at first sight. First and foremost, shareholders do not only have a voice at general meetings of private corporations; they also have the possibility of exit, because they can sell their shares. They can capitalize their expectations about the future performance of their managers. The prices of shares on the market are indirect judgements on the performance of managers; they constitute negative and positive feedback. Again, managers are monitored directly by individual shareholders and by the media. Individual shareholders can, for example, use the advantages of the division of labour and hire somebody to monitor them.[145] Thirdly, managers are, after all, hired and fired: shareholders surely have an influence on such decisions. Fourthly, managers cannot be viewed as a single body; there will always be some rivalry among them, with consequent opportunities to be exploited.[146]

People tend to worry too much about the level of power or control exercised by managers of big, private corporations. It is by no means unlimited or unconstrained. Managers are accountable to their shareholders, more through transactions in the capital market than through general shareholders' meeting, and there is a number of other factors which constrain their power. It should be recalled, also, that they are of course accountable to the general public in the sense that if they want to remain in business, they have to produce goods which are not more expensive or worse than the goods produced by their rivals. Besides, a big corporation is not 'controllable' in the same way as a small family firm; no one man has an overview over all the transactions which take place or decisions which are made within it.

142 John Maynard Keynes, The End of Laissez-Faire, *Essays in Persuasion. Collected Writings*, Vol. IX (London and Cambridge, Macmillan and Cambridge University Press for the Royal Economic Society, 1972), pp. 289–90.

143 Schumpeter, *Capitalism*, p. 61.

144 Hayek, *Constitution*, pp. 264–266, and *Law, Legislation and Liberty*, Vol. III, pp. 77–80.

145 Armen Alchian, Corporate Management and Property Rights, *Economic Forces at Work* (Indianapolis IN: Liberty Press, 1977), p. 231.

146 Ibid., pp. 231–2.

Perhaps here a concept introduced by British philosopher Gilbert Ryle is relevant. A 'category mistake' occurs when facts are represented "as if they belonged to one logical type or category … when they actually belong to another." Ryle gave the example of a visitor who comes to Oxford for the first time and is shown a number of colleges, libraries, playing fields, museums, scientific departments and administrative offices. The visitor then asks: "But where is the University? I have seen where the members of the Colleges live, where the Registrar works, where the scientists experiment and the rest. But I have not yet seen the University in which preside and work the members of your University." The visitor has committed a category mistake, Ryle explained: "The University is just the way in which all that he has already seen is organized. When they are seen and when their co-ordination is understood, the University has been seen." The visitor made the innocent assumption that it was correct to speak in the same way of Christ Church, the Bodleian Library, the Ashmolean Museum, and the University. He wrongly allocated the University to the same category as that to which the other institutions belong.[147] Perhaps a big corporation is more like the university, and its different departments more like the colleges. It has indeed been suggested that a big corporation is more like a spontaneous order than an organization.[148]

Moreover, whereas Lord Keynes and others inform us that shareholders normally do not manage corporations, the question is why they should do so. Shareholders own stock in companies in order to make money, not in order to manage. This may simply be one more advantage of the division of labour, in this example between shareholders who provide capital, and managers who rent our their special skills. Hence, as American economist Israel Kirzner points out, the separation of ownership and control may be the solution rather than the problem.[149]

The second variant of the transformation argument is that there has been an inevitable growth of big corporations at the expense of small firms. Here, the question is the same as before: what is the empirical evidence for this thesis (which is commonly called 'the market concentration doctrine')? Some of its implications are indeed testable. If market concentration implies monopoly power, for example, then there should be some inverse relationship between concentration in a given industry and price flexibility in the industry. Prices should be what American economist Gardiner Means called "administered prices."[150] But the evidence from the United States does not suggest that this has been the case. As American economist Harold Demsetz writes, "data used on both sides of the issue have been criticized and the important conclusion to be drawn from all this is that the issue is far from resolution."[151] Again, if market concentration implies monopoly power, then there should be some correspondence between concentration and profit rates. But examinations of the evidence, conducted by Chicago economists George Stigler and Yale Brozen, fail to exhibit any such correspondence.[152] As a rule, the profit rate does not seem to be any higher in concentrated industries than in unconcentrated industries. "That profit rates are consistently above average in concentrated industries seems very doubtful; that they are above average more frequently in concentrated industries than in unconcentrated industries remains an open question."[153] Indeed, in the postwar period corporate profits as a percentage of national income declined, suggesting not less, but more competitive pressure.[154] Finally, even if profit rates were in fact higher in concentrated industries than in the unconcentrated ones, the explanation need not be any exploitation of a monopoly position. An alternative explanation would be that "high concentration in an industry indicates that the larger firms in that industry are the more efficient, and will therefore be more profitable than smaller firms."[155]

147 Gilbert Ryle, *The Concept of Mind* (London: Hutchinson, 1959), p. 16.

148 Tullock, The New Theory of Corporations, *Roads to Freedom*, ed. by Erich Streissler (London: Routledge and Kegan Paul, 1969), pp. 287-307.

149 Israel Kirzner, Capital, Competition, and Capitalism, *Perception, Opportunity, and Profit* (Chicago: University of Chicago Press, 1979), p. 104.

150 Harold Demsetz, *The Market Concentration Doctrine. An Examination of Evidence and a Discussion of Policy* (Washington DC: American Enterprise Institute and Hoover Institution Policy Studies, 1973), p. 5.

151 Ibid., p. 7.

152 Ibid., pp. 13 and 15. Cf. also Yale Brozen, *Is Government the Source of Monopoly? and Other Essays* (San Francisco CA: Cato Institute, 1980).

153 Demsetz, *Market Concentration,* p. 19.

154 Paul W. McCracken and Thomas G. Moore, *Competition and Market Concentration in the American Economy* (Washington DC: American Enterprise Institute, 1973), p. 5.

