

THE FUTURE OF INCLUSIVE DEMOCRACIES AND THE POSSIBILITIES OF SUSTAINING WELFARE

Paul Hirst

Abstract

The relation between state and civil society prosided in classical liberalism has ceased to apply. We now live in an organisational society, one in which large hierarchical institutions control most of our affairs. We are, thus, governed by forms of authority on both sides of the public-private divide. In that sense we live in a post-liberal society, for which we need new forms of accountability and democracy. This new architecture of governance recognises the need for greater citizen participation in state institutions and the recognition that private governments need to be treated as if they were public and made accessible to democratic voice by those whose interests they affect. One way to achieve this radical redefinition of the public-private spheres is to divide as many tasks as possible to self-governing voluntary associations.

Democracy and Civil Society

Democracy in modern times has always more than just a measure of popular control over the personnel and decisions of the state. A democratic state is widely held to be inconceivable without a democratic society. Hence, the major modern political doctrines that have claimed to be democratic have all insisted that democracy involves a definite relationship between the state and the wider society. The doctrines in question-classical liberalism, democratic socialism and corporation - have seen this relationship in different ways.¹ However, they have done so in relation to a shared conception of the modern state as a compulsory organisation that claims a monopoly over the right to determine the forms of governance within a definite territory. However, in the late twentieth century, both the state and the relationship it has to the wider society are being transformed, as a result of profound social changes. This necessitates a radical re-thinking of the role and scope of democratic governance, and the mainstream political doctrines are, at best, poor guides in this re-thinking and, at worst, obsolete.

The Changing Character of the State

The main changes altering the nature and position of the state are twofold. The first concerns its capacity to legitimize its powers of compulsion, to make claims on the lives and property of its members. In the era of total wars and savage internal social struggles, these claims were supported because threats to political survival and social stability were very real. Citizens feared invading enemies and domestic attempts to seize power. With the collapse of the Soviet Bloc, as an external adversary, and the disappearance of internal revolutionary movements, most advanced Western societies no longer face serious enemies that require large-scale political and economic mobilisation to counter them. Hence, the territorial integrity of states, in itself, matters less to citizens and claims to state that compulsion can no longer be founded on such genuine and shared fears.

The second main change concerns the growing dispersion of the capacities of governance to agencies «above» and «below» the nation state. The internationalisation of economic and social relations has lessened the ability of the state to impose distinct «national» economic programmes.² For at least some of the «haves» this is a valuable form of liberty. Companies and citizens can use the international financial markets as a sanction, voting with their capital and their savings against state policies they see as imposing excessive costs. States have lost some of the economic coercive power over citizens they had in the era of punitive import duties and exchange controls. At the same time, as some of the powers of national governments have claimed to possess over the economy have weakened, so many regional governments have become effective sources of economic regulation. Major cities and industrial districts are increasingly becoming social and political entities in their own right and national governments are, willingly or not, ceding powers to them. States are losing their monopoly over who governs in their territories; nation states are becoming just one (albeit vital) part of a division of labour in governance and the nature of that division is no longer under their exclusive control.

Classical Liberalism and Civil Society

Given the eclipse of state socialism and the current generalised acceptance of markets, as the main means of economic distribution, it follows that most practical politicians are in fact liberals of one variety or another. Thus, it is necessary to begin our account of the contemporary relationship between state and civil society with classical liberalism. Central to liberalism is the distinction between the

public and the private spheres. The public sphere is based on representative government and the rule of law; its purpose is both to govern and to protect the private sphere. The state's primary tasks are to protect private property and individual rights. Laws should be general norms, applicable to all citizens irrespective of status. The state is the public and political sphere, limited in its scope and functions. The private sphere is that of individual action, contract, and market exchange, protected by and, yet, independent of the state. Lawful association in civil society is a «private» matter.

Thus, its inception liberal political theory has regarded its main objective as the preservation of an extensive sphere of private action, independent of the state, and has seen this as an essential complement to and support of the formal political institutions of representative government. Modern pluralist theory, developing classical liberalism, argues that a society comprised of a wide variety of active «secondary associations» provides the basis for that diversity of interests and opinions that makes multi-party democracy and sustainable in the primary association, the state. In recent years, adding to and developing classical liberalism, the concept of «civil society» has been redefined and become fashionable both in Eastern and Western Europe. It is seen as a source of authentically democratic social governments separate from and oppositional to the totalitarian or the bureaucratic business - oriented state.³

What all these positions have in common is a conception of the private sphere or civil society, as a spontaneous order independent of and separate from the state. Modern libertarian radicals and the free-market right have a major common objective, that is, to protect civil society from encroachment by the state and hierarchical bureaucratic administration. They fear that either the spontaneous order of social life of the free market is being displaced. The right fear big government, and libertarian radicals fear both state bureaucracy and big business. Economic liberals like Hayek and post-Marxist radicals like Habermas seem unlikely bedfellows, but they share the belief that civil society is a spontaneous order. Hayek feared not just a state socialist command economy as a threat to freedom, but the steady process of bureaucratic encroachment on the market in the interests of welfare and regulation in a formally democratic society. The market can only function if it is autonomous, and, therefore, spontaneous. The task of the government is to guard it against excessive governance. Likewise, Habermas, for all his long and sophisticated reflection on the public and private spheres in modern society, fears that spontaneous substantively oriented interaction, the life world, is threatened by the domination of the formal bureaucratic rationality of the system.⁴

The problem with such views is not that excessive bureaucratic control over individuals by political and social institutions does not pose a threat to liberty. Rather, it is that this classical liberal legacy of conceiving civil society as a spontaneous order, separate from government, actually undermines the devising of effective remedies to the growth of unaccountable hierarchical power, in both the public and the private spheres. The issue is no longer usefully posed in terms of either the autonomy of civil society from government or the restriction of the scope of public governance. In fact both state and civil society are made up of large complex organisations and the boundary between the two is not all that clear. Seeking to preserve individual freedoms, in and through civil society, treats it as if it could be purely a realm of individual choice, contract, and voluntary association. The issue is better conceived as the freedom of individuals within institutions and the autonomy of institutions within their legitimate sphere, how to achieve effective democratic governance of both public and private institutions.

