

Social Provision and the Strong Liberal State: Explaining Hayek's Support for a Universal Basic Income

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"It ought to be freely admitted that the market does not bring about any close correspondence between subjective merit or individual needs and rewards. It operates on the principle of a combined game of skill and chance in which the results for each individual may be as much determined by circumstances wholly beyond his control as by his skill or effort."
-F.A. Hayek¹

Abstract: Universal Basic Income is a resurgent proposition. A strange coalition of contemporary scholars from Carole Pateman to Charles Murray, Claus Offe to Michael Munger, and Philip Pettit to Bruce Ackerman has emerged to advocate for various conceptions and institutional designs of guaranteed direct cash transfers meant to combat abject poverty. Of course, the idea is not new. Thomas Paine, Henry George, and Milton Friedman, among others, all advocated for some form of minimum income guarantee. Unlike the thinkers listed so far, however, one theorist provided very little justification for his support: F.A. Hayek. That Hayek would suggest a guaranteed income is itself surprising; that he offered precious little by way of explanation creates a puzzle. This paper takes up the question of Hayek's call for a basic income by placing this support within the context of his larger political theoretical project. I conclude that the Hayekian model of social provision through a guaranteed basic income hopes to ensure a sufficient standard of living without hindering the market allocation of resources according to the price mechanism. Crucially, for Hayek, the joint benefits of the market and a basic income provide a system of social provision which buttresses and strengthens the classically liberal state rather than undermining its foundation.

¹ Hayek (1967), 172

Why would F.A. Hayek, of all people, support a guaranteed basic income? He repeatedly suggested something resembling a basic income as part of his model constitution and declared it consistent with liberal principles, but, unlike most advocates for a basic income, Hayek never provided an extended discussion of this support. I hope here to provide an explanation by placing a basic income within the context of Hayek's larger political project. His constitutional theorizing was focused on the principles and institutions of a durable liberal state. He was also (in)famously an uncompromising critic of the welfare state. An explanation of why Hayek saw these commitments as congruent rather than in tension is crucial to understanding why something like a basic income is his suggested form of social provision. I argue that, for Hayek, the joint benefits of the market and a basic income provide a system of social provision which buttresses and strengthens the liberal state rather than undermining its foundation.

More fully, my claim is that Hayek's unique contribution to theories of social provision rests on his unwavering defense of a strong, resilient state committed to classically liberal principles. For Hayek, the advantage of a basic income scheme is that it rests on neither political bargaining nor economic rationality. Furthermore, most scholars currently studying basic income direct their attention to an analytical consideration of the proposal in relation to ideals such as some conception of freedom, republican citizenship, equality, or a particular theory of justice. Hayek, alternatively, begins from the assumption that human understanding is limited such that we cannot hope to successfully construct a rational system of social provision that relies on more than a political decision. Attempts to finesse market outcomes to better approach philosophical ideals assume an untenably hubristic understanding of something called the "economy." Similarly, utopian visions of a more ambitious social state necessarily require an identity of political ends incompatible with basic liberal freedoms in a pluralist world.

With an unwavering theoretical foundation in the limitations of human understanding and design, Hayek's social system and advocacy of a basic income represent an alternative to interventionist and neoliberal constructs, both firmly rooted in optimistic assumptions of the capabilities of human rationality. Hayek consistently asserted that both political and economic hubris lead to weakened democratic institutions and potential system collapse. A close contemporary observer of Weimar and a careful reader of Carl Schmitt, Hayek believed liberalism occupied a precarious position in the political world. The system of social provision within the Hayekian political project is foundationally committed to the preservation of liberal principles within a healthy state. Far from attempting to dismantle the state, Hayek sought to attend to human well-being in a way that produced durable institutions relying neither on assumptions of human rationality nor uniformity of higher ends. The political decision to provide each citizen with a guaranteed level of material resources makes no utopian promises. Hayek never attempted to justify a basic income on aspirational grounds of increased equality, more efficient market operation, nor greater communal understanding among citizens. To make such promises would have been to falsely guarantee something the causal foundations of which we have no sure way of anticipating, to claim an understanding of the mechanisms of social cooperation we cannot hope to achieve. A guaranteed income, for Hayek, was the system of state social provision best capable of ensuring the fundamental material needs of human life without weakening the liberal state necessary to protect the principles of freedom.

Basic Income

Basic income is a resurgent proposition with an uncommon coalition of advocates. Contemporary scholars from Carole Pateman to Charles Murray, Claus Offe to Mike Munger, and Philip Pettit to Bruce Ackerman have argued for various conceptions of guaranteed universal direct cash transfers. As this section will discuss, while their respective proposals have distinct

theoretical concerns, varying institutional designs, and divergent motivations there is nonetheless a general coalescence around the idea of providing citizens cash grants to combat abject poverty. This paper is not the place to offer a comprehensive review and analysis of these various suggestions, but a brief overview will hopefully provide context useful in conveying and clarifying the rather idiosyncratic reasons behind Hayek's support for a basic income.²

Before attending briefly to these contemporary designs is important to note that like most political ideas, current interest in basic income reflects a resurfacing of old suggestions with long histories of variation yet which possess a connecting logic. Two of the earliest advocates for universal direct cash transfers, Thomas Paine and Henry George, asserted common ownership of natural resources to suggest universal direct cash payments paid for by taxation on natural land holdings.