155 Ibid., p. 7.

The Chrysler Building in mid-Manhattan. People tend to exaggerate the role of big corporations because they are much more visible than small companies. The sagas of Chrysler and many other big corporations do not suggest that they control the markets in which they operate. Photo: William R. Weiss.

Has concentration indeed increased in the United States over the last fifty years, as O'Sullivan and Sir Roger Scruton suggest? Is the trouble with competition really that somebody wins it, as Orwell so memorably put it? Despite difficulties in measuring concentration, there have been some examinations of the evidence. In 1949, American economist and Nobel Laureate George J. Stigler said: "It is my present judgement that competition declined moderately from the Civil War to the end of the nineteenth century, and thereafter increased moderately."[156] On the basis of more recent studies, two other American economists, Paul W. McCracken and Thomas G. Moore, conclude that "within manufacturing markets generally the evidence fails to support a claim that competition has declined."[157] Again, some casual evidence on troubles which big corporations, such as Chrysler, Lockheed, Pan Am, General Motors and IBM, have had, does not suggest that they have succeeded in taking control of their markets.

Why is appearance so different from reality in matters of competition and monopoly? Why do so many people think that competition has declined, and that big corporations have taken control of their markets? One answer may be that a big corporation may look more mighty than it actually is. Such a corporation may in fact be more like the way in which many small firms are arranged, as we noted, than like a firm: its departments may be largely autonomous units. People may be too worried about the growth of corporations. There may be 'natural' limits to such growth; economies of scale may work both ways. In order to use people's personal knowledge, power has to be delegated. Another answer to this question is that big corporations are highly visible, while small firms are more or less invisible. Other developments which tend to stimulate competition, are perhaps also invisible. The extent and size of the market are very important factors, but often overlooked. A giant may be dwarfed by an extensive market. Stigler once observed: "U. S. Steel is a giant corporation with sales of $1,486 million in 1946, but it was relatively a much bigger steel company in 1902, when its sales were $422 million."[158] The increase in population tends to increase competition; so does the enormous progress of the last one hundred years in transportation and communication; and also international free trade; and the increasing concentration of people in urban areas. Furthermore, there is indirect competition between goods which people tend to substitute for one another: people choose between personal computers and holiday tours to Spain, for example. These developments, all encouraging competition, often go unnoticed.

There are monopolies, nevertheless, even if their number, size and power are often exaggerated. But conservative supporters of the free market offer two points about them. First, monopolies may emerge *in spite of,* but not *because of* market forces. They may be the results of government intervention.[159] One possible source of the growth of corporations, for example, is that their profit is either tax-free or taxed at a lower level, if reinvested rather than paid out to the shareholders. Some economists have therefore suggested that corporations should be compelled to call upon their shareholders to decide whether to pay out their profits or not.[160] Another source of the growth of corporations is restriction on entry, and a third is protection, perhaps, according to supporters of the free market, the most serious of them all. Life is easier for General Motors, if it only has to compete with Chrysler, Ford and American Motors, but not with Volkswagen, Volvo, Fiat, Renault, Hyundai, Mitsubishi, Toyota, and innumerable other car producers in other countries. The second point is that people may sometimes confuse cause and effect: monopolies are not always efficient because they are monopolies; they may be monopolies because they are efficient. Schumpeter may not have taken this sufficiently into account.[161] Is there anything to object to, if corporations are big because they are efficient? What is objectionable, however, is if they are big because they have been able to restrict entry, or obtain other government favours.

On the basis of all this evidence, it may be concluded that the transformation argument is perhaps the least tenable conservative argument examined here so far against the free market, even if it may be the most commonly employed. Monopoly is not somehow the natural outcome of competition. But how did such eminent economists as Lord Keynes and Schumpeter come to hold this theory? A partial answer has already been hinted at in a quotation from Stigler: the evidence may have appeared otherwise in the 1920s and 1930s than it does today. There may indeed have been a moderate increase in concentration in some industries in the last decades of the nineteenth century and perhaps also in the first two or three decades of the twentieth century. Another partial answer has also been briefly alluded to: there is almost an in-built difference between appearance and reality, so far as industrial concentration is concerned. Concentration is very visible, while competition is to a great extent invisible. The main reason, however, seems to be the theoretical preconceptions of Lord Keynes and Schumpeter. Apparently, they were convinced that most problems of production were technical rather than related to scarcity; that big business was better equipped to solve such technical problems than small business; and that big business was therefore bound to replace small business in most or all important industries. This is evident from Schumpeter's belief that socialism would, and could, replace capitalism.[162] The conception of competition as a discovery procedure was hardly present in Schumpeter's thought. Hence, in the Schumpeterian system entrepreneurship does not emerge as the coordinating force of economic life; innovation is more or less a matter of routine; progress is almost automatic.[163]

The idea that the economic problem had almost been solved, is also evident in Lord Keynes' famous letter to von Hayek about *The Road to Serfdom*:

> "I think you strike the wrong note … where you deprecate all the talk about plenty just round the corner. No doubt this is partly due to my

156 George J. Stigler, Competition in the United States, *Five Lectures on Economic Problems* (London: London School of Economics and Political Science, 1949), p. 54.

157 McCracken and Moore, *Competition*, p. 4.

158 Stigler, Competition, *Five Lectures*, p. 53.

159 For an interesting study of one such case by a Marxist, see Gabriel Kolko, *Railroads and Regulations, 1877-1916* (Princeton, New Jersey, Princeton University Press, 1965).

