

17.3.3 Civil Society

A great degree of order in society is necessary for individuals to survive and flourish. It is easy to assume that order must be imposed by a central authority, the way we impose order on a stamp collection or a football team. The great insight of libertarian social analysis is that order in society arises spontaneously, out of the action of thousands or millions of individuals who coordinate their action with those of others in order to achieve their purpose, over human history. We have gradually opted for more freedom and yet managed to develop a complex society with an intricate organization. The most important organization in human society – law, language, money and markets – all developed spontaneously without central direction. Civil society is another example of spontaneous order, the associations within civil society are formed for a purpose, but civil society itself is not an organization and does not have a purpose of its own. The associations we form with others can make up what we call civil society. Those associations can take an amazing variety of forms – family, churches, schools, clubs, fraternal societies, condominium associations, neighbourhood groups and the myriad forms of commercial society such as partnerships, corporations, labour unions and trade associations. All these associations serve human needs in different ways. Civil society may be broadly defined as all the natural and voluntary associations in society. Some analysts distinguish between commercial and non-profit organizations, arguing that business is a part of the market and not of civil society, but according to Bauz, the real distinction is between associations that are coercive i.e. the state, and those that are natural or voluntary – everything else. Whether a particular association is established to make a profit or to achieve some other purpose, the key characteristic is that our participation in it is voluntarily chosen. It should be noted that the associations within the civil society are created to achieve a particular purpose but civil society, as a whole has no purpose. It is the undersigned, spontaneously emerging result of all those purposive associations. These associations give people connections with other people. No one of them, however, exhausts one's personality and defines one completely. In this libertarian conception, we connect to different people in different ways on the basis of free and voluntary consent. Ernest Gellner says that modern civil society requires a 'modular man'. Instead of a man who is entirely the product of and absorbed by a particular culture, modular man 'can combine into specific purpose, *ad hoc*, limited associations, without binding himself by some blood ritual'. He can form links with others which are 'effective even though they are flexible, specific, instrumental,' and as individuals combine in myriad ways, community emerges; not the close community of the village or the messianic community promised by, say for example, by marxism, national socialism and all fulfilling religions, but a community of free individuals in voluntarily chosen associations. Individuals do not emerge from community, community emerges from individuals. It emerges not because anyone plans it, certainly not because the state creates it, but because it must. To fulfil their needs and desires, individuals must combine with others. Society is an association of individuals governed by legal rules or perhaps an association of associations, but not one large community, or one family. Membership in a group need not diminish one's individuality; it can amplify it, by freeing people from the limits they face as lone individuals and increasing their opportunities to achieve their own goals. Such a view of the community requires that membership be chosen and not compulsory.

17.3.4 Political Economy and the Problem of Redistribution

Libertarianism claims that the only economic order that respects individual freedom is the *free market*. To them, the free market is an example of freedom in action. At the heart of the free market is the voluntary bilateral exchange. If two parties exchange some goods voluntarily

or make some contract voluntarily, then so long as this does not involve the violation of another's rights, no one has the right to interfere in it. According to libertarians, the free market is the sum of the voluntary exchanges and contracts going on in a society, nothing more and nothing less. Any distribution that occurs in the operation of a free market is therefore, just since at no stage has anyone's right been violated and all the exchanges were voluntary. For example, Hayek proposed that the rules of conduct in a society are evolving; that they survive because they are useful and help that society survive. The market, he believed, had survived the test of time, in that the most successful societies were market based in some way. The market is superior to other economic systems, since it handles human ignorance by passing information in coded form through the price mechanism which indicates areas where profits could be made and resources efficiently used. It does all this and allocates resources without being predicated on any specific goals or assuming what the goals of the people are. It also facilitates freedom, in that for it to work, there need to be rules demarcating 'protected domains' for each person where no other has the right to interfere.

The market arises from the fact that humans can accomplish more in cooperation with each other than individually and the fact that, we can recognize this. If we were a species for whom cooperation was not more productive than isolated work, or if we were unable to discern the benefits of cooperation, then we would not only remain isolated and atomistic, but as Ludwig Von Mises explains, 'each man would have been forced to view all other men as his enemies, his craze for the satisfaction of his own appetites would have brought him into an implacable conflict with all his neighbours'. Without the possibility of mutual benefit from cooperation and the division of labour, neither feelings of sympathy and friendship nor the market order itself could arise. Those who say that 'humans are made for cooperation, and not competition' fail to recognize that the market is cooperation.