Thomas Paine distinguished between natural and artificial property. In *Agrarian Justice* Paine asserted: "There are two kinds of property. Firstly, natural property, or that which comes to us from the Creator of the universe,--such as the earth, air, water. Secondly, artificial or acquired property,--the invention of men."³ For him, natural property was prior to and distinct from that created by labour, and thus natural resources and land could not be singled out for private ownership. Paine ultimately proposed a tax on land ownership and the distribution of a social provision from those funds. He explained, "it is the value of the improvement only, and not the earth itself that is individual property. Every proprietor, therefore, of cultivated land, owes to the community a *groundrent* (for I know of no better term to express the idea) for the land which he

² Van Parijs and Vanderoright (2017) is the best place to begin for just such a comprehensive review of the theoretical literature on the topic. They also defend a basic income on what they identify as liberal-egalitarian grounds.

³ Paine (1797), iii

holds; and it is from this groundrent that the fund proposed in this plan is to issue.”⁴ Paine’s plan took the form of a guaranteed capital endowment to each citizen at the age 21, meant “as compensation in part, for the loss of his or her natural inheritance, by the introduction of landed property.”⁵ For Paine, social provision did not mean discarding private property rights but rather the careful distinction between nature which is prior to labor and the subsequent cultivations of that natural, communal endowment.

Similarly, for Henry George the crucial distinction was between that which exists in nature and that which is produced by labor. His language, however, was more forceful than Paine’s. George gave a relentless defense of private ownership of the products of labor but claimed such labor is the only legitimate path to private ownership. He explained: “Hence, as nature gives only to labor, the exertion of labor in production is the only title to exclusive possession. This right of ownership that springs from labor excludes the possibility of any other right of ownership.”⁶ This allowed for a simultaneous defense of private property in wealth and a condemnation of property in land and served as the basis of justice for George. He argued that to conceptually unite property in wealth and property in land is to “confuse all thought when we come to consider the justice or the injustice, the right or the wrong of property.”⁷ For George, we are all ultimately but “tenants for a day” on this earth.⁸ As such we have no claim to those things prior to our own labor. We did not create the natural resources of the world and can have no ownership over them. In the Georgian model, our self-ownership entitles us to the products of our labor and the subsequent wealth generated by the improvement, exchange, and use of those products. This

⁴ Ibid., 8 (original emphasis)

⁵ Ibid., 10

⁶ George (1938), 302

⁷ Ibid., 303

⁸ Ibid., 304

same self-ownership, however, can make no claim on the natural world in whose creation we had no part.

For both Paine and George this understanding of the natural world and its resources as the site of the commons creates the justification for proposing a tax on land ownership, the revenue of which was to be distributed as social provision. Paine suggested the *groundrent* be used to fund both a capital grant to be received on one's twenty-first birthday, as well as an annual sum to be paid once a person had reached the age of fifty.⁹ George, notably, was even convinced the "proceeds of his Single Tax would be sufficient to eliminate most poverty from the face of the earth."¹⁰ Paine and George, however, are distinct from most subsequent advocates in grounding their justification for direct cash benefits in a defense of communal rights to ownership of natural resources.

Turning to more contemporary scholarship, thinkers from a strikingly diverse range of ideological commitments have offered various forms of basic income or capital grant schemes. Scholars generally working in the republican tradition have provided some of the most intriguing and wide-ranging discussions and debates around the relative merits of basic income, capital grant, and job guarantee propositions. Republicans such as Carole Pateman, Philip Pettit, and Stuart White have considered whether a basic income may provide an effective institutional framework conducive to both active citizenship and freedom as non-domination. Pettit has argued that any republican argument for a basic income program must meet two criteria, namely *adequacy* and *independence*.¹¹ Under this framework, the income provided should be "intuitively" adequate and be provided independent of any conditions that could lead to the nullification of

⁹ Paine, 10

¹⁰ Zwolinski (2016), 16

¹¹ Pettit (2007)

payment or stigmatization of the recipients.¹² Pettit argues that a basic income meeting these two requirements better facilitates a true freedom of non- domination than could be justified under a liberal alternative. Furthermore, the republican argument for a basic income -- as opposed to a liberal one -- necessitates that payments be considered a universal right which “symbolizes the fundamental equality of all in relation to the collective provisions of government.”¹³ For Pettit, a conditional payment -- whether dependent on some form of work or service rendered or means-tested -- undermines the civic equality of republicanism while simultaneously placing the recipient under a condition of domination incompatible with core republican commitments.

Pateman largely agrees with Pettit, though her focus is primarily on the potential for a basic income to alter what she sees as the inherently dominative nature of employment. Pateman understands employment to be “undemocratic, a vast area of hierarchy and subordination within supposedly democratic societies.”¹⁴ A basic income allows the worker the option to leave any employment context in which he understands himself to be dominated by his employer. This decoupling of some level of income from employment, Pateman argues, provides a level of economic security which also undercuts the dominating nature of other social institutions such as marriage and other familial arrangements. That is to say, “the importance of the opportunity not to be employed” is enough to recommend a universal and unconditional basic income.¹⁵

Other republican theorists, however, are concerned that an unconditional guaranteed income will undermine the commitment to engaged citizenship. Stuart White, in a number of places, has called for a coupling of the duties of citizenship to a right to income. Thus, while sharing Pateman’s concern about the domination inherent in employment, White adds the worry

¹² Ibid., 2

¹³ Ibid., 6

¹⁴ Pateman (2007), 4

¹⁵ Pateman (2004)

that excessive time spent in gainful employment forecloses the possibility of spending sufficient time attending to the tasks necessary for active, engaged citizenship. Furthermore, he is skeptical that a basic income alone will in fact encourage citizens to take up the necessary responsibilities required for self-government. He suggests that simply providing citizens with more choice in how to spend their time is insufficient. So, he proposes that in addition to a guaranteed income there should be a formal restriction on the number of hours a person may work. He explains that this formal restriction is based in the “duty to invest sufficient time and energy in the project of being a responsible democratic citizen.” Additionally: “This is a *duty*. And, to some extent duties trump choice.”¹⁶ For White, while a basic income may be necessary for a republican commitment to non-domination, alone it is insufficient to fulfill the additional republican commitment to active citizenship.