160 Hayek, The Corporation in a Democratic Society: In Whose Interest Ought It and Will It Be Run? *Studies*, pp. 307-8.

161 Hayek, *Law, Legislation and Liberty*, Vol. III, p. 189.

162 Cf. Schumpeter, *Capitalism*, p. 175.

163 Kirzner, Entrepreneurship and the Market Approach to Development, *Perception*, p. 115.

having a different view to yours about the facts. But apart from this, would it not be more in line with your general argument to urge that the very fact of the economic problem being more on its way to solution than it was a generation ago is in itself a reason why we are better able to afford economic sacrifices, if indeed economic sacrifices are required, in order to secure non-economic advantages?[164]

The general economic and political position of Lord Keynes is in some ways similar to that of Hegel. Both welcomed the diversity of views and flourishing of individuality in civil society, but both also believed that civil society could not be sustained without 'rational' intervention. The operation of market forces had, they thought, to be mitigated by some kind of corporations. Neither Lord Keynes nor Hegel were too enthusiastic about an extensive welfare state, Lord Keynes fearing that a large bureaucracy might stifle initiative and become dangerous, and Hegel that in such a state individual self-reliance would be endangered. Furthermore, they were both moderate élitists, at least in the sense that they envisaged a large role for a public-spirited class of civil servants. Hegel was of the opinion, moreover, as already noted, that markets would not clear in the absence of intervention. He did not, any more than Lord Keynes a century later, regard the problem of scarcity as very relevant to modern society.

In the debates of the 1930s and 1940s, von Hayek however argued against Lord Keynes that the 'economics of abundance' was unfounded.[165] Scarcity had not been eliminated. On the contrary, with progress it was becoming more and more relevant. Against Schumpeter he argued that Schumpeter's analytical starting point was perfect equilibrium, whereas this should really be his end state. What economists should try to explain was the observed tendency of market forces to approach equilibrium, but that they should not and could not meaningfully assume it.[166] Lord Keynes and Schumpeter were led to a theory of the gradual disappearance of competition, or the transformation of the competitive order, because for them progress meant that technical problems were being solved all the time. For von Hayek, however, progress meant that economic life was becoming more and more complex and the coordinating problem hence more and more important. In the face of uncertainty, technical problems had to be solved and resolved all the time; progress could never become in any sense automatic. Hayek thus neatly reversed the argument about the connection between technical progress and economic life; it was an argument for more, not less, economic freedom. The more knowledge there would be available in society, the less knowledge would each individual possess relative to the whole of the knowledge available, and the more necessary competition would be as a discovery procedure.

164 Keynes, *Collected Writings*, Vol. XXVII (London and Cambridge: Macmillan and Cambridge University Press for the Royal Economic Society, 1980), p. 386.

165 Hayek, *The Pure Theory of Capital* (1941), *Collected Works*, Vol. 12 (Chicago: University of Chicago Press, 2007), pp. 340–43.

166 Hayek, The Use of Knowledge, *The Market and Other Orders*, pp. 103–4.



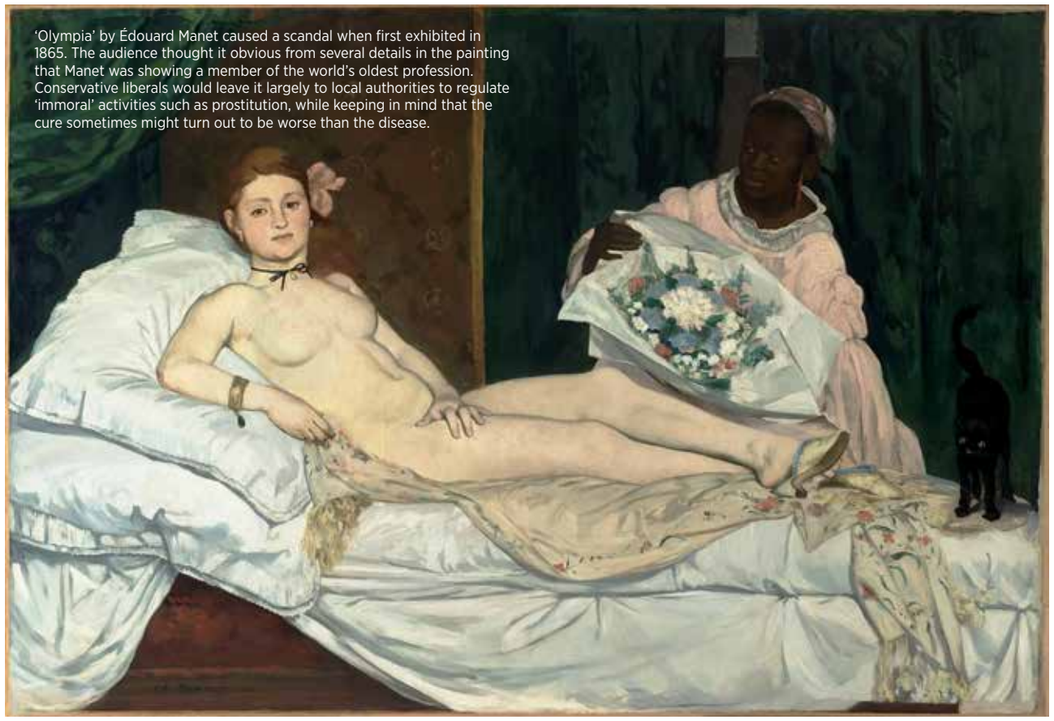


10

# DOES THE FREE MARKET ENCOURAGE VULGARITY?

A common conservative argument against the free market, closely related to some of the Hegelian considerations discussed in previous chapters, is that it is based on a crude principle of want satisfaction. Supporters of the free market lack, it is said, an adequate theory of human agency, enabling them to distinguish between temporary impulses, wants and needs on the one hand and more lasting ideals and aspirations on the other. The free market is morally neutral; and this is unacceptable to conservatives, not only because it leads to some unattractive 'self-realization', but also because it is ultimately subversive. In the marketplace, conservative critics charge, 'anything goes', provided you have the purchasing power. It seems, as Oscar Wilde would have said, that free market economists know the price of everything and the value of nothing: For them, the school teacher appears to be no worthier than the porn actress, the nurse no better than the slumlord. Kristol writes:

> Large corporations today happily publish books and magazines, or press and sell records, or make and distribute movies, or sponsor television shows which celebrate pornography, denounce the institution of the family, revile the 'ethics of acquisitiveness,' justify civil insurrection, and generally argue in favour of the expropriation of private industry and the 'liquidation' of private industrialists.



