

No. 10-07
February 2010

WORKING PAPER

**SOCIALITY, CIVILITY, AND SPONTANEOUS ORDER:
Theoretical Problems of Peter Berger's Contribution to the
Pluralism of Mediating Structures**

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(Peter Berger Conference—Draft)

Sociality, Civility, and Spontaneous Order

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Preliminary Remarks

As a participant in this conference to honor Professor Peter Berger for his rich and varied contributions, I have been asked to write a brief paper on “the Berger/Neuhaus collaboration on civil society.” Having been a pupil and subsequently close friend of Edward Shils, “mediating structures”—Professor Berger’s earlier formulation for the diverse, tradition-bearing institutions and associations of civil society—and the theoretical problems that their existence pose have long been on my mind, even though my scholarship has for the most part but by no means entirely focused on other subjects, generally the ancient Near East. Professor Berger surely understands and appreciates the view that no self-respecting scholar would today operate within the academic discipline of sociology, not only because of its crass politicization, shamelessly worn as a badge of honor, but also because of the rampant, even consciously cultivated, ignorance of its representatives. Thus, I have chosen not to follow explicitly the pursuits of my own teacher, at least as they are organizationally expressed in today’s university. In fact, of the younger generation of social theorists—Professor Berger’s generation—only three come to mind deserving of recognition: Peter Berger, the unnecessarily bitter Philip Rieff, and Shmuel Eisenstadt (and outside the English-speaking world: in Germany, Helmut Schelsky; in France, Dominique Schnapper). If you should detect a degree of ambivalence in the

foregoing, self-referential remarks about the decision I have made, you would be correct, not that my preoccupation with the cultural significance (in Hans Freyer's sense of that term in his *Theorie des objektiven Geistes: eine Einleitung in die Kulturphilosophie*) of Israel requires justification. I doubt very much that this apologia would have been necessary for Edward Shils; he certainly would not have expected it. Nevertheless, I find myself having to make it to Peter Berger, who before this conference was known to me only through his many writings. These reflections aside, I am pleased to have this opportunity to honor Professor Berger by conveying a few observations about one small, but important aspect of his work.

I

When one rereads *To Empower People: The Role of Mediating Structures in Public Policy*, one is impressed by the relevance of its arguments more than thirty years after it was published by the American Enterprise Institute. Such a continuing relevance is likely an indication of the importance of those arguments—a continuing relevance unusual for a statement of public policy. The outline of those arguments is as follows.

Berger and Neuhaus began their essay with the observation about a tension in the American political psyche, “the contradiction between wanting more government services and less government.” As accurate as this observation was in 1977, it appears to be more so today, with one important caveat: It is possible that a majority of Americans today want more government in light of our current economic crisis. How lasting this desire will prove to be remains to be seen. We need not and should not answer this question today, thereby eschewing the temptation for the putative certainty of the impressionistic pronouncements for which the social sciences have become infamous. That temptation itself very much deserves a

few remarks, even if those remarks momentarily distract us from examining the arguments of *To Empower People*.

Insofar as one recalls the warnings of Czeslaw Milosz's provocative, fanciful article, "Murti-Bing," one usually thinks of only one pharmacological consequence of the description of the Murti-Bing pill: When one took the pill, one became serene and happy, the Murti-Bing pill being an anticipation of Aldous Huxley's *soma* of *Brave New World*. However, there was another, more insidious, because less obvious, effect of the Murti-Bing pill which intellectuals, especially within the social sciences and public policy, often exhibit: the certainty of the convincing argument. One must have a position!—this expectation of having a correct, definitive view on everything, so characteristic of Marxism, is in fact to be found across the political spectrum; it was clearly present in an Alan Bloom, just as it is found today in the hapless Anthony Giddens. Modesty is often lacking in the various dishes of the contemporary intellectual's diet; yet, modesty is called for, given the "Weltoffenkeit"—to use a term from that tradition well known to Professor Berger but generally ignored in the United States, namely the philosophical anthropology of Scheler, Freyer, Gehlen, and Plessner—of the human mind. This "openness to the world" requires recognition of the difference between, on the one hand, the study of human action and, on the other, the mechanisms of the natural world; it indicates a different means in the discovery of knowledge—one that rejects the rationalist preoccupation with certainty through application of technique, as Oakeshott rightly observed in "Rationalism in Politics." To shift focus, an intellectual modesty is called for, given the American tradition of the initiative of voluntary associations and local self-rule, both of which involve the discovery of knowledge through making explicit what is tacit or often necessarily emerging.