Also concerned with engaged citizenship, Ackerman and Alstott have argued for a capital grant program rather than a basic income guarantee.¹⁷ Under their plan, each citizen would be provided a grant of \$80,000 (in 1999 dollars), to which a few conditions are attached. Namely, each recipient must prove attainment of a high-school diploma or GED, the payments are to be given in separate \$20,000 installments rather than a lump sum, and each “stakeholder” (citizen) would be required to repay the grant over the course of their lifetime.¹⁸ Ackerman and Alstott hope such a program would reconcile the demands of liberalism and republicanism through the cultivation of a new liberal communitarian culture of stakeholding citizens.¹⁹

A number of progressive and leftist theorists have also called for a basic income. The dominant concerns in this literature have been the transformation of work and the compatibility

¹⁶ White and Leighton (2008)

¹⁷ Ackerman and Alstott (1999)

¹⁸ Ibid

¹⁹ Ibid., 43

of a guaranteed income with existing programs of social provision. In stark contrast to libertarian supporters (discussed more below) of a basic income, leftist advocates are most interested in showing how that program should be but one part of an extensive program of social provision. That is to say, rather than an alternative to the contemporary welfare state, for progressive and leftist thinkers the basic income is but one necessary element of a larger program.

In regards to work, Purdy lists four benefits of a basic income: (1) personal income would be divorced from employment (2) total work time devoted to waged work would be reduced and redivided (3) the economy would be reorganized towards ecological sustainability and (4) dependent and alienated forms of labour would be phased out.²⁰ As part of a more comprehensive reorganization of the economy in service to standard socialist objectives, a basic income would be especially powerful as a strategy to free labour from capital. No longer dependent on employers for the sustenance of life, workers could truly retain the fruits of their labour. Purdy argues that organized labor will be necessary to any political success a basic income may have, and it is with the needs of labor that any BI proposal should be primarily concerned.²¹ Ultimately, for Purdy, the argument for a basic income rests on the ability for the proposal to alleviate toil and return the control of the labour market to organized labour itself.

More recently, Raventós has argued a basic income is necessary to combat neoliberalism. While simultaneously noting Milton Friedman's support of a negative income tax and dismissing him as a neoliberal "in marked decline in terms of any intellectual influence", Raventós argues the far more important theoretical genealogy for the basic income is rooted in Robespierre, the 'Charles Fournier Collective', and James Tobin.²² As he puts it, rather than "aiming to dismantle

²⁰ Purdy (1988), 201

²¹ Ibid., 257

²² Raventós (2007), 15

the welfare state”, the basic income is better understood as being motivated by a concern to “improve the conditions of the economically disadvantaged members of society.”²³ His primary concern, then, is showing that far from an alternative to the welfare state, the basic income should be understood as one part of the continuing construction of welfare programs towards socialist ends. As we’ll see, this is in stark contrast to Hayek, and in a near inversion of Hayek’s argument Raventós asserts the crises towards which a basic income is primary aimed is not the growth of the weak total state, but rather the neoliberal dismantling of a weakened welfare state itself.

Unconvinced that leftists should embrace a basic income scheme, Alex Gourevitch has argued that rather than focusing on individual bargaining power, advocates for true workplace democracy must instead focus on “practices and policies that permit the greatest opportunities for workers to exercise their own collective agency to free themselves from their subjection”.²⁴ For Gourevitch, class power is the surer and necessary path towards truly emancipatory workplace democracy. A basic income, he argues, is as likely to undermine as increase that power.²⁵

It is perhaps not surprising, then, that other scholars have emphasized full-employment over basic income or capital grant schemes. Philip Harvey has argued that a full employment program is preferable insofar that it alone allows for true choice in employment.²⁶ Specifically, he invokes the *Universal Declaration of Human Rights* which enumerates the “right to work, to the free choice of employment, to just and favourable conditions of work and protection against unemployment.”²⁷ Noting that nearly all contemporary advocates for a basic income argue only

²³ Ibid

²⁴ Gourevitch (2016), 26

²⁵ Ibid., 25

²⁶ See Harvey (2007), (2011), and (2012)

²⁷ Harvey (2012), 6

for a payment sufficient to meet basic human needs rather than for a comfortable standard of living, Harvey asserts that the former is insufficient to meet the standards of freedom often invoked by advocates. Because a basic income would not “compensate [the worker] for her lost job”, only a guarantee of alternative employment would allow the worker to have an actual choice in the decision whether to give up employment at a specific firm.²⁸ Flipping the usual basic income script, Harvey argues that it is precisely the universal and unconditional nature of that proposal which fails to compensate for non-wage work which it enables. More precisely, he claims a basic income proposal cannot fill the gap between paid and unpaid work. The worker who gave up employment even within a basic income system would fail to be provided a “new source of income to replace what she lost by resigning her job.”²⁹ Because she would have been receiving the guaranteed income check before resigning her employment, the worker would necessarily be taking a large pay decrease in making the decision to give up work she may feel is dominating in nature. It is this income gap Harvey wishes to address in advocating for a full-employment scheme over a basic income alternative.