'Olympia' by Édouard Manet caused a scandal when first exhibited in 1865. The audience thought it obvious from several details in the painting that Manet was showing a member of the world's oldest profession. Conservative liberals would leave it largely to local authorities to regulate 'immoral' activities such as prostitution, while keeping in mind that the cure sometimes might turn out to be worse than the disease.

Kristol goes on:

> When Hayek criticizes 'scientism', he does indeed write very much like a Burkean Whig, with a great emphasis on the superior wisdom implicit in tradition, and on the need for reverence toward traditional institutions that incorporate this wisdom. But when he turns to a direct contemplation of present-day society, he too has to fall back on a faith in the ultimate benefits of 'self-realization"—a phrase he uses as infrequently as possible, but which he is nevertheless forced to use at crucial instances. And what if the 'self' that is realized under the condition of liberal capitalism is a self that despises liberal capitalism, and uses its liberty to subvert and abolish a free society?[167]

This somewhat persuasive argument has to be met in any attempt to make a synthesis of conservative dispositions and market principles.

At the outset, it should be stressed that the neutrality of the marketplace which Kristol sees as such a great danger certainly has its humanitarian aspects. The fact that firms care more about profits than persons and that market forces are 'colour-blind' may sometimes be a blessing rather than a burden. Consider a society where there is widespread racial prejudice. Members of a despised minority (or majority for that matter) may have a much greater chance in the marketplace where they can sell their labour and exercise their purchasing power than in other sectors of society, simply because their potential business partners care less about who they *are* than what they *can do*. The free market is less interested in the creed of the baker than in the quality of his bread.[168] Milton Friedman points out that American communists who lost their official positions during the McCarthy era could, because of their skills and despite the prejudices against them, find something to do in the marketplace.[169]

What is Kristol primarily worried about? No conservative supporter of the free market would deny society the right to prohibit subversion, law-breaking or private violence. This cannot be the issue. Kristol mentions pornography which, although not of great practical importance, is theoretically interesting as well as relevant to the concerns in this report: many conservatives object to the 'self-realisation' made possible by market forces because it can result in the realisation of an 'immoral self'. But on the problem of immorality, conservative supporters of the free market could take up a position in the middle, between authoritarians and libertarians. They would not necessarily hold that people have an *a priori* or natural right to the production or consumption of pornography or, for that matter, to any other immoral or 'base' activities. They would not invoke a theory of natural individual rights: they would, rather, rely on a theory of protected domains. They would defend individual protected domains as necessary in order to enable people to act on the knowledge which they personally possess, but not, unlike hard-core libertarians, as necessary in order to enable people to realise themselves through market transactions. Freedom, they would argue, is first and foremost freedom for progress, for experimentation and innovation, for coping with our inevitable ignorance and maintaining the liberal order of the West.


Milton Friedman argued that minorities would be better off in the marketplace than in the public sector

Conservative liberals would not necessarily agree with romantic individualists that pornography and prostitution, for example, are experiments in different lifestyles. They would agree with conservatives, rather, that these and other similar activities are the activities of outcasts in one sense or another: activities of people who have been unable to live up to the aspirations and ideals of our kind of society. They would certainly agree, also, with conservatives that people should not be encouraged to 'realise' themselves in these ways. They should rather be encouraged to repress such urges. They would not, therefore, be convinced by the argument of British legal philosopher H. L. A. Hart, even though it is couched in their own terms, against his conservative compatriot, Lord Devlin, on the enforcement of morals:

> It should, however, be remembered that an evolutionary defence of tradition and custom such as Burke made against the rationalist revolutionary or critic affords little support for the enforcement by law of social morality. In Burke, perhaps because he was a Whig, however conservative, the value of established institutions resides in the fact that they have developed as the result of the free, though no doubt unconscious, adaptation of men to the conditions of their lives. To use coercion to maintain the moral status quo at any point in a society's history would be artificially to arrest the process which gives social institutions their value.[170]

Hart's general point is well taken: freedom is necessary for the further development and amendment of tradition. But is his point relevant to immoral and 'base' activites like pornography and prostitution? It seems somewhat implausible to maintain that such activities are a part of "the process which gives social institutions their value." By engaging in such activities, people are not really discovering or developing anything.

Conservative supporters of the free market would hardly place the burden of proof on advocates of moralistic legislation. Such legislation may be a tradition, and the burden of proof, according to conservatives, whether supporters or critics of the free market, is as a rule on those who want to change tradition. This does not mean, however, that they cannot offer any arguments against moralistic legislation. Indeed, most conservative liberals probably would not be in favour of such legislation, or they would at least be very sceptical about it. Their arguments would be consequentialist. First, they would ask for the evidence that immoral activities are indeed in some sense subversive. There is quite a difference between the celebration of pornography and the justification of civil insurrection, to take two of Kristol's examples. Many may not, again, like pornography or prostitution, but which are their unacceptable social consequences? Is there any evidence that people who engage in such activities, are somehow led to engage in other and much worse activities? Is there any evidence of 'spill-over' effects? They are at least hard to see.

Second, even if there is a problem, it may to some extent have a non-coercive solution. Conservative authoritarians have perhaps overlooked one such solution: this is the choice between communities. Permissive people, instead of demanding that abnormal or immoral activities are officially recognised as normal, can move to permissive communities, and conservative people, instead of imposing their way of life on other people, to conservative communities. Thus, 'externalities' (negative side effects of individual choices) can be 'internalized'. If the mere sight of, or suggestions of immoral activities, outrage people, they can move to places where such activities are not allowed. There is some difference between San Francisco and a small town in the 'Bible Belt'. Autonomous Tocquevillian associations or competing Nozickian utopias can perform three functions. They can provide some necessary social monitoring, and they may produce some formal or informal insurance against the vicissitudes of the market forces, as was observed in previous chapters, and they may enable people to internalize externalities, caused by difference in people's views on moral behaviour. This could perhaps be called 'accommodation by exit'.