This proper aversion to the certainty of rationalism in politics was caught nicely by Peter Berger (1991) in a later article, "The Serendipity of Liberties."

[History] is a messy, disorderly, most irrational constellation of shifting interests and passions. Serendipity, not logical consistency, marks its course: both rational understanding and rational action must reckon with the facticity of the irrational and, most important, with the fact of unintended consequences. Distressing though this is, it is a fact that most of our actions do not lead to the consequences we intended or anticipated. I would contend, following Max Weber, that this is the single most important insight to be derived from the modern historical and social sciences.

The only reservation here with what otherwise should be the starting point of graduate education in the historical and social sciences (sociology should not be an independent discipline of undergraduate study) is that where Professor Berger uses the term “irrational,” “arational” would have been appropriate. Be that as it may and to return to the arguments of *To Empower People*, given American history since the administration of Woodrow Wilson and certainly since that of Franklin Roosevelt, Berger and Neuhaus may have been correct to observe that “the modern welfare state is here to stay.”

Berger and Neuhaus sought to circumvent the deleterious, enervating influence of the overbearing, paternalistic, and ambivalently desired welfare state on the character of its citizens—an enervation already observed accurately enough in 1792 by Wilhelm von Humboldt in *The Limits of State Action*—by arguing for a public policy that would promote “alternative mechanisms” to provide social services. It was both possible and preferable to have these mechanisms provide those desired services. They were possible because they were already in place as the structures of that sphere of human activity and organization distinct from the state: the neighborhood, family, church, and voluntary association. These four institutions are mediating in the sense that they “stand between the individual in his private life and the large institutions of public life.” A public policy geared to “empowering” these four institutions as alternative mechanisms for providing social services was preferable because it would utilize structures that exist “where people are,” thereby drawing upon the meaningful attachments already held to be dear. The consequence of this public policy would be that individuals will be more “at home” in society, and the political order would be more

meaningful, thus alleviating “the personal and political crisis of modern society.” Thus, the argument of *To Empower People* revolved around three propositions: 1) mediating structures are essential to an otherwise meaning-eroding, modern democracy; 2) public policy should protect and foster mediating structures; and 3) wherever possible, public policy should utilize mediating structures for the realization of social purposes.

As I have observed, *To Empower People*, although published in 1977, remains pressing relevant today. That this is so is clear from a number of its suggestions for public policy, such as: tax policies to encourage the tenant to become a homeowner (neighborhood); breaking up the monopoly of public education through school choice (family); the involvement, in accord with the “Kulrand rule,” of religious institutions in providing social services (church); and opposition to the view that the tax exemption and deduction for philanthropic donations are forms of government subsidies, as if all financial resources belong to the state (voluntary associations). *To Empower People* may, in fact, be more relevant today than it was when it was written, given the wide acceptance of both charter schools and “home schooling” and the growing interest in a voucher system for primary and secondary education; the legacy of Jack Kemp’s public housing reforms; the “faith-based initiative;” and the ominous, repeated proposals for the state to intrude into the self-governing of voluntary associations through determining the purpose and operation (for example, composition of governing boards) of those associations, thereby overturning long-standing legal precedent, specifically the 1819 Supreme Court decision in *Trustees of Dartmouth College v. Woodward* (see, for example, *How Public is Private Philanthropy? Separating Reality from Myth*).

Such is the outline of the argument, and a pressingly important argument at that. It is possible that the merit of the arguments of *To Empower People* may, today, be more easily grasped than when it was written, given the renewed interest during the last twenty years in

Tocqueville's *Democracy in America*. One assumes that, at the time of its composition, Berger's and Neuhaus's vigorous and proper defense of individual initiative, non-governmental institutions, and the freedom of not only the individual but also his or her associations owed much to works like Richard Cornuelle's *Reclaiming the American Dream: The Role of Private Individuals and Voluntary Associations* (1965) and, above all, Robert Nisbet's wrongly neglected classic, *The Quest for Community: A Study in the Ethics of Order and Freedom* (1953). In fact, it would not be wrong to view the arguments of *To Empower America* as being an application of the implications of Nisbet's work for public policy.