Finally, Charles Murray, Matt Zwolinski, and Mike Munger have followed Milton Friedman in advocating for some form of income guarantee from a libertarian perspective. Zwolinski and Munger have provided useful commentaries and guides to a basic income argument within a libertarian and classical liberal framework. Zwolinski has concentrated on questions of property and just ownership, ultimately arguing that the Lockean proviso within a Nozickian framework for just property ownership may indeed require a tax-financed social safety net.³⁰ For Zwolinski, a basic income would seek a “standard of sufficiency, not of equality”, but

²⁸ Ibid., 14

²⁹ Ibid., 15

³⁰ Zwolinski (2015)

would nonetheless be a “necessary precondition of the legitimacy of property rights in the first place.”³¹ Munger, on the other hand, has argued that there is no libertarian obligation to provide a basic income, but that it would nonetheless be a useful and legitimate institutional choice from that perspective.³² Munger calls for what he has termed “Hayekian Socialism” in order to better ensure market exchanges are truly “euvoluntary”.³³ Neither Zwolinski nor Munger however, have laid out a full program.

Charles Murray has suggested a proposal that is both detailed and straightforward.³⁴

Namely, he offers for consideration a constitutional amendment (though he admits the language would have to be more precise):

“Henceforth, federal, state, and local governments shall make no law nor establish any program that provides benefits to some citizens but not to others. All programs currently providing such benefits are to be terminated. The funds formerly allocated to them are to be used instead to provide every citizen with a cash grant beginning at age twenty-one and continuing until death. The annual cash grant at the program’s outset is to be \$10,000.”³⁵

The annual grant amount is to be tied to some metric, such as median income or inflation, and adjusted over time. All programs that are “unambiguously transfers -- Social Security, Medicare, Medicaid, welfare programs, social service programs, agricultural subsidies, and corporate welfare” are to be eliminated.³⁶ Every adult citizen is to receive the annual payment without condition or contingency. Over the course of the short book, Murray discusses the implications of the plan for the individual pursuit of happiness, health care, poverty, and work. In the introduction of the book, he begins by telling the reader he is motivated by what he sees as the failure of New Deal measures and the War on Poverty. This argument for a basic income

³¹ Ibid., 523-524

³² Munger (2012)

³³ Munger (2014)

³⁴ Murray (2006)

³⁵ Ibid., 10

³⁶ Ibid., 12

highlights the vast gulf in expectations and aspirations for a basic income between scholars like Murray and Raventós. It also shows why it is necessary to understand the basis and logic of support behind various calls for basic income – motivations matter when they differ so starkly.

Murray claimed ominously that the “welfare state produces its own destruction”; this provides a useful bridge to Hayek.³⁷ Hayek made clear his support for something like a guaranteed minimum income scheme yet, unlike the scholars just discussed, provided relatively little explanation for this support. Hayek was no conventional liberal and very few of the reasons provided by other liberal, neoliberal, and libertarian advocates of a basic income fit comfortably within a Hayekian framework. Zwolinski, for example, has offered in a short piece one partial explanation for Hayek’s support, but it relies on a particularly republican interpretation of the latter.³⁸ While it is certainly true that Hayek’s definition of political freedom, “freedom from coercion by the arbitrary will of others”, has “deep affinities with the classical republican tradition”, Hayek’s overall political project contains hardly any concern for either citizenship or virtue.³⁹ That is to say, many republican defenders of a basic income, such as those mentioned above, build upon commitments with which Hayek either hardly engages or outright rejects. Additionally, rather than seek to move beyond, as most republican theory does, the dichotomy of positive and negative rights, Hayek is explicit in proclaiming “the basic principles of a liberal society may be summed up...by the overwhelming importance of what I like to call THE THREE GREAT NEGATIVES: PEACE, JUSTICE AND LIBERTY”.⁴⁰ Hayek’s own liberalism is thoroughly developed, nuanced, and complex—thus, it is preferable to seek an explanation for his support of basic income by situating the scheme within his own larger political project than looking for an

³⁷ Ibid.

³⁸ Zwolinski (2013)

³⁹ Ibid

⁴⁰ Hayek (1967), 177. Original emphasis

answer by way of force-fitting his thought into another tradition. To that end, the next section argues that Hayek's larger political project was focused on the legal and constitutional theorizing for the institutions of a durable liberal state constrained by the limited capabilities of human reason.

Hayek's Political Project and Critique of the Welfare State

Hayek was a social theorist who directed his considerable range of inquiry towards better understanding how to preserve and further protect liberal social order during a century in which its survival was perpetually in question. He can only be fully understood if read as a student of the "crisis of civilization."⁴¹ Far removed from Rothbardian anarcho-capitalism, Hayek was trying to save the modern liberal state grown weak in its totality.