Third, conservative liberals could ask whether the direct and indirect costs of moralistic legislation could really justify it. Authoritarians who want to outlaw prostitution or pornography usually pay scant attention to such costs. Consider prostitution. Some costs from outlawing it may not be immediately apparent: the transfer of resources from the defence of property, life and liberty to the defence of some (perhaps most) people's standard of morality; the corruption of the police force (burglars usually do not bribe policemen, but prostitutes do); the

167 Kristol, Capitalism, *The Portable Conservative Reader*, pp. 640–641.

168 W. H. Hutt, *The Economics of the Colour Bar. A Study of the Economic Origins and Consequences of Racial Segregation in South Africa* (London: Institute of Economic Affairs, 1964); Sowell, *Markets and Minorities* (Oxford: Basil Blackwell, 1981); Arnold Plant, *Selected Economic Addresses and Essays* (London: Routledge and Kegan Paul, 1974), esp. pp. 3-33.

169 Friedman, *Capitalism,* Ch. II.

170 H. L. A. Hart, *Law, Liberty and Morality* (Oxford: Oxford University Press, 1969), p. 75.

necessity for prostitutes to have 'protection', and so on. They do not, moreover, take into account that prostitution is a symptom of personal inadequacy rather than its cause. There is a truth in the old cliché that prostitution is the oldest profession. It has been a fact in most or all countries in the world, irrespective of prevailing moral attitudes. It also can be argued that for some people who are personally not attractive (old, handicapped, obese or ugly, for example), the 'cash nexus' may be their only means of communication with other people. Again, arguably it is better to channel an urge into peaceful activities than to try to repress it where the bad consequences may outweigh the good. "Naturam expelles furca, tamen usque recurret." You may drive out nature with a pitchfork, but she will always return.

These consequentialist considerations seem relevant to other activities, for example pornography or gambling. Prohibition in the United States (and some other countries), the ban on producing and selling alcohol, was, of course, a prime example of failed moralistic legislation. A much-discussed modern problem is about recreational drugs like cannabis. There are those who argue that the bad consequences of criminalising such drugs far outweigh the good ones. Paradoxically, the 'spill-over' effects of certain vices of which moralists are so worried seem more often to be consequences of their criminalisation than of the very pursuit of those vices. If conservative critics of the free market base their case for outlawing vices on the long-term bad consequences for society of tolerating them, then surely they cannot be oblivious to such evidence.

Consequentialist considerations do not imply that conservative liberals would have to endorse the principle of want satisfaction as the only principle of a free society. They may believe, with some conservative critics of the free market, that many wants and needs are indeed generated, or at least channelled or informed, by society (perhaps it would be more accurate to say that some needs and wants only come to be discovered in certain kinds of societies; but that once discovered, they form a part of the people discovering them and have to be respected if those people are to be respected). Conservative supporters of the free market would, however, point out that some needs seem to be pretty much present in all known societies (for example the need for sexual relief and for recreational drugs like alcohol), and that the important distinction for legislative purposes then becomes that between dangerous and subversive vices, which should be made crimes, and other and less harmful vices. This was explicitly recognised by no less an authority than Catholic philosopher St. Thomas Aquinas:

> "Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.[171]

To put it briefly: conservative liberals are not committed to the view that people only realise themselves through their market choices; they may agree with conservative critics of the free market on virtues and vices; the problem, as they see it, is how their points should be or could be translated into political practice. They turn the conservative emphasis on the unintended consequences of human action against the moralists, arguing, once again, from their conservative moral presumptions to liberal political conclusions.

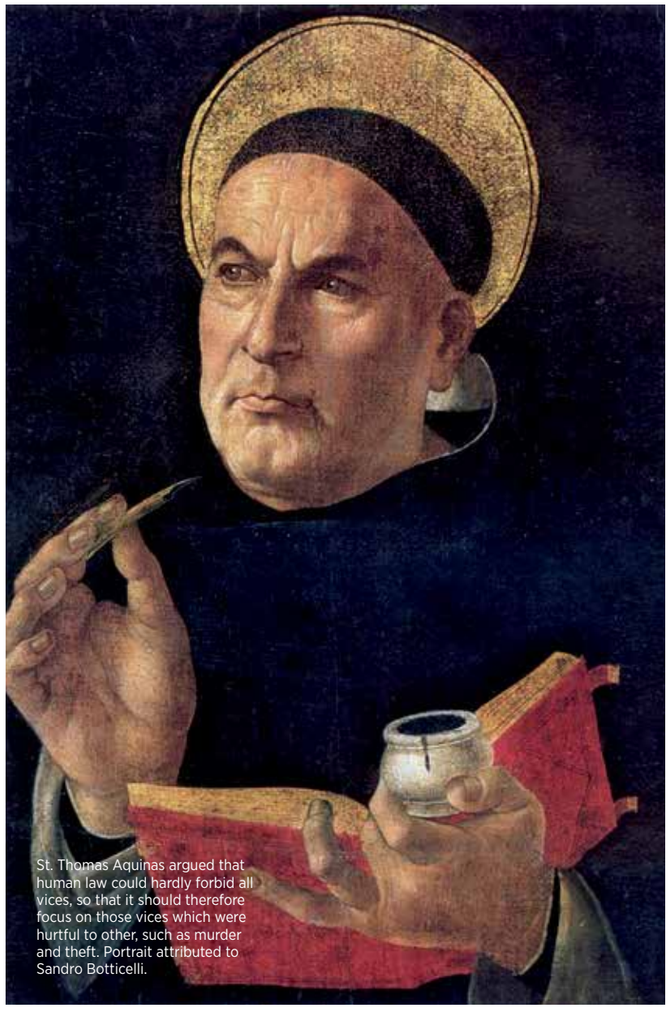
Conservative liberals would probably see little case for the total prohibition of immoral activities, provided they are victimless.[172] There is little or no evidence that such actions are in any reasonable sense 'contagious' or have other unacceptable social consequences whereas there is ample evidence that their prohibition often has unacceptable social consequences. But is there a case for some other kind of intervention, for example the official discouragement of certain activities? A distinction should be made between two kinds of such intervention: One is raising the price of immoral activities, for example by a special tax; the other is making them more difficult, for example by the confinement of the 'consumption' of pornography and prostitution to special clubs or closed groups.