If civil society is conceived *non-politically*, as spontaneous, private and prior to politics, then it will become an ever more marginal sphere. It will be those aspects of social action that are left over, that large public and private institutions do not organize. It should be what remains when the corporate economy, bureaucratically organised public services and compulsory state regulation are subtracted. The answer is, of course, not much. The nation state may be losing certain capacities and some legitimacy, but this does not mean that the scale and scope of compulsory authority and top-down control are lessening in modern societies. Indeed, the relative weakening of the control of the state over certain domains, like national economic policy, may lessen its ability to check other organisations, like major companies, in the interests of democratic accountability and individual liberty.

Economic liberals have favoured de-regulation and privatisation as a means of reducing the role of the state, thereby restoring the power of markets. If anything, this has worsened the crisis in the relationship between state and civil society. In privatisation and de-regulation, control and social power are not ceded to markets based on equal competing individuals, but to large hierarchically-controlled organisations: to privatised utilities, to quangos and to private companies contracting out services. These bodies are not in the main voluntary associations, and, in respect of them, the citizen as employee or consumer mostly has little choice and less control. Typically such organisations are bureaucracies, which means that they subject their employees to imperative control and compulsion and they deal with the recipients of their services through standardised procedures. The lower ranks in such institutions obey orders from above and have no countervailing

powers: they are subordinates. The recipients of services or customers depend for what they receive on administrative decisions beyond their control; the best they can hope for, if they are lucky, is that they can switch to buying from another unaccountable body that offers a better deal.

Confronting the Organisational Society

It is difficult to see how a political democracy can survive if individuals' «private» lives are so controlled by undemocratic authority. The scope of democracy becomes limited and citizens have little experience of it. They become subordinates of customers, and even their leisure time is dependent on the offerings of large business corporations. States may no longer have such well-founded grounds for the more draconian forms of coercion, but, in the absence of a new democratic political settlement, this does not alter the prosaic, day to day powers of most major social institutions, public or private. We have become habituated to a thousand minor but very real restrictions of our liberty, each trivial but as a whole making most of us less than fully free. Most people have little choice but to work for large organisations and to accept services and to buy products from them. We take the power of such institutions for granted, whether it be a private company telling its employees how to dress or how often they may go to the lavatory, or a Job Club determining how many letters an unemployed person must write in a week, or some blatant piece of insolence that undermines the dignity of the consumer and is justified as «company policy».

That such institutions may be notionally accountable, to their shareholders or to Parliament, does not alter the compulsory and coercive character of their day-to-day workings in respect of individuals. On the contrary, such attenuated accountability merely legitimises such powers without giving those directly subject to them any control. Top-down hierarchical administration is at best a necessary evil in a free society. In a society that truly valued individual autonomy it would be justified only when there was no option, that no other or less coercive form of organisation was available or sufficiently efficient for the activity in question. In a society where state coercion and compulsion have fewer objective justifications, the powers of major institutions proliferate. To re-state the paradox with which Rousseau begins the *Social Contract* in a form appropriate to modern times: «citizens are told that they are participants in a free and democratic society, yet at every turn they are subject to the constraints of hierarchical administration without significant opportunities for control and concept».⁵

Rousseau asked, having posed his paradox, what could make it legitimate?

The contemporary answers as to how to overcome our paradox are not encouraging. Positions derived from classical liberalism are inadequate to deal with these more complex issues of accountability because liberalism was designed to protect society *from* the state, rather than deal with the problems of liberty in a state and civil society dominated by large hierarchical institutions. In a period when statist and socialist solutions have become ineffective and politically unviable, we are left with a rhetoric of individual rights in politics and the advocacy of market principles in society. Trying to return to an idealised nineteenth century relationship between state and civil society, as the most extreme economic liberals do, is evidently impossible - we cannot re-create a society of perfectly competing small traders and manufacturers in open markets. To recognise this is not just an issue of the economics of competition, it is also a problem for governance. The hegemony of liberalism means that most attempts to counter or meliorate weak economic regulation and social accountability are half-hearted or ineffective. Hence, the weakness of communitarian rhetoric as a substitute for liberalism, its failure to confront the reform of institutions and its urging of consensus on deeply divided societies with plural and competing values.