This interpretation is rooted in a study of the impact of Carl Schmitt on Hayek's thought.⁴² Hayek was a continuous and close reader of Schmitt. Whereas Hayek's indebtedness to the Scottish Enlightenment and other liberal thinkers is widely and explicitly evident throughout most of his social theorizing, the political and constitutional elements of his thought are steeped in consideration of, and reaction to, the man he once called the "crown jurist" of the Nazi regime.⁴³ From Schmitt, Hayek recognized that liberalism and its defense must be political.

Hayek found in Schmitt the most compelling diagnosis of the development and precariousness of the weak, total state. Much of Hayek's subsequent theorizing of law and constitutionalism represents an attempt to theorize a liberal state capable of affirmatively deciding for and protecting the primacy of liberal principles. Largely convinced by Schmitt's

⁴¹ Boucher (2015)

⁴² The study mentioned comprises the first chapter of the larger dissertation project, while the present essay is located within the third chapter.

⁴³ Hayek (1967), 169

analysis of Weimar's constitutional crisis, Hayek responded by investigating the foundations of a stronger more durable liberalism. Hayek's legal and constitutional project represents a liberalism leaving behind the passive neutrality of the weak state doomed to impotent totality, and instead positively deciding for and guarding its foundational liberal principles.

That the total state was both a product of weakness and incompatible with the preservation of liberal principles became clear to Hayek through his reading of Schmitt. The "extraordinary student of German politics" made Hayek vividly aware of the "weakness of the government of an omnipotent democracy", but Hayek refused to follow him down "both morally and intellectually the wrong side."⁴⁴ For, whereas Schmitt tried to overcome the total state by uniting the quantitative and qualitative state under the protection by a plebiscitarian executive, Hayek tried to find a basis for strength within liberalism itself.

Quickly, Hayek's political theorizing was particularly indebted to Schmitt in three areas. First, Hayek argued that law and legitimacy must be rooted in something existential, something beyond pure normative positivism: a basis of social order more real than the constructs of rationalism. Yet he could not accept the tribalism at the heart of Schmitt's concrete order theory of law. Second, the liberalism Hayek sought to defend needed an institutional device capable of protecting the principles on which it was built; following Schmitt, Hayek sought a constitutional guardian capable of making an affirmative political decision – yet unlike Schmitt, he sought an institutional device invulnerable to dictatorship. He needed a means for liberalism to simultaneously decide in favor of itself and its principles yet resist a devolution into unilateral authoritarianism; a liberal decision without illiberal decisionism. This is the role of the *Nomothetae* within Hayek's model constitution. Finally, he accepted Schmitt's friend/enemy

⁴⁴ Hayek (1979), 194-195, fn 11

distinction, but the former's liberalism normatively required a social mechanism with the cosmopolitan potential to help strangers "turn from enemy into friend." This is the intended role of *Catallaxy* within Hayekian political thought.

Hayek's reliance on Schmitt is most explicit and frequent in condemning positive law. Referring the reader in a footnote to Schmitt, Hayek tells us: "the rule of law presupposes a very definite conception of what is meant by law and that not every enactment of the legislative authority is a law in this sense".⁴⁵ The positivist idea "that law is only what a legislator has willed" Hayek declares in statement representative of those he makes in various places and in different turns of phrase, "is both factually false and cannot even be consistently put into practice".⁴⁶ On the relationship between positive law and the development of the total state, Hayek tells us the writings of Carl Schmitt are "among the most learned and perceptive".⁴⁷ "There is indeed no better illustration or more explicit statement of the manner in which philosophical conceptions about the nature of the social order affect the development of law", Hayek unequivocally states, "than the theories of Carl Schmitt".⁴⁸

While accepting that legitimate law must be rooted in an existential order, Hayek unequivocally rejects the Schmittian implication that such an order necessarily implies the pursuit of concrete purposes beyond the establishment of peace and order itself. Hayek readily concedes that, "so long as particular purposes are the foundation of political organization, those

⁴⁵ Hayek (1960), 207. Hayek refers the reader to Schmitt's *Unabhängigkeit der Richter, Gleichheit vor dem Gesetz und Gewährleistung des Privateigentums nach der Weimarer Verfassungslehre*, as well as to Schmitt's *Constitutional Theory*

⁴⁶ Hayek (1967), 102

⁴⁷ Hayek (1960), 438. In this note, Hayek recommends to reader consult Schmitt's *Constitutional Theory* and *Der Hüter der Verfassung*.

⁴⁸ Hayek (1973), 71

whose purposes are different are inevitable enemies”.⁴⁹ He continues, “and it is true that in such a society politics necessarily is dominated by the friend-enemy relation”.⁵⁰ Thus, “the great importance of nomocracy” he explains, “rests on the fact that it extends the possibility of peaceful co-existence of men ... beyond the small group whose members have concrete common purposes”.⁵¹

Hayek’s great theoretical challenge comes into stark relief: He accepted, from Schmitt, that law must have a grounding in existential order. In contrast to Schmitt, however, Hayek sought an order capable of accommodating the cosmopolitanism of classical liberalism. With Schmitt, Hayek rejected the constructive rationalism of socialism and the dominant forms of positive liberalism. Unlike Schmitt, however, Hayek required an existential order rooted in something other than shared purposive identity. Hayek’s liberalism precluded the usual conservative recourse to Hobbesian authority or the order provided by the natural law of Nature’s God; his conservative skepticism rejected the constructive rationalism of the liberalism fundamental to the social contractarians, philosophes, or Benthamite utilitarians. Hayek needed to theorize the existential legal order foundational liberalism.