171 Aquinas, *Summa*, Vol. II, Part I, Q. 96, §2.

172 Cf. Lysander Spooner, *Vices Are Not Crimes: A Vindication of Moral Liberty* (1875), *The Lysander Spooner Reader* (New York: Fox and Wilkes, 1992).







St. Thomas Aquinas argued that human law could hardly forbid all vices, so that it should therefore focus on those vices which were hurtful to other, such as murder and theft. Portrait attributed to Sandro Botticelli.

The first kind of intervention is not very attractive. Should vice really become a source of government revenue? Moreover, it is by no means certain that it would have the intended consequences. Again, it does not really or effectively signify social disapproval of immoral activities. There is something more to be said for the second kind of intervention. Consider alarm clocks: they provide us with unpleasant, but necessary information against temptation. The following wish is also perfectly cogent: 'Please do not take seriously anything I say if I get drunk tonight.' The general idea behind these two cases is that there are two levels of choice, two 'selves'. In our more rational moments, we realise that something which we occasionally feel the desire to do is sordid, ugly and contemptible. That is not the way we want to be. In our less rational, but nevertheless rational, moments, however, we are tempted to do this. The same people may in the polling booth vote for moralistic legislation, and in the marketplace for immoral activities with their pounds or dollars. Such people, however, are not necessarily irrational. But how can their two 'selves' be reconciled? By instruction rather than prohibition, conservative liberals would say. There is in other words perhaps a case for an 'alarm clock', for clarifying their perception that their immoral activites are not approved of by them, in their more rational moments, or by society. There is a huge difference between legal prohibition of immoral activities, and an official identification of them as immoral.

Kristol argues, in effect, that the free life is not necessarily the good life. He may be right about that. What he seems to ignore, however, is the alternative to the free life. Compelling people to lead the good life may be self-defeating. People have to lead the good life of their own free will, as agents, not as patients, dependents or captives. Moreover, if Kristol demands the official 'elevation' of people's preferences, he seems to have forgotten the old conservative emphasis on the imperfectability of man. If the free life turns out not to be the good life (albeit a better one than the unfree one), then the reason may be that man is not very good. There is a lot of truth in what many conservatives say about the morality necessary to sustain a free society, such as family values. But perhaps some conservatives have too little regard for moral self-discipline and too much respect for government compulsion.

11

# CONCLUSIONS

The main conclusion of this report is that Georg W. F. Hegel, Michael Oakeshott, Sir Roger Scruton and other conservative critics of the free market present some noteworthy arguments, which however carry more weight against rationalistic, utilitarian or pragmatic liberalism than against the conservative liberalism articulated by Friedrich von Hayek and before him by Edmund Burke, David Hume, Adam Smith, Alexis de Tocqueville, Carl Menger and others. There is a coherent politicial position which combines respect, even reverence, for tradition and commitment to the free market. This is a tradition of cautious and continuous reform. It welcomes choice and change, but places it firmly within local ways. Perhaps von Hayek, Sir Karl Popper and some other scholars from the German-speaking community of the multi-lingual Habsburg Empire were not very sensitive to the legitimate national aspirations of the small nations of Europe.[173] But the fundamental difference between the conservatism of Oakeshott and Sir Roger on the one hand and conservative liberalism on the other hand might be that von Hayek and other modern conservative liberals would be universalists in the sense that they would think of freedom as the desirable general condition of all mankind, and not only as a product of Anglo-Saxon experience, confined to Anglo-Saxon countries. As no other than Hegel put it, history is the story of the gradual extension of freedom: In the orient, there was only the freedom of one, the despot; in Ancient Greece and Rome, there was the freedom of some, the ruling class; and in modern times there is the freedom of all.[174] And when it becomes the freedom of all, the task presents itself, as von Hayek recognised, which principles will enable mutual adjustments of different individuals, often seeking initially incompatible aims.

On the basis of the analysis offered in this report, certain practical recommendations can be made on how to combine local ways and universal principles, tradition and liberty. These are 20 planks in a conservative-liberal political programme:

1. Government should do little and do it well. It should vigorously uphold law and order, maintain a strong defence and extend help to the helpless, and not to those who can look after themselves. It should certainly not try to redistribute wealth or income. Government subsidies to unsustainable lifestyles, however quaint and charming they might be, should be eliminated.

2. The legislator should encourage and facilitate the establishment and operations of local authorities (such as Scotland in the United Kingdom, Catalonia in Spain, and the land of the Basques straddling the French-Spanish border), regional councils (such as the Nordic Council and the Tyrol regional authority), religious congregations, autonomous associations and self-help organisations (such as those formed by the handicapped, and by former alcoholics, the AA).

3. While religious sects with strict, even illiberal, codes of conduct should be left alone by government, insofar as they pose no danger to public safety, the right of exit, as well as of entry, has to be protected. For example, Muslim women in Europe who do not wish to have their marriages arranged by their fathers or brothers must be able to choose for themselves.