If core activities of central concern to the life of the citizen, like welfare, public services, and economic production are not to remain dominated by top-down administration, and if policy is not to become the prerogative of a managerial elite, then the whole of society and not just the state needs to be viewed politically, as a complex of institutions that require a substantial measure of public and popular control over their leading personnel and major decisions. That is, civil society must no longer be viewed as a «private» sphere, it needs to take on elements of «publicity» in the original sense of the term. We require a constitution for society as much as we do for the state. Once one recognises that society is dominated by large-scale quasi-public and private institutions, possessed of powers that dwarf those of many pre-modern states, then the issue of their accountable governance becomes inescapable. We currently have an «uncivil» society: that is, one dominated by managerial elites, not one controlled by institutionally - ordered associations. The exiting forms of governance have become threadbare - accountability to Parliament for public services and to shareholders for the actions of managers in private firms. These forms of liberal accountability fail in the face, not just of big government, but also of an organisational society. Thus, the major «private» institutions - for example, firms, media networks, major charities - need to be made accountable in some direct way to the major constituencies involved in or affected by them. Public or quasi-public institutions - for example, hospitals, schools, universities - need to give voice and choice both to service providers and

to recipients. This is not an easy matter, especially when some of the most powerful private institutions are multi-national, but a political discourse circumscribed by classical liberalism has no space in which to begin to pose this issue constructively.

Noberto Bobbio, seeking to advance democracy beyond the limits of classical liberalism but without compromising individual liberty, argued that the main issue for modern democracy was not just «who votes» but «where» they can vote.⁶ Yet, this issue has become ever more difficult. The idea of a «where» where one votes depends on there being readily identifiable and coherent constituencies of interest. But modern societies do not make it easy to enhance democracy by adding a supplementary franchise to existing non-political institutions; divisions of labour and institutional patterns are complex and rapidly changing. This has also undermined the conventional supplements to liberal democratic representation: corporatist interest group representation, and industrial democracy - giving the «workers» a say in firms, through workers' councils or seats on the board. Corporatism is threatened by the decomposition of relatively homogeneous interest groups and workers' representation in companies, by both changing employment patterns that reduce the number of long-service and full-time workers and the recognition that it is no longer credible to claim that producer interests could stand for these of all other currently excluded stakeholders.

Institutional Freedoms and Particular Liberties

Classical liberals have feared any crossing of the boundary between the state and civil society as leading to the inevitable authoritarian politicisation of the private sphere. Thus, they will resist any attempt to politicise civil society and pluralise political accountability within the public sector. The very idea of a «constitution» for civil society smacks of totalitarianism. In the past this concern was legitimate, since the main threats to the autonomy of civil society in this century have been totalitarian mass parties. Yet, totalitarian political mobilisation from above is hardly a serious threat now, rather the main danger to liberty is the piecemeal authoritarianism of unchecked managerial elites. Equally, the old liberal bugbear of the «tyranny of the majority» is hardly credible in demotic societies that lack coherent leadership and are fragmented into a plurality of minorities with different values.

The problem is that old fears are still powerful and that both left and right now define freedom overwhelmingly in terms of individual rights. Modern societies are demotic, if not adequately democratic. Thus they believe that citizens

should be formally equal, and that all individuals should have the same liberties. But if institutions are to be adequately governed, and if their autonomy is to be preserved, both against the central state and the market, then we also need *particular liberties*, both for institutions and for their participants. The idea of particular liberties, that it grants of distinctive powers and rights to specific institutions and their members, was easily understood in the Medieval *Stadndestaat*. Cities, guilds, and religious corporations enjoyed privileges, specific and differential grants of power.⁷ Medieval constitutionalism was based on such powers, on rights linked to status and privilege. Modern liberalism sought to sweep such privileges away, to destroy status differences and to replace them with equal individual rights. It sought to solve the problem of liberty by making the state accountable through representative government and society free, through equal access to contract and the market.

The competitive society that classical liberalism envisaged as the basis for freedom, one in which equal individual rights would suffice to protect the autonomy of social actors, was no sooner mooted than it was threatened as a political ideal by collectivism. Liberalism overcame absolutist government and a society of privilege. It was then challenged by socialism and meliorated by reformist collectivism. In a society in which the state could be seen as the dominant source of governance, in which people were satisfied with simple uniform collective services like basic social insurance and elementary schools, and in which large-scale standardised mass production could be nationalised or regulated by the state, then liberal collectivism and democratic socialism could be seen as effective means to overcome the limits of classical liberalism and to modify the economics of *laissez faire*.

The recent of liberal collectivism and social democracy as alternatives to classical liberalism and the free market is not just a matter of political fashion. It is due to three main reasons: national states can no longer be seen as having a monopoly of public governance functions; public services have become diverse and complex - no longer simply governed and locally replicable basic entitlements; and manufacturing and commercial services have diversified in ways that make uniform central control or standardised regulation less effective. Much of this change is gain. But it also means that markets are more difficult to govern and services more diverse and, thus, less equally accessible. Moreover, even though states can less credibly claim a monopoly of governance, their powers of intervention in society and the scale and scope of their activities are formidable. Paradoxically, the contemporary state is seen as less effective and as less capable of solving problems, and yet typically it spends a higher proportion of GDP, regulates more extensively, and offers more public services than in the era when col-

lectivism was seen as the solution to the major economic and social problems. The modern state is a power that regulates and intervenes whilst speaking the fashionable languages of the new *laissez faire*.

Herein lies its main danger to freedom and democracy. The language of political choice has been replaced by that of management. Politicians see themselves as managers of a state to be devolved to managers, using financial controls and supervisory auditing to control lesser officials and contractors. Further, they support the corporatisation and contractualisation of public services, running them like private businesses, and they use public power to support the private sector's «power to manage» in a market economy. This no longer an «Anglo-Saxon» peculiarity, as other countries are beginning to follow the lead of the USA, UK and New Zealand.