Hayek’s answer to the question of the existential foundations of human order was rooted in human psychology. By way of quick summary, for him the existential grounding of human social order is found in our mind; in our ability to perceive, interpret, and learn from the social world around us. As individuals, we are constantly perceiving and (re)interpreting the actions of those around us. We do so mostly sub- (or supra, or un -- consistency of prefixes is not one of Hayek’s strengths) consciously. That is to say, as members of society we develop a feeling for

⁴⁹ Hayek (1976), 144. The attached note reads: “This is the main thesis of Carl Schmitt, *Der Begriff des Politischen* (Berlin, 1932).”

⁵⁰ Ibid

⁵¹ Hayek (1967), 163

appropriate action which reduces the deliberate conscious choice of action for any given situation. The problem of social coordination, certainly in most mundane situations, is largely overcome by our respective individual minds' ability to recognize, interpret, and develop a feeling for the regular actions of others. Contra Schmitt, the foundational levels of human social order are present in human social interaction itself without recourse to shared purposive identity. Also, in contrast to the thoroughgoing constructive rationalism of many liberal traditions, for Hayek, we social beings are largely able to figure out how to live with one another without a prior agreement to a detailed contract or plan. As individuals, through our ability to perceive patterns or regularities of action in society, we are able to regulate our own action, largely subconsciously, in such a way as to make human social coordination generally manageable without administrative dictate.⁵²

The infamous friend/enemy distinction as the defining characteristic of the political is the most well-known part of Schmitt's political theory. Less recognized, however, is that Hayek accepted this conception of the political as true. Unlike Schmitt, however, Hayek desperately sought a mechanism by which this political enmity could be mitigated and even overcome. It is of crucial importance, then, that Hayek's definition of his famous conception of *catallaxy* contains a direct allusion (and explicit reference less than a page later) to Schmitt: "Both 'catallaxy' and 'catallatics' derive from the ancient Greek verb *katallattein* which, significantly, means not only to 'barter' and 'to exchange' but also 'to admit into the community' and to 'turn from enemy into friend'.⁵³ Hayek felt that a polity whose unity rested on shared purposive ends or shared identity could not avoid devolution into a Schmittian condition of internal political enmity. He did *not*

⁵² I'm omitting from this paper any further discussion of the *Nomothetae*. Though a matter of controversy, the institution has little bearing on the question of Hayek's support for a basic income.

⁵³ Hayek (1967), 164

think, however, that citizens in their non-political spheres of life would or should avoid bonded communities of joint ends. Indeed, like for earlier liberals such as Tocqueville, close communities and associations whether based around shared ethnic, cultural, religious, vocational, regional, or recreational identities are the homes of much meaningful social life. What was needed, then, was a bridging mechanism by which members of different social communities may learn to live peacefully and cooperate with each other in whatever areas of shared social endeavor may lead them to cross paths.⁵⁴ For Hayek, the extended market order of *catallaxy* is the most crucial bridging institution in a pluralist liberal polity.

McNamara has rightly categorized Hayek's liberalism as "unsentimental".⁵⁵ Although obviously deeply familiar with Adam Smith's moral philosophy, there are no moral sentiments to be found anywhere in Hayek's work. Nor is there any analytically robust conception of rights -- at least certainly nothing approaching a rigorous justification of his liberalism on the basis of rights. Hayek denounces contractarian theories of liberalism as misguided conceits of constructive rationalism. His political anthropology is not rooted in a particularly optimistic conception of human nature or of some propensity to virtue. For Hayek, man is ignorant more than anything else. Rather than comparatively more romantic conceptions of humanity, for him the diverse and diffuse human interactions facilitated through market activity are a critical mechanism by which we learn to live with those different from ourselves. Peaceful coordination and coexistence is at once a relatively low-bar for a vision of social life and simultaneously a tragically fleeting achievement throughout much of human political history.

⁵⁴ This helpful vocabulary of bonded communities and bridging institutions is taken from Meadowcroft and Pennington (2007)

⁵⁵ McNamara (2013)

For whatever similitude the crucial importance of strong liberal state and social institutions and prominent role of the market in facilitating liberal pluralism may bring between Hayek's thought and neoliberalism, the epistemology at the core of Hayekian liberalism is starkly inconsistent with the economic rationality animating most conceptions of neoliberalism. "It is high time" Hayek states bluntly, "that we take our ignorance more seriously."⁵⁶ Indeed, the chief characteristic of human life, according to Hayek, is our "incurable ignorance" of most particular circumstances.⁵⁷ His is perhaps the most epistemically skeptical of all theories of liberalism; the limitations of human knowledge inform nearly every aspect of Hayek's thought. "Reason", he warned, "is like a dangerous explosive which, handled cautiously, will be most beneficial, but if handled incautiously, may blow up a civilization."⁵⁸

Distrustful of economic analysis that relied on formal modeling, Hayek's skepticism was at odds even with most of his fellow market enthusiasts. Modern macroeconomic theory, he felt, "is a result of erroneous belief that theory will be useful only if it puts us in a position to predict particular events".⁵⁹ Microeconomics fared little better in his judgment, as Hayek declared he doubted it has "ever discovered any new facts", and that "we find in the microeconomic literature a good deal of indefensible pretense of a great deal more."⁶⁰ What about the game theoretical modeling so popular in most neoliberal methodologies? Hayek shrugs: "I don't think that game theory has really made an important contribution to economics, but it's a very interesting mathematical discipline".⁶¹ Simply put, though a Nobel Prize winning economist, he felt the limits of human knowledge precluded taking too seriously most forms of formal economic modeling.