Many people accept that markets are necessary, but still feel that there is something vaguely immoral about them; they feel that markets lead to inequality or they dislike the self-interest reflected in markets. Markets are often called 'brutal' or 'dog-eats-dog'. But libertarians believe that markets are not only essential to economic progress, but that they are more consensual and lead to more virtue and equality than government coercion. This is done through: i) information and coordination, ii) prices, iii) efficiency in production, iv) technological innovations, and v) competition. Firstly, markets are based on consent. No businessman sends an invoice for a product not ordered. No business can force anyone to trade. Businessmen try to find out what is required by the consumers. Whatever is produced is done so in response to or in anticipation of consumer demand, since the only way in which the producers can maximize his own position is by selling his goods to the consuming population. But where do they get the information? It is not in a massive book. In the market economy, it is not embodied in orders from a planning agency. Secondly, this vital information about other peoples' wants is embodied in prices. Prices do not just tell us how much something costs at the store. The price system pulls together, all the information available in the economy about what each person wants, how much he values it and how it can best be produced. Prices make that information usable to the producer and the consumer. Each price contains within it information about consumer demands and about costs of production, ranging from the amount of labour needed to produce the item to the cost of labour to the bad weather on the other side of the world that is raising the price of the raw materials needed to produce the good. The information that prices deliver allows people to work together to produce more. The point of an economy is not just to produce more things. It is to produce more things that people want. Prices tell all of us what other people want. The price system reflects the choices of millions of producers,

consumers, and resource owners who may never meet and coordinates their efforts. Although we can never feel affection for or even meet everyone in the economy, market prices help to work together to produce more of what everyone wants. Unlike a government which at best takes the will of the majority and imposes it on everyone, market uses prices to let buyers and sellers freely decide what they want to do with their money. Thirdly, competition between producers ensures that the most efficient ones to supply the consumer market since only they will be able to produce goods cheaply. The consumer, in maximizing his economic welfare, purchases only at the lowest available price. Fourthly, since producers can improve their economic position by expanding their market, each producer will be in constant competition with others. Seeking to expand one's market can be accomplished only by reducing prices (price competition), and this can be achieved only by reducing production costs via technological innovations. The system automatically generates technological change and development. And lastly, the market system is highly competitive. As explained above, it is precisely through competition that it can be found how things can be produced at the least cost, by discovering who will sell raw material or labour services for the lowest price. Any interference with free competition between economic units will defeat the system's ability to provide automatically the advantages described above. Also rapid and smooth shifts of labour and capital must be possible from one industry to another. People are motivated by material well being and by economic gain. Hence, to the extent that they are deprived of economic incentives, the market mechanism will break down or seriously compromised as a basis for allocation of goods and services. The basic question, according to libertarians, is how to combine all the resources in society including human effort to produce the greatest possible output which will satisfy people most. It is through competition to attract new customers that this coordination is generated. It is possible that many firms may not do well and could be out of business. This, according to libertarians, is the 'creative destruction' of the market. Harsh as the consumers' judgement may feel to someone who loses a job or an investment, the market works on the principle of equality. In a free market, no firm gets special privileges from the government and each must constantly satisfy consumers to stay in business. Thus, far from inducing self-interest, as critics charge, in the market place the fact of self-interest induces people to serve others. Markets reward honesty because people are more willing to do business with those who have a reputation for honesty. Markets reward civility because people prefer to deal with courteous partners and suppliers.

Apart from defending market freedoms and limitations on the use of the state for social welfare policies, libertarians are opposed to any redistributive taxation scheme. It believes that redistributive taxation is inherently wrong, a violation of the people's right. People have a right to dispose of their goods and services freely. As Nozick put it, 'people have rights and there are things no person or group may do to them (without violating their rights). So strong and far reaching are these rights that they raise the question of what, if anything, a state and its officials may do'. This has been best explained by Robert Nozick in his famous entitlement theory.