In a highly centralised state like the UK, without the protection offered by a written constitution, such practices represent a serious threat to the autonomy of a wide variety of social institutions. The danger is that we are witnessing the creation of a bureaucratic monoculture spanning the public and private domains. This will proliferate, unless there is both some countervailing power and coherent alternative ideas for the direction of institutions. A managerial stratum is being created, relatively homogenous in attitudes, working methods and aspirations. Its members are able to move between the public and the private sectors, and as they do so the interests and expectations of this stratum begin to interlock.

Such a new elite is a threatening to liberty in its own way as were, for example, the centralism royal officials of the absolutist monarchy in France to the particular liberties of the *ancien régime*. Tocqueville argued for the autonomy of secondary associations from the state, precisely because he saw the consequences of the centralising tendencies of those who had inherited and implemented the programme of the bureaucratic reformers under the monarchy, the officials of the Revolution and the Empire. Montesquieu had earlier also seen that liberty depended on the autonomy of social institutions from the central state. But he argued that such autonomy must be based on specific institutions, enjoying constitutionally protected privileges and not just on individual rights or freedom state interference.⁸ Montesquieu was, of course, defending privileges, the rights and powers of nobles, lawyers, and office holders. His point, however, was that such particular liberties contributed to the defence of liberty in general. That was because they limited the power of the state, its capacity to re-define the powers of and re-make other social institutions at will. We need to return to early modern theorists of liberty like Montesquieu, because political thought since then has been predominately a struggle between classical liberals seeking to restrict the s-

cope of state power and collectivists seeking to extend it. The danger now is that the language of individual rights and equality between individuals can all too easily be turned against the defence of particular liberties of specific institutions, like the professions, or the BBC, that are necessary to wider freedoms.

The Threat of a Bureaucratic Monoculture

Our problem is that the representatives of the bureaucratic monoculture effortlessly speak the language of equality. Everyone is to be equally subject to common styles of managerial control and resistance is stigmatised as representing privileged producer interests, or as the elitist defense of professional prerogatives, or as the attempt to avoid accountability and transparency. Indeed, in an egalitarian and demotic culture, (although not one that cares much about equality of income and wealth) it is easy to mount such charges and difficult to resist them. The common people are enlisted by the new managers against claims to exceptional rights or powers.

This difficulty to resisting managerial centralisation is further compounded by the fact that we find it difficult to think of preserving the *autonomy* of institutions, that freedom for individuals depends, in considerable measure, on giving institutions constitutionally protected powers and the members of those institutions specific forms of political voice. The idea of a society consisting of constitutionally ordered self-governing civil associations is ill-developed, not least because state socialism, the main form of opposition to liberal individualism, saw democracy as being enhanced by the control of collectivist bureaucracies imposing the goals of the people. Liberals saw the danger of socialist and collectivist centralisation, of totalitarian control, but in the main they have been ineffective in opposing corporate and managerial power. The problem is that threats to liberty come in many forms and not just ideologically motivated state dictatorship or totalitarian mass movements imposing their will by the club and the jackboot.

Freedom is not threatened just by oppression; some of the most serious threats are insidious and almost invisible and, thus, difficult to resist. The most dangerous is the redefinition of freedom and liberty, away from the spheres of the political and governance. The danger is that citizens cease to identify with politics and come to see «freedom» as what they do outside of normal organisations, in the spheres of private life and leisure. Freedom at work and, in relation to social and public services, comes to appear as cranky, uninteresting and irrelevant. Better leave it to the professionals - to managers - to run things. This is just what the growing bureaucratic monoculture thrives on and is an attitude it seeks to

cultivate. The managerial stratum has been remarkably successful at redefining accountability from a political category to an accounting one and of redefining legitimate authority in terms of the prerogatives of management. Both of these redefinitions are glossed over by the apologetics of «efficiency», the claim that this is the most effective and least expensive way to do things. To tax-averse electorates, who are distrustful of politicians, such appeals are not entirely unattractive. To politicians who can lessen their unpopularity by redefining politics in managerial terms and, indeed, ceding most of the day-to-day responsibility for services (and therefore blame) to managers, this is not unattractive too. The fact is that it represents a very real threat to liberty and needs to register by an articulate language of political ideas.

Bridging State and Civil Society

Accept for the purpose of argument the notion that we can arrive at a «social constitution», a definition of those institutions that require a definite sphere of guaranteed autonomy and the forms of democratic self-governance they should enjoy. Indeed, accept that such a constitution is essential, since neither top-down collectivism nor managerial control has the legitimacy to impose the public will in an increasingly complex, differentiated and divided society. We shall need specific institutions to perform many of the governance functions that those who have favoured more than *laissez faire* in social arrangements have hitherto assigned to the state. This pluralisation and constitutionalisation of social governance has become ever more necessary, not least because the advocacy of *laissez faire* has now become the defence of corporate privilege and the power to manage. We need to develop a complex division of labour in democratic governance, bridging state and civil society, in order to cope with the complexity of an organisational society that tends to blur the two spheres.

We need to create a new balance between authority and accountability, decentralising governance within the state and increasing the political responsiveness of private institutions to those who work in them or are affected by them. A complex public service state and an organisational society have placed the central lawmaking and supervisory functions of representative government under ever greater strain. Unless democratic governance is redistributed and extended in something like the ways suggested above, then the formal institutions of representative government will be undermined because they will be too over-stretched adequately to superintend social affairs or to protect citizens from harms.