⁵⁶ Hayek (1967), 39

⁵⁷ Hayek (1983), 18

⁵⁸ Hayek (1967), 94

⁵⁹ *Ibid.*, 262

⁶⁰ Hayek (1983), 21-22

⁶¹ Quoted in Caldwell (2004), 211

More importantly for his political project, Hayek's skepticism necessarily limits not only economic modeling, but also the ability for policy makers to construct policy programs capable of successfully ensuring particular economic outcomes. It is due to this skepticism that Hayek ceaselessly advocates for extended market orders rather than what he considers ill-fated attempts at designing or legislating particular economic outcomes. Hayek's critique of socialist economics, however, is well known. More important for our purposes here is to focus narrowly on his critique of the welfare state.

Having noticed the connection between Schmitt and Hayek, Scheuerman warned this "unholy alliance" may prepare the way for a reworking of neoliberal institutions with "dubious liberal democratic credentials."⁶² While the relative democratic merits of Hayek's model constitution are certainly contestable, Scheuerman does particularly well to make clear that much of what motivates Hayek's opposition to an interventionist welfare state is his fear, with Schmitt, that the concomitant rejection of the generality requirement of the classical liberal Rule of Law found inherent in the targeted policies of the welfare state "prepare the way for the fusion of state and society and a 'total state' which intervenes in a multitude of social spheres and seems all-powerful, but in fact is robbed of any real decision-making authority".⁶³ Hayek fears the welfare state weakens the ability of the state to affirmatively decide for and protect liberal principles.

This weakening is primarily the result of administrative epistemic failure and a subsequent devolution of democracy into a zero-sum competition between interests against which deliberative democratic institutions are transformed into sites of "bargaining democracy" and the playthings of powerful particular interests.⁶⁴ Unable to successfully replicate the coordination

⁶² Scheuerman (1997)

⁶³ *Ibid.*, 181

⁶⁴ Hayek (1979), 99

function of markets, interventionist economic policies fail to live up to their noble aspirations. This failure is doubly tragic for the institutions designed to ensure particular economic outcomes consistent with some higher ideal become colonized by elite political economic actors and eventually hollowed-out of any true substantive normative value. For Hayek, both the interventionist welfare state and crony capitalist policies such as tariffs and subsidies are paradigmatic examples of this phenomena. Unable to “resist the onslaught of parties and organized interests” the state “must yield and satisfy everyone, while simultaneously pleasing contradictory interests”.⁶⁵ That powerful interests would be able to thus secure for themselves particular distribution of resources from the state Hayek found a deep perversion of any concept of justice and a catalyst for heightened enmity between various interests in society. The durability of liberal institutions, for Hayek, then is inextricably conditioned by inescapable limitations of human knowledge in regard to the needs and desires of diverse persons in particular times and spaces. It is now clear that the two qualities of a basic income scheme that most recommend themselves for Hayek, then, are that universal direct cash transfers require no superhuman epistemic capabilities and may be able to circumvent entirely zero-sum political machinations by various interests.

The Hayekian Case for a Basic Income

So far, then, it is possible summarize Hayekian case for a basic income: a system of universal, guaranteed direct cash transfers requires neither agreement on a “common hierarchy of particular ends” nor access to knowledge of local conditions, needs, or priorities; these characteristics constitute a system of social provision less vulnerable than alternatives to the

⁶⁵ Schmitt (1932), 218-219

danger of devolution in a weak, total state. Basic income represents a way to provide state social provision without weakening the liberal state. This, I submit, is the core logic of Hayek's support.

This summary, however, fails to speak to at least few lingering questions: a libertarian might ask why social provision beyond market distribution of resources is needed in the first place and on what grounds it can be justified; a republican might ask whether there shouldn't be more to meaningful conception of freedom than just non-domination; and progressives or leftists should certainly ask bluntly why Hayek's particular argument for a basic income is of any relevance to them. The remainder of the essay flushes out the margins of the Hayekian case for a basic income through response to these concerns.

As far as I can find, Hayek never cited nor discussed another liberal or libertarian thinker in direct relation to his support for a basic income. This is puzzling. As discussed above, Zwolinski has documented a long, if often underappreciated libertarian genealogy of support for basic income and capital grant schemes. But Hayek was an avid consumer of liberal thought and there is no doubt, for example, that Hayek was familiar with Henry George's Single Tax plan, for in an interview near the end of his career, Hayek explicitly mentions his "fascination" with and subsequent dismissal of the idea as a young man.⁶⁶ Milton Friedman was a vocal advocate for a negative income tax proposal even helping push the proposal through the House of Representatives in the 1960s. Friedman described this plan in his book *Capitalism and Freedom*, first published in 1962. Hayek cites the book in a number of his writings, yet never in the context of basic income or in reference to Friedman's negative income tax plan. While I make no claim to a definitive solution to this puzzle, it is perhaps worth noting how few traditional libertarian concerns Hayek engages in his defense of social provision generally.