II

The self-described goal of the public policy to utilize mediating structures was “to expand (what has come to be understood as) government services without producing government oppressiveness”—an anticipation of what has subsequently come to be known as “compassionate conservatism.” However, if Berger and Neuhaus were correct to observe that the modern welfare state is here to stay, then one can no longer take for granted the obviousness of the merit of the limited state. On the contrary, one is obligated to explain why an apparently welcomed, even if ambivalently so, expansive government is oppressive. Berger and Neuhaus did this in two ways. The first way, well known to students of F.A. Hayek's work, is the argument of efficiency, that is, the free market, broadly understood, is the efficient mechanism for knowledge discovery, whether price, an emerging desire, or, as in Michael Polanyi's work, the “spontaneous coherence” of the consensus of the “Republic of Science's” pursuit of a physical truth. As Berger and Neuhaus formulated this first reason of efficiency, “[mediating structures] demonstrate a great capacity for adapting and innovating under changing conditions.” Implicit in this recognition is the claim for the necessity of local knowledge—not in support of a policy for the decentralization of the activities of the state,

for, as such, those activities would still remain government-directed and controlled, but rather because the “little platoons” (to use Burke’s phrase) that stand between the individual and government provide the appropriate, i.e. efficient, means for “the initiative and responsibility essential to the life of the polity.” They do so precisely because the individual is intimately involved in their existence; specifically, he or she understands first hand their opportunities and challenges best.

Now, as has long been recognized, efficiency is not the most persuasive reason for a defense of the long-standing traditions of the mediating structures of civil society, as it need not be in accord with the manifold development of the character of the individual through the free (often inefficient) exercise of choice. (I put aside here the problem of how efficiency is to be measured, i.e. the complications of a utilitarian calculation in light of the qualitatively diverse and open-ended development of one’s character, actions, and associations.) In fact, Hayek’s justification of those traditions was ambivalent; for insofar as he understood a particular tradition to be an obstacle to an efficient market, such a tradition, given Hayek’s evolutionary perspective, was judged by him to be atavistic. This is not the place to discuss the limitations of Hayek’s otherwise impressive and often convincing analytical framework (see Grosby 2009), specifically the extent to which it remains indebted to, and suffers from, the theoretically antiquated but still influential analytical tradition of the historical distinction between *Gemeinschaft* and *Gesellschaft*. It is merely to acknowledge that a substantial justification of mediating structures and the traditions they bear must rest upon a different foundation: the pluralistic orientations of human action. And this is precisely the more significant part of the foundation upon which Berger and Neuhaus built their justification for a public policy to empower mediating structures.

Professor Berger’s insight for this more secure and significant foundation is that “all rational interests do not converge.” It is an insight that stands in opposition to the idol of the

radical rationalist: the consistent, unlimited *Gründlichkeit*, thoroughness, as Plessner (1924:14) observed in *Grenzen der Gemeinschaft*. The recognition of this pluralism in human affairs—the heterogeneity of the qualitatively distinct orientations of the mind with the attendant, respectively distinct sociality (or attachments) of those orientations, as Edward Shils put it in his 1957 article, “Primordial, Personal, Sacred and Civil Ties”—is, in fact, a long-standing one. In the sociological tradition of Professor Berger, it is to be found, albeit with wide variation, in the work of Tönnies, Simmel, Weber, Shils, and Nisbet. It is certainly implicit in another area of Professor Berger’s interests, that of religion, in the so-called chasm between “this world” and the “other world” of the so-called “axial age” (see, for example, Eisenstadt 1986).