Throughout the Western world our democratic institutions remain those devised by classical liberalism for small government and a *lessez faire* society. Modern democracy has added universal suffrage to these institutions - the rule of law, parliamentary supervision of government, and governmental regulation of social affairs. Previous critics of liberal democracy such as direct democracy. This is no part of the case being made here: the institutions of representative government remain necessary, but they are inadequate if they remain trapped within the existing liberal conception of the relation of state and civil society. An extended and devolved system of democratic governance crossing the two spheres will need existing state democratic institutions, in order to ensure ultimate legal accountability, to provide legitimacy for fiscal settlements, and to act as final arbitrator when conflicts arise in and between self-governing social institutions. Thus, the institutions of liberal democracy will not be destroyed or replaced, rather they will be enhanced and preserved by being supplemented by other democratic practices within and between social institutions.

Many analysts and political reformers recognise some of the limitations of our existing democratic institutions, but few of them are willing to accept that these limitations are structural, a product of the increasingly problematic division between the public and private spheres. Communitarians, like Amitai Etzioni, seek to restore ailing institutions by changing people's values, and, thus, their attitudes and behaviour, thereby rendering major structural reforms less necessary.⁹ Other critics see the problem as a democratic deficit, as too little influence by the majority or representative citizens over public decisions. Thus greater use of referenda, electronic democracy, citizens juries, deliberative forums, and so on, will bring the people back into politics. There is nothing wrong with many of those ideas as such. The question is whether they are adequate responses to the crisis of modern democracy. Decisions are only half of the problem; the other part is the institutions that implement or administer those decisions. Even if the scope of popular decision - making were extended it would still be necessary to change the ways in which rules are enforced and services delivered, for these to affect the liberty of the citizen.

One cannot feed democratic decisions into the top of authoritarian structures and expect to get democratic outcomes. One must radically circumscribe the «power to manage», that is the whole point of trying to create a social constitution. Democratising both public and private governments, state and civil society, requires a double protection of autonomy that can only be achieved by major institutional reforms. First, the constituencies that organisations serve to have their interests protected by being given an appropriate voice within the governing

councils of such bodies, and also they need, where possible, to have the option of exit, that is, some choice between alternative providers of service in question. As far as in practicable, both public and private services need to be voluntarily subscribed to by their consumers, not compulsory or unavoidable. Second, the organisations themselves need to be guaranteed a definite degree of autonomy, a freedom from interference, which is consistent with their members having the power to make democratic decisions within their own sphere of operation. Thus, organisations need to have their autonomy protected not just against central state encroachment, but also against the kinds of top-down management by external funding agencies and internal bureaucratic elites that enable those bodies' purposes and working methods to be re-defined virtually without check. This latter requirement should be evident in the UK, where we have become accustomed to the closure of 800 year old hospitals and long-established schools by the *fiat* of ministers and bureaucrats.

The key problem is how to define, to assert and to ensure such specific liberties, for and within institutions. To advance the case for radical reform we need to combat the fact that politics has been defined into such a narrow sphere. Democracy throughout the Western world has been so reduced in form and meaning that it has become little more than a plebiscite; thus, elections empower and legitimate rulers who govern in essentially undemocratic (top-down) ways. Even in those countries where there are relatively decentralised forms of government, where politicians do make a serious attempts to consult the people about major decisions, and where they do not have the degree of exclusive control of power and of contempt for the electorate that they have in the UK, democracy still remains restricted in scope to periodic elections for national and subsidiary governments, to choosing the top personnel at each level. Those personnel, even when they are democrats by inclination, have at best a restricted capacity to control and superintend the mass of decisions and administrative actions made by governmental organs, let alone to check the big organisations that actually control «civil» society. In a classical liberal society those weaknesses inherent in plebiscitarian democracy would matter less, since the scale and scope of government would be limited. However, viewed from a strictly classical liberal standpoint, we are now living in a «post-liberal» society.

Liberty and Freedom in a Post-Liberal Society

A post-liberal society needs new kinds of defences for liberty and freedom. We cannot hope to return to a night - watchman state or a society in which private in-

dividuals could sustain production and exchange. That is utopian; the now illiberal dream of a strand of the New Right. At the heart of such new defences must be the recognition that the institutions that deliver services, whether public or private, are not just neutral administrative machines but are forms of governance. Therefore, we must be concerned not just with *what* services are provided and at what cost, but *how* they are provided and how much control recipients have over the provision. Hence, the issue of governance needs to be at the heart of the debate on the pattern of public and commercial services we receive, how they should be regulated, and what kind and what scale of institutions should deliver them.

This is a debate that the Conservatives and, indeed, most members of the political class and the policy elite have avoided. The sole issue in Britain today is how to deliver a bare minimum of public services as cheaply and efficiently as possible. Governance is either a complete non-issue or it is equated with the power to manage. Thus, political decisions have been made as if they were technical matters, questions of administrative efficiency of concern to a small circle of experts and managers. Under the regime of a political party formally committed to liberalism, a practice of social organisation and service provision has developed that pushes us even further in a «post-liberal» direction. Far-ranging political changes have taken place whilst leaving the apparent dominance of classical liberal theory unchallenged. The result is a vast transfer of political power and an effective denial that this power is political.

Thus, what amounts to a political revolution has taken place in the UK, and unlike most such changes it has been accomplished without an explicit political theory.¹⁰ The Conservative governments have permitted a widespread practice of the administration of services to develop that destroys the very idea that the providing organisations could be matters of public concern, let alone that they might and should be constitutionally-ordered civil associations. Authority has been redefined as «management», a generic skill and a domain or technical competence. Efficiency has been defined in a way that plus it apparently beyond political debate and choice. Management is not the proper concern of citizens; they should be satisfied in their capacity as consumers, by the services provided for them. Producers have no property political place at all within the organisations in which they work; their task is to be directed to their duties and monitored from above in their performance of them. Thus the Conservatives, often unwillingly, for some are genuine libertarians, have allowed a new post-collectivist and post-liberal model of the public services to develop.