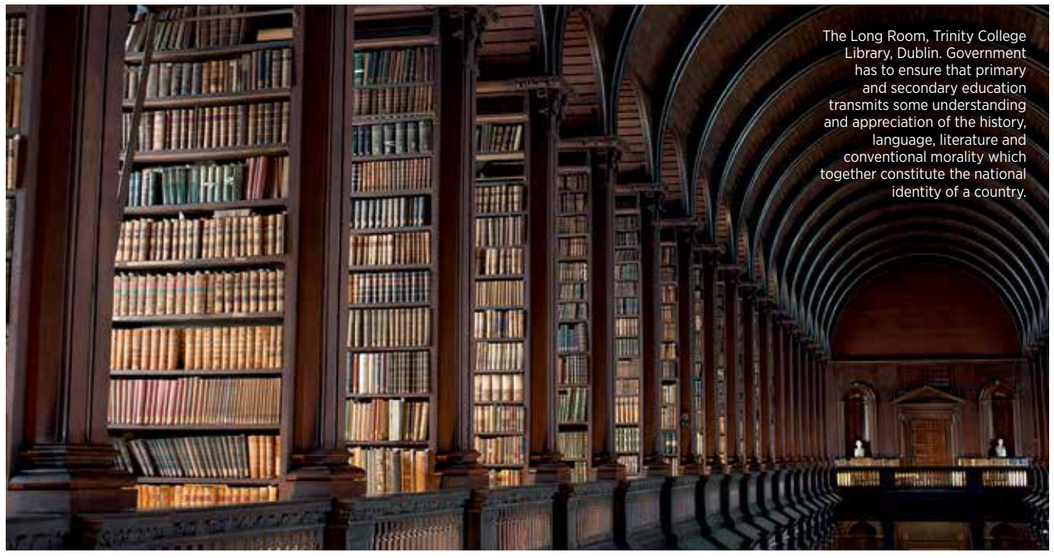
4. Immigration, within reasonable limits, of people who are eager to work and contribute to society should be welcomed. “You shall not wrong a stranger or oppress him, for you were strangers

173 Gissurarson, *In Defence of Small States* (Brussels: New Direction, 2016).

174 Hegel, *Vorlesungen über die Philosophie der Weltgeschichte*, ed. by Eduard Gans (Berlin: 1837), Part III, Ch. 1, *The Philosophy of World History*, tran. by John Sibree (New York: Dover, 1956, 1st ed. 1857).







The Long Room, Trinity College Library, Dublin. Government has to ensure that primary and secondary education transmits some understanding and appreciation of the history, language, literature and conventional morality which together constitute the national identity of a country.

in the land of Egypt.”[175] However, immigrants have to obey the law and respect the customs of their adopted countries, or else return to their homelands. For example, United States schools should not become bilingual just because of a surge of Spanish-speaking immigrants. Also, it is in no way wrong to put the obedience of immigrants to test, as Swiss local authorities did in 2018 when a Muslim couple in Lausanne were denied citizenship because they refused to shake hands with members of the opposite sex.[176]

5. Devolution should be implemented to the furthest extent possible, in accordance with the subsidiary principle, well established in catholic political thought.[177] For example, local communities should make decisions about whether to allow recreational drugs, including alcohol, nicotine and cannabis, pornography, prostitution, gambling and other activities deemed immoral or degrading by many. This would to some extent establish choice in communities, mutual accommodation by exit and entry.

6. Ensuring adequate civic education for all citizens should be a priority in liberal Western democracies. It should on one hand consist in basic professional skills, such as reading and writing, and on the other hand in learning about the common identity of the nation, or nations, within a country, most importantly about her history, language, literature and conventional morality, including in Europe and the two Americas Christian values.

7. In teaching history, it is important to recognise and emphasise that the two totalitarian creeds of the twentieth century, national socialism and communism, systematically killed, starved to death, enslaved and imprisoned hundreds of millions of innocent people. Communism was as criminal in nature as national socialism.[178]

8. Whereas there is a case for government, or in other words taxpayers, bearing the costs of education, it need not be produced by the state. Parents and students should be given the right to choose between schools, all of which would however have to adhere to minimum standards. This could be accomplished by ‘vouchers’ issued to families by government and used to pay for education.

9. The most important poverty relief is to add opportunities for people to produce themselves

175 Exodus 22, 20.

176 Muslim couple denied Swiss citizenship over handshake refusal, *The Telegraph* 18 August 2018.

177 Pope Pius XI, *Quadragesimo anno*, §79 (15 May 1931).

178 *Le Livre noir du communisme. Crimes, terreur, répression,* ed. and with an introduction by Stéphane Courtois (Paris: Robert Laffond, 1997), *The Black Book of Communism* (Cambridge MA: Harvard University Press, 1999).

The American bald eagle is a national symbol of the United States, and therefore it is reasonable to preserve and protect it, irrespective of the law of demand and supply. Photo: Andy Morffew.



out of poverty. This can best be achieved in a flexible labour market where monopoly organisations such as trade unions are not allowed to use violence in order to price people out of employment in the short run and where economic growth will increase the possibilities of employment in the long run.

**10.** Another form of poverty relief is to establish and ensure a minimum for those who are not able to look after themselves, for example by a 'negative income tax' where a certain 'floor' in society would be defined: only people with income above that limit would pay taxes whereas those with income below it would receive direct cash payments from government.

**11.** What has to be avoided is the creation by government of a permanent underclass, dependent on government handouts for their livelihood. To some extent, this can only be achieved by fostering a tradition of hard work and self-reliance and trying to transmit these values through schools. But also, imprudent behaviour should not be subsidised by government.

**12.** Wherever possible, choice should be extended in welfare services, most importantly in education and health care, not primarily in the interest of potential producers, although they would gain by more profit opportunities, but for the sake of the consumers, ordinary citizens.

**13.** The most effective government policy against market concentration and monopoly is to remove obstacles created by government to entering markets and competing in them. Regulatory agencies tend, on the other hand, to be captured by the industries they are supposed to regulate.