Nevertheless, the recognition of this pluralism is assuredly beleaguered. It is to be barely found in sociology today. Despite the suggestive comments of Adam Smith in *The Theory of Moral Sentiments* and later by Frank Knight, it is for the most part absent in economics. Although formulated at length by William James (1909) and, at least as far as I am concerned, in the work of Michael Oakeshott, it is largely absent in philosophy (Grosby 2002). In jurisprudence—despite Gierke’s theoretically stimulating Rektor’s address of 1902, *Das Wesen der menschlichen Verbände*, and, under Gierke’s influence, Maitland’s “Trust and Corporation” (1904) and “Moral Personality and Legal Personality” (1903)—it hardly exists, one of the reasons for which I will briefly discuss later. By way of a digression, Gierke’s “The Nature of Human Associations” richly deserves the most careful examination by social and political theorists today, as Professor Berger’s insight poses pressing theoretical problems for all those interested in human action, association, and their political implications for liberty. The human association—if it indeed has “personality” (or is “real”) and if it indeed contributes significantly to the development of the character of the individual, thereby circumscribing his or her choice—requires us to qualify (by no means to reject in favor of

some kind of misconceived organicism, but to modify appropriately) our understanding of methodological individualism.

This is not the place to take up such pressing and difficult theoretical problems. For our purposes, it is sufficient to emphasize one consequence of Professor Berger's insight into the pluralism of human affairs for "civility"—the virtue of a citizen (Shils 1997). Civility implies acceptance or at least toleration of the legitimacy of parochial, pluralistic attachments; yet, it also implies the capacity of the individual to transcend those interests out of recognition of a common good, i.e. the ability to have an interest in disinterestedness (a reformulation of Adam Smith's observations in *The Theory of Moral Sentiments* about the "impartial spectator"). After all, an idol also ought not to be made of various, particular communities through a radical rejection of a common good. However, the latter is never obvious; it is always and necessarily relatively inchoate. There cannot be, as life is actually experienced, the common good, for there is no escape from ambiguity both in the conduct of our lives and in our conceptions. Berger and Neuhaus captured well enough the open quality of ascertaining at any point in time a common good when they wrote,

The possibility to be explored is how a common purpose can be achieved through the enhancement of myriad particular interests. This requires a new degree of modesty among those who think about social policy—not modesty in the sense of lowering our ideals in the search for meeting human needs and creating a more just society, but modesty about *our* definition of need and justice.

It has to be remembered, they continued, that a society is "composed of thousands of communities." Their very existence (always subject to change), the only relatively stable relation between them, and their always artfully adjudicated relation to the state are indications enough for why any consideration of the common good has to be an abstraction, and often a politically and morally dangerous abstraction. Of course, the axis of the political problem of *To Empower People* is the relation between a common purpose (in Berger's and

Neuhaus's formulation, "a more just society") and the diverse purposes of those parochial communities.

"Liberalism" is a term that should be understood as designating what actually were a number of different traditions of liberty. The existence of those thousands of communities that have taken shape in the absence of planning poses point blank the associational liberty of that older liberal tradition of Althusius, Humboldt, Tocqueville, Gierke, Maitland, and Nisbet. At stake here is whether or not, as Berger and Neuhaus wrote, "the state has an unchallenged monopoly on the generation and maintenance of values." At stake is whether or not the individual will be able to pursue freely his or her interests (here, fully affirming the principle of methodological individualism) that are often expressed through and take place in associations. At stake is "carrying on the tradition of the American experiment of free institutions" (Berger 1976: 130). When the state insists upon a monopoly over associational allegiances by being the sole determinant of the appropriateness of the attachments formed by individuals—a monopoly exercised in various ways, for example, tax policy, but ultimately through legal recognition, as argued for by Hobbes—then the state is oppressive. Nisbet (1953: 238-39) was right to observe that "genuine freedom is not based upon the negative psychology of release. Its roots are in positive acts of dedication to ends and values [chosen by the individual]. Freedom presupposes the autonomous existence of values that men wish to be free to follow and live up to . . . Freedom, it has been well said, lies in the interstices of authority." While Nisbet's perspective is not explicitly repeated by Berger and Neuhaus in *To Empower People*, it surely provides the framework for their statement of public policy.