This new redefinition of the nature and role of the public service state is the key point at which a much wider struggle for freedom in a post-liberal society

must begin to be fought. The capacity to resist encroachments in the public sphere, to define alternative and more democratic forms of service provision, will decide whether an ongoing struggle for greater democratisation can be sustained. Until public services can be rescued from the managerial model, there is little hope that managerial prerogatives in the private sector can be publicly challenged and new more accountable forms of corporate governance made widespread. Certainly, there is little scope for radical state legislation.

This does not mean that the job of re-building firms as more democratic organisations is impossible, merely that it is very difficult. However, the need for greater openness and accountability is real, and perhaps more credible in a world where the spectre of «workers control» can no longer be used to terrify publics into indifference to issues of corporate reform. Actually firms not merely need reform, many would actively benefit from it. Quality manufactured goods and marketed services depend not only on highly committed and skilled workers, but they are bought by increasingly knowledgeable and sophisticated consumers. Many of these firms are multi-national, but this does not mean that they are beyond governance or control, or that they will profit from an absence of political superintendence of the company. Careless companies that make short-term narrowly «commercial» decisions may suffer the wrath of consumers. Thus, an oil company that wrecks an environmentally sensitive area on the other side of the globe may find that articulate consumers in, say, Germany, are boycotting its products.

Companies can act to remedy the deficiencies of nationally-based and shareholder - oriented governance. Imagine that the company in question had created a corporate senate, a body of honourable persons representing a wide range of views and affected interests, and deliberative and advisory in its powers.¹¹ Then perhaps it would have been saved much grief if it honestly put the project in question to such a senate and accepted its majority veto. Obviously, deliberately distorted data presented to stooge senators will reduce the whole thing to a PR exercise. The company must *mean* it. Companies, if they are responsible and have far-sighted leaders, rather than just managers, can begin to build their own governance. If they need a push to start, then the churches, NGOs and the trustees of major share-holding pensions funds can help them to see the costs of pretending that top-down decisions from the boardroom are infallible.

Such changes will be slow in the company sector, but in the case of public services most of their «consumers» have no such power of boycott, and changes rely on explicit political decisions. The probable outcome is that, until public services are reformed, most citizens will be unable to affect them by the power to exit, by saying «I quit». Many public services are compulsory: some rightly so, one would not be happy if shops could choose their own environmental health officer; other

less happily so, as when contributors to basic state pensions find the real value of the asset being devalued by government policy. Other services are discretionary, but are given to those in need or who make a case at the discretion of public officials. In other cases, services are available as of right and optional in form, but for the majority of their consumers they might as well be compulsory. Thus parents having paid their taxes do not in the main have the option of foregoing state education and paying for a private school on top and most parents find it difficult to do more than their kids to the local school or accept the one that is assigned to them.

A new Welfare State

The dissatisfaction of consumers with the compulsory nature of many public services and the desire for choice has been used as an argument against public provision, and in favour of marketisation and privatisation. That is not the point being made here. In some cases only large-scale public provision and collective consumption will suffice, for example, where needs and risks are pooled in social insurance schemes against unemployment, old age, and illness. Private provision will never suffice for the majority of the population in such areas. But it does not follow that compulsory consumption through one monopoly supplier, the state, is the only way to realise these advantages of the large-scale sharing of risks. Public and state are not identical; it is possible to have publicly-funded services that give consumers a large measure of choice and control. Services can be organised so as to reap the benefits of collective funding and yet allow citizens' choice over the particular fund or service provider, and, having made a choice, the option of a measure of active voice in the control of its affairs.

Compulsory collective consumption organised from above is what has given public services a bad reputation. This failure has legitimised the marketisation and fragmentation of provision and entitlements, thereby destroying one of the supposed key advantages of public provision, common rights to a certain standard of service. The privatisation of services, in combination with chronic under-funding of those that remain public, has not given consumers a better deal or greater control - in fact bureaucrats remain firmly in charge. This reinforces tax-aversion; people feel they are getting less from the public realm and must try where possible to meet the higher costs of private provision of pensions, schooling and health for themselves and their families.

The problem then is to break the link between collective consumption and compulsion. Who would want to suffer that mixture of neglect and administrative

interference that local authority housing departments inflicted on council tenants in the past? The gratitude for basic services - the dole, a council house, payment of the doctor's bill - is long since gone and those services are no longer perceived as minimally adequate by the moderately successful. People do want to craft their own services - to have possession of their own home, to have definite pension rights, to have the choice to send their children to university. What were once «middle class» expectations have become normal. The problem is that we have not found satisfactory ways of providing them for the bulk of the population. Private provision will exclude the majority from adequate cover across the whole range of services, and tailoring public provision to cater for the poor and unsuccessful targeting resources, will alienate the majority from services they pay for, but increasingly decline to consume, if they have another option. Collective consumption remains essential for the majority; most people will not earn enough to meet all their needs from private markets and private insurance. The requirement is, however, to enable consumers to craft such collective services to their own needs, to have the benefits of common participation without the disadvantages of compulsion and subjection to administrative discretion.