The central theme of the *Entitlement Theory* is that 'if' we assume that everyone is entitled to the goods they currently possess (their holdings) then a just distribution is simply whatever distribution results from peoples' free exchanges. Any distribution that arises by free transfer from a just situation is itself just. For the government to tax these exchanges against anyone's will is unjust, even if the taxes are used to compensate for the extra cost of someone's undeserved natural handicap. The only legitimate taxation is to raise revenues for maintaining the background institutions needed to protect the system of free exchange i.e. the police and

the justice system needed to enforce peoples' free exchanges. This entitlement theory is based upon three principles: i) *the principle of transfer* i.e. whatever is justly acquired can be freely transferred, ii) *the principle of just initial acquisition* i.e. how people come to own things initially, which can be transferred according to the first principle, iii) *principle of rectification of injustice*, i.e. how to deal with acquisitions which are unjustly acquired or transferred. To give an example, if I own a plot of land, the principle of transfer tells me to engage in any transfer I wish. The principle of acquisition tells me how the plot initially came to be owned, and the principle of rectification of justice tells me what to do if the first two principles are violated. Taken together, if peoples' current holdings are justly acquired, then the formula of just distribution is: *from each as they choose, to each as they are chosen.*

Nozick gives two arguments as to why the claim of peoples' entitlement should be accepted: i) *free exercise of property is more attractive*, and ii) *property right lies in 'self-ownership'*. The first argument i.e. free exercise of property is more attractive; it is that if we have legitimately acquired something, we have absolute property rights over it. Then we can freely dispose of it as we see fit, even though the effect of these transfers is likely to be a massively unequal distribution of income and opportunity. Given that some people are born with different natural talents, some people will be amply rewarded while those who lack marketable skills will get few rewards. Due to these underserved differences in natural talents, some people will flourish while others will starve. These inequalities are the result of unrestrained capitalism. Though he admits that it seems unfair for people to suffer undeserved inequalities in their access to the benefits of social cooperation, but the problem is that people have rights over their income. As he says, 'no one has a right to something whose realization requires certain uses of things and activities that other people have rights and entitlements.' The second argument is the principle of 'self-ownership'. By this Nozick means that people should be treated as 'end-in-themselves'. The heart of Nozick's theory is that 'individuals have rights, and there are things no person or group may do to them (without violating their rights)'. Society must respect these rights because 'they reflect the underlying Kantian principle that individuals are ends and not merely means. They may not be sacrificed or used for the achievements of others' ends, without their consent'. Because we are distinct individuals with distinct claims, there are limits to the sacrifices that can be asked of one person for the benefit of others. Libertarian society treats individuals not 'as instruments or resources' but as 'persons having individual rights with the dignity this constitutes.' In short entitlement theory believes that recognizing people as self-owners is crucial to treating people as equal, and only unrestricted capitalism recognizes self-ownership.

17.3.5 Rule of Law & Limited Government

Libertarianism is not libertinism or hedonism. It is not a claim that 'people can do anything they want to and nobody else can say anything'. Rather, libertarianism proposes a society of liberty under law, in which individuals are free to pursue their own lives so long as they respect the equal rights of others. The rule of law means that individuals are governed by generally applicable and spontaneously developed legal rules, not by arbitrary commands; and that those rules should protect the freedom of individuals to pursue happiness in their own way, not aim at any particular result or outcome.

To protect rights, individuals form governments, but government is a dangerous institution. As stated above, libertarianism arose as a reaction against the social welfare state. Hayek in his book *The Road to Serfdom* warned that the adoption of welfare/socialist policies would

bring totalitarian **government** in the long run. Any tolerable future for the western civilization would demand that **the** socialist ideas be abandoned and classical liberalism **may** be restored once again. **Like** early liberals, he considered the state the greatest **enemy** and any interference with the right to private property as an assault upon the rights of the individuals. On the economic side, Milton Friedman suggested that **competitive** capitalism promotes political freedom because it separates economic power **from** political power and in this way, enables one to offset the other. Another writer Ralf Dahrendorf **complained** that the welfare state produces the iron cage of bureaucratic bondage and to a great extent repeated **the** traditional liberal attitude of suspicion towards the government and the state. As he writes, 'there is no such thing as benevolent government. Government is an unfortunate necessity. It is always and by definition liable to encroach upon the individual liberties. More than that, there is a need for less government'.

A more powerful definition of the libertarian view of the minimal state has been developed by Robert Nozick in his book *Anarchy, State and Utopia*. Nozick talks about the state in **the** context of individual rights. Following the tradition of John Locke, Nozick speaks of prior and inalienable rights of the individual possessed independent of society. He says that rights are **the** property of the individual and are so strong and **far** reaching that they raise a number of basic questions such as: what, if anything, the state may do? How much room do individual rights leave for the state? **What** is the nature of the state? What are its legitimate functions and what is its **justification**? The state, according to Nozick, should be a minimal state, limited to **the** narrow functions of protection against force, theft, fraud, enforcement of contract and so on. Any more extensive state will violate the person's right not to **be** forced to do certain things and **as such would** be unjustified. 'The minimal state is inspiring as well as right'. What is important is **that** the state must not **use** its coercive apparatus for the purpose of getting **some** citizen to aid others, and prohibit activities of people for their own good or **protection**.