III

Of the many problems implicitly raised by *To Empower People*, a few of which have been alluded to in the above comments, I shall now focus on two. Both problems have to do with

the character of law and its relation to liberty. Berger and Neuhaus observed that “American liberalism has been vigorous in the defense of the private rights of individuals.” However, they continued by noting that “private rights are frequently defended *against* mediating structures.” These observations point to an often observed dilemma of modern, democratic liberalism: The seemingly positive and welcomed legal development of furthering the rights of the individual has resulted in a mass of individuals isolated from one another, because the elevation of those rights has come at the expense of those mediating structures and thousands of communities; thus, the individual of the modern *Gesellschaft* is politically and sociologically cast adrift from those communities and, above all, rendered helpless before the increasingly powerful state. The consequence of what Berger and Neuhaus, following Burke, called “this geometrical outlook” is that “liberalism has a hard time coming to terms with the alienating efforts of the abstract structures” of the state that have “multiplied since the New Deal. This may be the Achilles heel of the liberal state today.”

Now, there are a number of complications here that have to do with the very nature of law in its relation to liberty. Let us consider a few of those complications of the first, jurisprudential problem: the rights of the individual. Already in his “Bank of Egypt Lectures” of 1955, *The Political Ideal of the Rule of Law*, Hayek had rightly repeated the well-known observation that there can be no liberty if there isn’t the “rule of law.” Liberty requires the rule of law and not of men, for otherwise there can be no safeguard against the arbitrary exercise of power. The classic requirements constitutive of the rule of law are that the law be: (1) general, (2) equal in its application, and (3) certain—three criteria that were, as Professor Berger knows, described by Weber in his magisterial *Economy and Society* as the formal qualities of law (sometimes also described as procedural criteria).

The fact of the matter is that none of these criteria are, in fact, straightforward. For

example, the so-called “positivist school of law” properly understood that in order for law to be law it must be both promulgated and enforced by the sovereign, for otherwise the law would not be general and equal in its application. However, as the positivist school further realized, there appears to be a contradiction here: How can the sovereign, variously understood, be both the author of the law and bound to the law? Hayek’s response to this conundrum was to appeal to an “opinion” outside the law, to some kind of “meta-legal principle” which the sovereign recognized as inviolable, hence, bound by, specifically, the maintenance of a (often difficult to demarcate) private sphere and private property. The boundary conveyed by this “meta-legal” principle is necessary because whenever the state acts, even when in accord with the rule of law, it interferes with something. Only by recognizing an extra-legal boundary that restricts the actions of the state could the rule of law be upheld, and, thus, freedom be made secure. The recognition of such a “meta-legal” principle is, in the history of jurisprudence, a long-standing one, for example, the ancient, rabbinic tradition of the “meta-legal principles” of the so-called Noahide commandments—honoring one’s contract, the establishment of courts of law, and the prohibition of murder—and the reception of that tradition during the 17th century in the work of, for example, John Selden.

For our purposes, we need not continue with this particular problem of jurisprudence other than to note two complications. The “geometrical outlook” of the legal rights of the individual, *qua* individual, is, in fact, endemic to the rational development of law itself consider, for example, the Chinese tradition of legalism of Shang Yang (fourth century B.C.E.) and related rationalist developments, for example, the first century C.E. writings of Wang Ch’ung); it is by no means a consequence of the modern crisis of liberal democracy and its state other than to observe correctly that this development has been clearly aggravated. Furthermore and importantly, insofar as the formal or procedural criteria of this

increasingly rationalized development of the law must ultimately rest upon some kind of extra-legal opinion (described by some as “natural”) and recognized as such by the citizenry, then it is not accurate to describe modern liberal democracy as exclusively or even predominately a meaning-eroding *Gesellschaft* of directionless individuals. On the contrary, those legally substantive principles of both a sphere of privacy and private property are held to be dear by the members of the society. They are integral to its consensus. These precious, meaningful components of the consensus, or collective-self consciousness, of modern liberal democracy is usually obscured, often willingly so, by the overly polemical term “modernity.”