Once we begin to think of collective services shaped by choice and voice, then we can begin to bridge the divide between the public and private spheres. Public pensions give too much discretion to the state in the UK, but the private insurance and pensions markets offer variations in terms and benefits are a scandal. Consumers need more protection in both spheres. If public services and private providers were both answerable in diverse ways to their consumers, then the stark divide between the two realms would be reduced. In particular, more choice and control over public offerings and facilities would reveal to people how little control they have over private welfare services, how much they are at the mercy of companies, and how little pressure markets alone enable them to assert over areas like pensions and life and health insurance. Once consumers could craft public services to suit them and had the means to exercise some political control over currently «private» services, then the difference between the two areas would tend to decline, and with it much of the current obsession with the «cost» of public services.

If the sphere of «publicity» were to be extended, creating a broad range of self-governing institutions with consumer representation, spanning the currently separate categories of state and civil society, then much of the current concern among economic liberals with lessening the role of the state would appear less relevant. It only makes sense at present, on the assumption that public provision is inherently inefficient, and that it is a net cost to successful taxpayers, who do not

want the services provided. It also only makes sense if we treat the private sector as based on the disciplines of market forces and competition that promote true efficiency, and that we ignore bureaucracy and hierarchy in the corporate sector. Whereas, of course, most firms are large organisations and plan and administer much at states do. It is only on the basis of such assumptions that an intelligent liberal like Robert Skidelsky can be so concerned to get state spending back to around 30% of GDP.¹² But, if we are less starry-eyed about the virtue of markets and also convinced that we can improve the performance of both public and private organisations, then this begins to look like a fixation with certain conventions of national income accounting. Outside of the belief that the state inevitable and inescapably wastes money in providing services, it begins to look like a preference for our giving our money to one set of managers rather than another.

Crudely put, populations need to spend so much on welfare and services, in which sectors they do so in secondary to the overall level of consumption. Thus, if the total of public and private spending on health, education and welfare is aggregated - state and private pension, spending on public and private education - then most advanced industrial countries tend to converge in their overall levels of spending. In aggregate, the society spends so much on a given of services, and the mix between public and private is secondary to that total spend. Whether it is the state of an insurance company that provides your pension, you cannot spend the premiums on other things. The balance of the sectors can only be the primary concern, if public services must offer less value *per se*.

That proposition can hardly be sustained. It would be difficult to claim that the predominately public Swedish health system delivers less care, lower life expectancy and higher infant mortality rates than does the mixed US system, dominated by private producer interests, or that it does so at a higher per capita cost. Compulsory state services may be less attractive, but they are not the only option for publicly funded services. The target of doctrinaire economic liberals is *all* forms of collective and public welfare consumption.

In a post-liberal society this rigid thinking in terms of categories of national expenditure and rigidly differentiated social sectors, in which all spending on public goods has to be justified, and private expenditure is inherently preferable, no longer makes such sense. We can then no longer oppose the rigid state to the free market. If civil society is organised rather than spontaneous, then it too is a domain of government and some of its private powers are bigger than many states. One cannot, therefore, contract «government» to «society», and treat either sector as if they had distinct and homogeneous attributes - as if being «private» could be inherently beneficial. The economic liberals can sustain their case only by pretending we live in another kind of society from the one we do. Even sophis-

ticated thinkers like Skidelsky are using a classical liberal architecture to describe a post-liberal society.

If that is the case and if modern societies spend on aggregate a great deal on welfare, then we need to start another argument, one about how welfare is to be provided *across* society, in both state and non-state, but publicity governed institutions. Such a set of social arrangements would not only be post-liberal, but also post-socialist. In such a publicity - governed mixed order, the very notions of nationalisation and privatisation would lose much of their meaning. Questions of provision would turn on the precise mix of collective and private consumption, but the majority of organisations that provided services would resemble political societies, in that they would be answerable to the interests they affected.¹³ Such a system would tend to evolve in a non-profit direction, consumers with voice would tend to constrain the revenue that managers of services could draw from their operations. Pension funds and insurance companies would be pressured towards lower levels of profit-taking and many firms would change into mutual institutions.

Principles of Associate Democracy

It will be obvious that it is impossible in the compass of a short article to even outline how consumers could particulate in the governance of services and how public provision can be combined with consumer choice. I have sketched out what such institutions might look like elsewhere.¹⁴ Reform of this kind faces serious practical difficulties. The point is that people have first to see that there is a problem, that the present state of affairs should be of concern to democrats. Then they may be willing to explore seriously the question of alternatives to bureaucratic control and the ways in which public services may be re-invigorated by active consumer choice, thereby encouraging citizen to support their costs.

Of course, it is difficult to find ways of representing some of the interests affected by organisations and, of course, it is a fact that many consumers will be reluctant to become citizens in relation to services, actively to take up the option of voice. A society in which the majority are active democratic participants is highly unlikely. That should give us enough cynicism to face the problem of devising a democracy for the moderately lazy, but not too much as to believe it to be insoluble. To have real powers over organisations people do not have to attend meetings. Given the option to craft services for themselves by choosing between providers (funds following the customer), then most people will try to make well-informed choices. If they find a service is actually grossly unsatisfactory, or ie

evolving in a direction they dislike, then they can exercise their right of exit and move to another competing provider. It is also probably the case that enough consumers will be willing to vote for the activists willing to serve on governing bodies to give these representatives sufficient legitimacy, in relation to the permanent officials. Choice, competition, and formal democratic accountability to consumers can be built into publicity-funded collective services. The question is whether we care to want to have greater freedom in relation to the organisations that constrain and control us whilst purposing to serve us.