Since Nozick strongly believes in the rights of the individuals, he seriously considers the anarchists' claim that **the** monopoly of use of force by the state **may** violate the individual's rights and hence, the state is immoral. Against this claim, Nozick argues that **the** state will arise from anarchy **even though** no one intends this. Individuals in the state of nature would **find** it in their interest to allow a 'dominant protective agency' to emerge which would have de facto **monopoly** of force and could constitute a state **like** entity. The formation of such an entity, if **done** in an appropriate way, may violate no one's rights, i.e. if it does not go beyond its **legitimate** powers of protection, justice and defence. Justifying the minimal state, he categorically asserts that liberty must get absolute precedence over equality. **He** opposed the policies of progressive taxation and positive discrimination and asserts that realization of liberty should not be inhibited by the policies of the **government** in providing public health care, education or minimum standard of living. He argued that those who own wealth may voluntarily adopt some redistribution. He is against any **redistribution** of property by the state because it may transgress the liberty of those who have property. For Nozick, the state is **no** more than a night watchman, protecting the inviolable rights of the citizens. He asserts that the welfare notion which advocates that it is the society which allocates resources is not only wrong, but **illegitimate** because there is no such thing as 'society' except in the minimal sense of being an aggregate of individuals. 'There are only individual people with their own individual lives' and society is no more than the **sum** of its individual components, State intervention means appropriation of **both** 'one's resources and one's self'. And 'seizing the results of someone's labour is equivalent to seizing hours from him and directing him to carry on various

activities. If people force you to do certain work or unrewarded work, for a certain period of time, they decide what you are to do and what purpose your work is to serve apart from your decisions. This process whereby they take this decision from you makes them a part-owner of you; it gives them a property right in you. Thus, the welfare state is a threat to liberty and independence of the individuals because individual is the sole owner of himself and his talent.

How far is the non-interventionist, minimal and market dominated concept of libertarian state justified? Nozick's views are based on certain inalienable rights of the individual, possessed independent of society. However, a feature of the modern state is that it has recognized a range of individual rights which were not recognized by ancient Greek or medieval society. Rights are socially and historically constituted. In fact, the rights which Nozick defends are actually those rights which were historically specific to the market and were defined and constituted in the context of capitalist relations. They were neither natural nor prior to the state. Secondly, if the resource allocation is to be done by the market, it cannot be equal because in a capitalist society, the market also privileges some groups over others within the system of production and exchange. Hence, the idea of a free and sovereign individual choosing what to do with his resources is a myth. Nozick's account of the minimum state fails because it contains no theory of taxation. For this reason, other libertarian scholars insist that taxation be according to general rules, uniformly applied. For example, Hayek and Friedman have argued that only a system of proportional taxation is fully consistent with the libertarian requirements. Proportional taxation would prevent the imposition of redistributive taxation on wealthy and unpopular minorities and would, thereby, remove a major area of arbitrariness from public policy. They advocate that the taxation policy be governed by general rules so that governments are prevented in their service activities from curbing economic freedom in subtle and covert ways.

In short, the concept of limited government propounded by the libertarians acknowledges the state as a permanent necessary evil. In doing so, it exploits the insights of philosophers such as Adam Smith. As Hayek admits, there is a spontaneous order in social life, but qualifies that insight with the recognition that the spontaneous process of society can only be beneficial against a background of legal institutions in which the basic liberties are guaranteed for all. The libertarian concept of the state eschews no less firmly the revisionary conception of government as the guardian and provider of general welfare, empowered to act on its own discretionary authority in the pursuit of the common good - a conception whose reality is everywhere that of a weak government, prey to collusive interest groups and incapable of delivering even the security in enjoyment of basic liberties which is the state's only title to authority.

17.4 CRITICAL EVALUATION

Libertarianism has been criticized on many grounds such as its theory of rights, nature of liberty, role of the state, political economy, problem of redistribution of resources etc. Let us have a look at these:

- Some libertarians argue that we are born with a set of rights - the rights to life, liberty and property - which must be respected. But the question is why these rights and not others! The libertarians' answer is that they are essential to allow people to lead their own lives, that they reflect the imperative to treat people as ends in themselves and not merely