The second problem, more relevant to the explicit concerns of *To Empower People*, is related to the first, as it is also a matter of jurisprudence. Insofar as the two criteria of the generality of the law and equality before the law are restricted to being applicable to individuals, what then of the legal rights, if any, of the mediating structures and thousands of communities? This is the obvious problem conveyed by the above quotation from *To Empower People* about the “Achilles heel of the liberal state.” This is the problem, as Professor Berger knows, of what was described by Weber in *Economy and Society* as “special law” or “extra-state law,” where autonomous associations have their own law that, furthermore, is enforced by them. It is certainly the case that historically the autonomy of such legal communities has been undermined. One today finds such a *Rechtsgemeinschaft* only in the example of the Church and perhaps, but obviously decreasingly so, in the federal structure of our government (the university today is no longer a *Rechtsgemeinschaft*, as the state ultimately decides upon the criteria for hiring, retention, and promotion). Be that as it may, the theoretical problem of the *Rechtsgemeinschaft* in the modern state remains enormously important. If one recognizes the “special law” of autonomous bodies—the logical and serious extension of the arguments of *To Empower People*—does doing so compromise one of the requirements of the rule of law, specifically, equality before the law?

This problem of law independent from the state—a legal dilemma indicating, as did the previous problem, acute complications of the ideal of the rule of law—has also been a long-standing one. It is by no means a problem specific to the so-called Enlightenment and its rationalistic, geometrical outlook. Historically, it is the problem of Roman law in contrast to common law. Failure to understand both of these problems as long-standing ones inherent to the very nature of law, the antinomies intrinsic to its logical development, contributes to a misunderstanding of the unfolding of modern society.

While these acute legal problems were not explicitly pursued in *To Empower People*, Berger and Neuhaus did not shy away from other implications of the pluralism of their recommended public policy. They forthrightly and courageously admitted that their recommendations were actually a defense of discrimination, as “discrimination is the essence of [the] particularism [of the mediating structures and thousands of communities of civil society], and particularism is the essence of pluralism.” Furthermore, they argued, “the goal of making and keeping life human depends upon our learning again that parochialism is not a nasty word.” They were well aware that “some critics [of their recommendations] will decry our proposal as ‘balkanization,’ ‘retribalization,’ ‘parochialism;’” but they frankly responded to such anticipated criticisms by asserting that “tribe and parochial are not [should not be] terms of derision.” Now, the political and legal problem here is an obvious one.

To counter the objection that their proposal would lead to the undermining of the rule of law, Berger and Neuhaus insisted upon a difficult, artful distinction, “public policy should be discriminating about discriminations;” that is, public policy should not “fail to distinguish between discrimination and discretion.” The difficulty here is locating the boundary between illegal discrimination and an appropriate discretion that would restrain an over-reaching state by defending, even promoting the particularism of mediating structures and parochial communities. Clearly, it is difficult to determine the extent to which those mediating

structures and thousands of communities are or should be legally autonomous, that is, insisting upon the legitimacy of a specific, discriminating particularism. The merit of the arguments of *To Empower People* is that it put this difficulty squarely before us. And it did so in a way that makes those arguments compelling by deflecting the accusation of illegal discrimination through turning to the “inherited particularities” of family, neighborhood, and church.

IV

By turning to the family, neighborhood, church, and voluntary association for the implementation of a public policy to provide social services separate from the administrative bodies of the state and potentially distinct from the state’s directives, Berger and Neuhaus sought to rely upon, and thereby foster, attachments already held to be dear. Only such a perspective has the chance of reinvigorating the American tradition of individual initiative with broad philanthropic consequences. This much is certain, at least from the stand point of public policy. Less certain is whether or not the proposals of *To Empower People* can avoid resulting in these mediating structures becoming not much more than handmaidens of the state. There is a potentially dangerous undercurrent to Berger’s and Neuhaus’s proposals, for example, the eventual dependency of these institutions on the state’s coffers (the example of the university after World War II being a case in point.) Putting aside this important problem that may unfortunately be unavoidable today in the world of public policy, as a generation has passed since *To Empower People* was written, how should its recommendations be judged?

From only the narrow perspective of how public policy is usually evaluated, the consequences of the implementation, however happenstance, of Berger’s and Neuhaus’s recommendations have occasionally been encouraging. One today ought to be impressed by

the tidal wave of interest in school choice and homeschooling, continuing defense of the right of testation (including opposition to the “death tax”), and the continued vitality of religious institutions. Even restricting ourselves to the question efficiency, the bureaucratic ineptitude of the state is today generally taken for granted throughout the citizenry. There are thus a few reasons for a qualified optimism.