The conception of a pluralised state and a democratised society hinted at here is not novel. It was advanced long before the social changes that might now make it possible by such thinkers as P.-J. Proudhon, G.D.H. Cole and H.J. Laski, between the 1840s and the 1920s.¹⁵ This doctrine, called associationalism, enjoyed some popularity because it appeared to offer a third way between capitalism and socialism. It was marginalised by the great wars and the intense social conflicts of the middle decades of this century, that reinforced the powers of central authority in the nation state. Yet, as we have seen, the threat of such wars and class conflicts has declined dramatically in the advanced countries, and the nation state has lost some of its monopoly hold on governance. We now have an economic and social system that has clearly outgrown the remedies of classical liberalism, but to which the ideas of nationalised ownership and compulsory state services no longer offer an attractive or credible alternative.

We also live in a world that has become, rightly and unsurprisingly, tired or utopias. Change needs to be effective, but also piecemeal and supplemental in form if it is to get started. People are tired of social and institutional turbulence, not least of that caused by the grandiose and failed promises of the New Right. People may recognise the defects of traditional forms of democracy and be convinced that conventional state authority is less effective at solving problems, but they need to be convinced that changes will be for the better. The great advantage of attempts to democratise organisations is that they can proceed piecemeal, institution by institution and sector by sector. Indeed, it would be almost impossible to introduce such changes in a «big bang» reform, since it would involve forcing consumers to choose, in effect compelling them to enter into voluntary associations. A radical alternative in the relation between state and civil society will only be accepted if it makes sense locally, in relation to particular strategies on institutional reform.

The danger is at present that the political and managerial elites are becoming so homogenous that citizens have almost no choice, within the existing system, and no alternative options. Political power then tends to become illegitimate. The

plebs having no choice, elections signify little and fail to strengthen those who win office, even if they have large paper majorities. The implicit and anti-political but very compelling doctrine of government and management we outlined above has bitten deep into the political class. In New Zealand, for example, both major parties accepted this managerialist view of the role of the state, and the public found itself with no choice at all. There is some danger that this might happen in the UK, that the Labour Party may become the vehicle for the younger more sophisticated sections of the managerialist elite. In the end, hierarchy becomes compelling for those who find themselves at to close to the top of the pile, whether in government, public services or firms. Labour seems to have conceded to the corporate sector that it will do little to disturb the power to manage. It may also see its task as running public services more efficiently, offering a slightly more open style of post-collectivist public management.

In part, Labour's caution is well justified: ill-considered radicalism could lead to electoral defeat. Competent government by a party that is not actively hostile to public services would be a distinct benefit. But this caution is also because it has lost the capacity to imagine that there are effective alternative ideas. It has embraced managerialist conceptions of government because it sees them as competence and practically. It is encouraged in this by many of its members who are themselves managers. The battle for the soul of Labour is not longer that between socialists and pragmatists, but that between those who are managerialists and those who believe we can provide better services through greater democracy.

NOTES

- ¹ Of course, some variants of corporatism saw representative government as inadequate and sought to replace it by chambers based on corporate groups. The democratic variety presented itself as a supplement to representative institutions, as a pragmatic means to link state and civil society in order to achieve economic coordination by promoting the cooperation of the major organised interests. See Alan Cawson *Corporatism and Political Theory* 1986.
- ² This is not the same as «globalisation», a process that is supposed by many commentators to have dissolved distinct national economies, placed all societies at the mercy of international market forces, and undermined any possibility of effective governance in the world system.
- ³ See J. Cohen and A. Arato *Civil Society and Political Theory*, MIT Press, Cambridge MA, 1992.
- ⁴ For Heyek see *The Road to Serfdom*, Routledge and Kegan Paul, London, 1994, and the perspective comments of Andrew Gamble in this volume. For Habermas see his *The Theory of Communicative Action* (2 vols) Polity Press, Cambridge, 1984 and 1987 - especially Volume 2.
- ⁵ Jean-Jacques Rousseau *The Social Contract and Discourses* ed. G.D.H. Cole, Dent (Everyman), London, 1913. The passage in question is «Man is born free; and everywhere he is in chains». (p.3)
- ⁶ N. Bobbio *The Future of Democracy*, Polity, Cambridge, 1987, p. 56.
- ⁷ See Anthony Black *Guilds and Civil Society in European Thought from the Twelfth Century to the Present*, Methuen, London, 1984, especially Ch. 1-7.
- ⁸ Actually despite its Marxist *parti pris*, Louis Althusser's *Montesquieu: Politics and History*, NLB, London, 1972, brings out Montesquieu's role as an aristocratic opponent of absolutism and a defender of particular liberties very well.
- ⁹ A. Etzioni *The Spirit of Community*, Fontana, London, 1995.
- ¹⁰ See P. Hirst, «Quangos and Democratic Government» in *Parliamentary Affairs* Vol. 48, No. 2, 1995.
- ¹¹ See Shan Turnbull «Reinventing Corporations» in *Human Systems Management* 19, 1991, pp. 169-86.
- ¹² R. Skidelsky, *The World After Communism*, Macmillan, London, 1995 and «Welfare without the State» in *Prospect* January 1996, pp. 38-43.
- ¹³ I am grateful to Luke Martell for emphasising the importance of involving *affected* interests and not just those within the organisation.
- ¹⁴ *Associative Democracy*, Polity, Cambridge, 1994.
- ¹⁵ See D. Nicholls *The Pluralist State* (2nd ed), Macmillan, London, 1995.