**14.** One of the most important measures against market concentration is international free trade: open markets, wherever possible. Another measure is for example to remove tax incentives for corporations to use their profits to reinvest and grow instead of paying out dividends.

**15.** One obstacle to market transactions, working against unpopular or underrepresented minorities, is minimum wage law which should be altogether abolished. Thus, members of such minorities (for example black teenagers in the United States) would be able to price themselves *into* markets instead of being priced *out of* them.

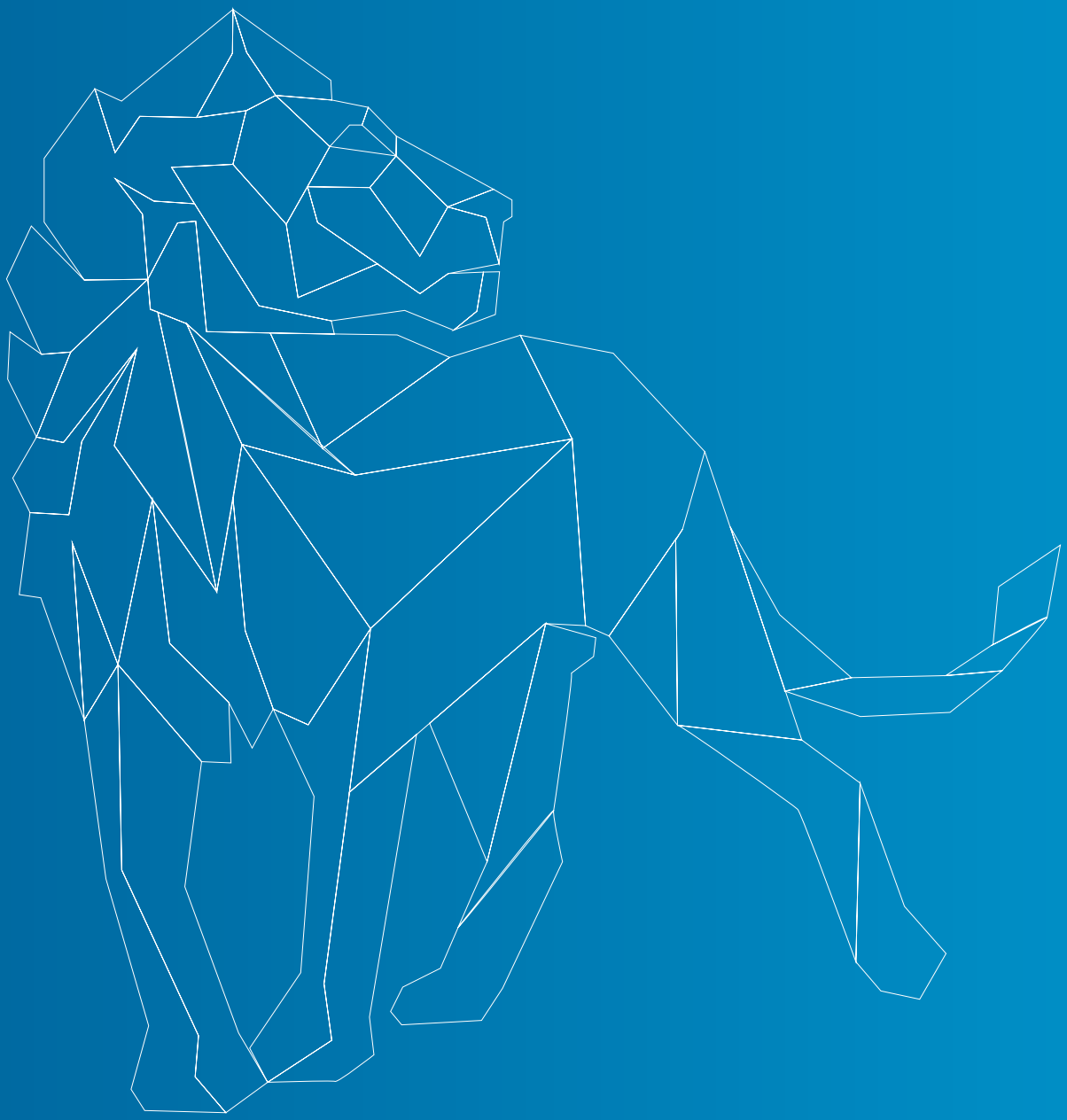
**16.** Black markets should wherever possible be eliminated by the simple device of abolishing laws against non-violent business transactions. Smuggling disappears overnight, for example, if there is no price difference between two countries for a given good except the costs of transport and transactions. This is achieved by the abolition of customs and duties.

**17.** Corruption should wherever possible be eliminated by the simple device of transferring power and authority from government to the free market, from politicians and bureaucrats to entrepreneurs and capitalists. In such circumstances, if the agents in question create costs through waste, nepotism, indefensible discrimination or otherwise, then they will themselves bear the brunt of these costs.

**18.** The constitutional protection of individual rights should be extended, not to include claims to other people's products, but rather to the right not to be taxed unfairly and by stealth, as is done by inflation and other invisible taxes (such as unsustainable pension systems, transferring costs to coming generations). This would imply curbs on government powers to tax and to inflate.

**19.** There is a good conservative reason for the legislator to remove some goods from the market, even if they are by nature marketable, provided they have great significance for the shared identity of the nation in question, as a part of the national heritage. Examples abound. In many European countries, certain places have a special meaning, like Thingvellir, the old parliamentary site in Iceland, and should therefore be preserved and protected. Another Icelandic example is the manuscripts where the ancient sagas and chronicles are recorded. In Hungary, the Crown of St. Stephen has great historical significance. Yet another case is that of the bald eagle which is a national symbol of the United States and therefore a protected species.

**20.** Likewise, and for the same reason, it is not wrong for the legislator to request from all citizens that respect be shown for symbols of national sovereignty and heritage, such as the flag and the national anthem.



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