Nevertheless, the jurisprudential problems raised in the above remarks reminds us of Weber’s dire evaluation of our time. It may be that Weber had a tendency to be overly dramatic and occasionally too pessimistic in some of his views. It is difficult to say or perhaps too early to say. We do not have to take the Murti-Bing pill. Be that as it may and even though much of the sociological discussion about “mass society,” the “lonely crowd,” and, more recently, “bowling alone” is, at best quite superficial, being fraught with exaggeration and inaccuracy, it is still hard to imagine today a civil society constituted by institutions with substantive legal autonomy. Where does this situation leave us?

The, I think, proper answer to this question was already provided by Berger and Neuhaus in *To Empower People*, when they wrote,

It might be argued that the redirection of public policy proposed here is in fact naïve and quixotic. A strong argument can be made that the dynamics of modernity, operating through the megastructures and especially through the modern state, are like a great leviathan or steamroller, inexorably destroying every obstacle that gets in the way of creating mass society. There is much and ominous evidence in support of that argument. While we cannot predict the outcome of this process, we must not buckle under to alleged inevitabilities.

This answer is a mature call to realism without the paralysis of despair. The increasing desire for various services, likely a consequence of the historic rise in the standard of living and the longevity of life, is legitimate, and, in any case, impossible to deny. The problem with the desire is that its realization is viewed by many as only possible through the initiative and direction of the state. That this is so indicates that much of the tradition of liberty and the American experiment of free institutions has already been lost. There are, to be sure, counter-

trends, for example, the widely shared recognitions of both the bureaucratic ineptitude of the state and the unintended consequences of human action, or, in the idiom of the day, the “moral hazards” of state intervention into, and control of, the market. The fostering of these recognitions and other counter-trends requires diligence and patience. It certainly requires, among a number of things, that the American experiment of free institutions continues so that those unintended consequences can be taken into account (or “adjusted to”), rather than those consequences becoming a dead weight on individual initiative and responsibility, thereby both distorting the means to new discovery and stifling the character of human beings.

REFERENCES

- Berger, Peter L. 1976[1977]. "In Praise of Particularity: The Concept of Mediating Structures" in *Facing Up To Modernity* (New York: Basic Books), 130-41.
- Berger, Peter L. and Neuhaus, Richard John. 1977. *To Empower People: The Role of Mediating Structures in Public Policy* (Washington, D.C.: American Enterprise Institute)
- Berger, Peter L. 1991. "The Serendipity of Liberties" in Richard John Neuhaus, ed., *The Structure of Freedom: Correlations, Causes, and Cautions* (Grand Rapids, MI: Wm. B. Eerdmans Publishing), 1-17.
- Brody, Evelyn and Tyler, John. 2009. *How Public is Private Philanthropy? Separating Reality from Myth* (Philanthropy Roundtable)
- Eisenstadt, S.N. 1986. *The Origins and Diversity of Axial Age Civilizations* (Albany: State University of New York Press)
- Grosby, Steven. 2009. "Philanthropy and Human Action," *Conversations on Philanthropy*, forthcoming.
- Grosby, Steven. 2002. "Pluralism in the Thought of Oakeshott, Shils, and Weber," *Journal of Classical Sociology* 2.1: 43-58.
- James, William. 1909. "A Pluralistic Universe" in *William James, Writings* (New York: The Library of America), 625-819.
- Maitland, Frederic William. 1903[1936], "Moral Personality and Legal Responsibility" in *Maitland: Selected Essays* (Cambridge: Cambridge University Press), 223-39.
- Maitland, Frederic William. 1904[1936], "Trust and Corporation" in *Maitland: Selected Essays* (Cambridge: Cambridge University Press), 141-222.
- Milosz, Czeslaw. 1951[1990], "Murti-Bing", reprinted in *The Captive Mind* (New York: Vintage), 3-24.

Nisbet, Robert. 1953[1990]. *The Quest for Community: A Study in the Ethics of Order and Freedom* (Oakland, CA.: ICS Press)

Plessner, Helmuth. 1924. *Grenzen der Gemeinschaft: Eine Kritik des sozialen Radikalismus* (Bonn: Friedrich Cohen)

Shils, Edward. 1997. *The Virtue of Civility: Selected Writings on Liberalism, Tradition, and Civil Society*, edited and introduction by Steven Grosby (Indianapolis: Liberty Fund)