

## Liberalism's Moral Lacuna

Charles K. Rowley (ed.), *The Political Economy of the Minimal State*,  
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Reviewed by John Rogers

**T**HE collapse of communism in the Soviet Union and Eastern Europe at first encouraged liberals to believe that their ideas were in the ascendancy and would attract greater support in the West. But this has not happened. The failure of what James Buchanan has termed 'politics in the large' has not led to an acceptance that 'politics in the small' suffers from the same shortcomings. On the contrary, the general public apparently still sees no reason to alter either the scope and or role of government as usual in the West. The collapse of the Berlin Wall and central planning has been interpreted not as a victory of capitalism over socialism, but rather as a victory of democracy over totalitarianism, and the public's major concern has shifted to ensuring that anarchy does not triumph over order.

*The Political Economy of the Minimal State* consists of four essays, all previously published by the Locke Institute. Each discusses the failure of liberals to wind back the state in Western democracies. The editor, Charles Rowley, supplies an Introduction. (Reflecting their separate origins, the essays each have their own page sequence.)

The unyielding pressures of public choice in a democracy explain some of the support for 'politics in the small'. In his essay 'Economic Policy in a Liberal Democracy', Richard Wagner argues that a liberal society must reject 'the principle of the mixed economy that has become so second-nature in the post-war period in the Western democracies' (p. 6). However, this is not going to emerge spontaneously from the electorate: if anything, the popular demand for democracies to be authoritarian, which Alexis de Tocqueville identified in the mid-19th century, seems stronger than ever. As the four authors in this collection see it, the key problem is a lack of intellectual leadership from liberal academics and policy-makers.

In his essay 'Adam Smith into the Twenty First Century', Edwin West argues that for economists to be 'minimally consistent' with Smith's political economy they would need to advocate abolishing 'minimum wages, export subsidies, marketing boards, capital gains taxes, "free" education and the whole US system of central banking' (p. 37). Most economists seem to prefer piecemeal central planning, like promoting aggregate savings and raising taxes to balance government budgets. Worst of all, they tend to support governments merely because they are democratically elected. But the evidence from the last 50 years suggests that Smith was right in focusing on what government did, rather than how it was formed; relatively robust democracies such as India have floundered under bureaucratic controls and high taxes, while relatively non-democratic states such as Hong Kong and Singapore have forged ahead through low taxes and free trade. West cites Przeworski and Limongi (1993) as illustrating the lack of connection between wealth and democ-

racy. They examined 18 studies generating 21 findings since 1966, with eight finding in favour of authoritarianism, eight in favour of democracy, and five finding no relationship. West would like to see modern economists follow Smith's lead and make the case that an unfettered market with a minimal or absent government will lead to the greatest growth in economic prosperity and liberty.

How then is government to be constrained? Wagner argues for constitutional rules requiring economic policy to be conducted in accordance with the 'central principles of a liberal society' so that no policy shall 'violate the principles of property, contract and liability' (p. 49). Yet Wagner himself appears to believe that these principles could allow government to legislate for mandatory health insurance, to raise taxes, or to impose tariffs. Furthermore, even a decent constitution that sets out properly to constrain government could be rendered meaningless over time. As Epstein (1985) showed, from the 1937 *West Coast Hotel v Parrish* case, the US Supreme Court began upholding almost every economic regulation and taking of property, even though the US constitution was predicated on a division of powers and a system of checks and balances.

Similarly, reliance on the common law to constrain government would appear naive, especially as pro-government, centralist, judicial activists have become established in constitutional courts around the world. Norman Barry, in his essay 'Classical Liberalism in the Age of Post-Communism', shows how 'in the 20th century deliberate judicial intervention in common law processes has been, if anything, disruptive of its coordinating processes; it has not been aimed at correcting inadequacies in the legal servicing of a free order, as suggested by Hayek, but rather it has steered the legal order away from this' (p. 30).

A third option for constraining government is the use of a federal structure to induce competition between states. However, Barry believes that 'the federal idea itself has been badly damaged in the 20th century with the rise of uniform standards' (p. 41). We are left with the hope that there will be an 'imitative effect' of successful capitalist orders that will spread liberal ideas. Unfortunately, this too is in danger of being undermined, in this case by the rush for governments to 'co-operate' through international forums.

The failure of the traditional methods for constraining government highlights the need for liberals to make the moral case for constraining government. But they have not done so. Barry refers to a 'moral lacuna' whereby the market is justified with respect only to outcomes and not to its moral underpinnings. Anthony de Jasay, in his essay 'Before Resorting to Politics', appears to agree that utilitarianism has become the dominant true belief among modern liberals, who are liberals merely because they recognise that politics in the large won't work. But by staying within this framework liberals are likely to continue to lose the fight against politics in the small; they can never identify the full consequences of piecemeal government control, and it seems illogical to limit the scope of government, since this may prevent it from 'doing good'. Even more profoundly, utilitarianism has left liberals in a precarious philosophical position, for there are deep problems with the interpersonal measurement and balancing of utilities. As de Jasay says, it is hardly morally

justifiable to allow some people's preferences to outweigh others merely because they happen to be in power or are fashionable. Nor will arguing that freedom has some intrinsic philosophical value necessarily work, since, de Jasay argues, as an ultimate good freedom is undermined by a devastating relativism. What if the next person does not value freedom? But positing freedom as the means to an end (as some utilitarians might do) merely wrecks it at one remove.

De Jasay proposes to fill this moral vacuum by arguing that one should be presumed to be free to do the feasible. From this it follows that one should be at liberty to do something, provided that the action is not a tort that breaches someone else's liberty. One should also be able to exercise a right that has been granted by another and should be prevented from breaching voluntarily assumed obligations: that is, people should be able to contract with one another. Such a framework strictly limits coercion to deterring torts and limiting breaches of obligations. That is, if there is any role for government it should be that of the minimal state. The scope of what is validly affected by politics entirely vanishes 'for nothing, neither deductive reasoning nor experimental evidence, proves that property and contract cannot be adequately and economically protected by extra-political means' (p. 35).

De Jasay's moral approach is on very strong ground. The radical alternative to it is to assume that one is not free to do the feasible, and that one is free only to act under government licence or through the exercise of rights granted by government (as under a constitution). Yet this radical alternative is all too often adopted, even by liberals. For instance, Richard Epstein (1985) talks of individuals having 'a right to enter into a contract' based on 'a collective recognition of the entitlement'. As de Jasay says, 'it is not clear why the parties need a right to enter into an agreement they consider both agreeable and mutually binding' (p. 47).

The presumption of liberty provides a strong moral basis for the free market. It implicitly rejects the legitimacy of anything more than a minimal state. Yet a belief in the state remains deeply entrenched. Nevertheless, the biggest obstacle facing liberalism is perhaps not so much arguments against free markets as a fear of anarchy. Most people still seem to view the choice between free markets and government as one between the Hobbesian state of nature in which life is nasty, brutish and short, and the safety blanket of a benevolent government. When they start to identify the choice as one between freedom and order under free markets, and direct and arbitrary rule under government, then support for 'politics in the small' will begin to decline and liberalism will move into the ascendancy. To paraphrase the four essayists: it is up to the intellectuals.

## References

Epstein, R. (1985), *Takings: Private Property and the Power of Eminent Domain*, Harvard University Press, Cambridge, Mass.

Przeworski, A. & F. Limongi (1993), 'Political Regimes and Economic Growth', *Journal of Economic Perspectives* 7: 179-201.

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