⁶⁶ Hayek (1994), 63

Far from defending market outcomes as some objective distribution of just dessert, Hayek explicitly rejects the notion. Market distributions for particular people are “essentially unpredictable” and it is “meaningless” to characterize market outcomes “as just or unjust”.⁶⁷ Market outcomes have no “close correspondence” to individual merit; market distributions operate according to a “combined game of skill and chance” in which outcomes for any given individual are likely to be “determined by circumstances wholly beyond his control.”⁶⁸ The idea that “we have ‘earned’ (in the sense of morally deserved)” our income “is wholly mistaken”.⁶⁹ This is not standard libertarian fare. Perhaps it is less surprising then that for Hayek “the assurance of a certain minimum income for everyone, or a sort of floor below which nobody need fall, appears not only to a wholly legitimate protection against a risk common to all, but a necessary part of the Great Society.”⁷⁰ Because market outcomes are due as much to chance and uncontrollable circumstances as any sort of individual merit, insufficient market income is risk *common to all* and it only makes sense for Hayek that some of the immense wealth generated by market activity be used to ensure a “uniform minimum income” for all.

Furthermore and in particular contrast to thinkers like Paine, George, and Nozick, Hayek’s argument does not depend on some framework of just or unjust property acquisition or holding. Hayek simply doesn’t make a rights-based argument. He neither distinguishes between types of property nor concern himself with ethical provisos or side-constraints. While Hayek is consistent with liberal thinkers generally in emphasizing the role of property in providing a sphere of individual prerogative free from state interference, he nonetheless is far from a property absolutist.⁷¹ For Hayek it is simply a matter of common sense that there are “legitimate tasks of

⁶⁷ Hayek (1967), 167

⁶⁸ Ibid., 172

⁶⁹ Ibid., 174

⁷⁰ Hayek (1979), 55

⁷¹ See Meyer (2009) for a helpful discussion of an “absolutist conception of property”

government in the administration of the resources placed at its disposal for the rendering of services to the citizen” and for which tasks “the government is given money”. And in “a society which, thanks to the market, is as rich as modern society” Hayek sees no reason why one such service shouldn’t be the provision of a “minimum security for all”.⁷² No further justification needed.

I don’t actually think there is much added value for republicans in Hayek’s argument for a basic income that could not be provided within their own ideological framework. While Hayek’s definition of political freedom as non-domination does overlap with that standardly offered by republicans, the similitude is cursory. So far from engaging the classically republican questions of citizenship and virtue, his “unsentimental liberalism” even completely omits the moral sympathies so important to classical liberals like Smith and Hume.⁷³ Hayek hopes for peaceful co-existence in society; he believes this necessitates a refusal to supply much of any answer as to what ultimate ends individuals should set for themselves in life. Hayek, McNamara reports, “denies the thick moral unity of human nature”; “human beings are instead divided creatures and this is especially true in a free society”.⁷⁴ In my estimation, then, republican theorists committed to the duties of citizenship or who wish for citizens to consider themselves stakeholders in communitarian society have little to gain from Hayek’s argument.

Similarly, while Hayek is nowhere as hardline in his call for a dismantling of all the institutions of the welfare state as Charles Murray, from a leftist perspective thinkers like Raventós are right to regard with suspicion a Hayekian argument for basic income. Though Hayek does not think the market necessarily allocates resources in a manner corresponding with

⁷² Hayek (1979) 174-175

⁷³ McNamara (2013), 11; 13

⁷⁴ Ibid., 25

justice, he also considers the interventionist welfare state to be at best a vehicle for well-intentioned policy which ultimately can never meet the epistemic requirements of those aspirations and at worst a façade for powerful particular interests which pervert any notion of justice and ultimately weaken the ability of the state to protect substantive liberal values. This is obviously a description progressives and leftists flatly reject, or at the very least, a condition from which they should seek to redeem the welfare state rather than discard most if not all of its current institutions. Furthermore, Hayek considers organized labour to be morally equivalent to other interest groups in society. This alone likely produces an impasse and makes it hard to see much productive overlap between Hayek and thinkers like Purdy or Raventós.

With seemingly little overlap between the Hayekian case for a basic income and the traditional respective concerns of libertarian, republican, and leftist thinkers it is perfectly fair to question whether his particular argument has the potential to contribute much to current discussions concerned with social provision in the political economic systems of the present and future. I conclude the essay with two qualified defenses of Hayek and his argument.

Conclusion

Hayek's argument for a basic income is part of his larger political project aimed at theorizing the institutions of a strong, durable liberal state. He feared for the survival of liberal constitutions vulnerable to being hollowed-out and controlled by conflicting interests all hoping to impose their chosen ends upon society at large. Totalitarianism, for Hayek, was the result not of state strength but of impotence. Whether or not Hayek was correct in his diagnoses, the future of liberalism once again appears open. The enemies of liberalism have made their political force felt. For liberals, then, the time is ripe to study and reconsider Hayek's larger project. It may be that many of his suggestions need to be discarded or reworked, but hardly any thinker devoted

more scholarship to theorizing the survival of liberal states.⁷⁵ Hayek felt a basic income was a necessary institution of a durable Great Society -- it is an argument liberals should take seriously.

The epistemic element of the Hayekian case for a basic income, moreover, deserves consideration from liberals and non-liberals alike. Van Parijs and Vanderborght are correct to note that even as they reject the larger Hayekian project, his emphasis on epistemic skepticism should inform any plan for social provision. While citing Hayek, they write: "What a basic income does is empower those with least power in such a way that they too can make the best use of the valuable local knowledge that only they possess."⁷⁶ If nothing else, then, the Hayekian epistemic argument may supply one foundation on which to construct a cross-cutting coalition of those hoping to combat and reform the restrictive, arbitrary paternalism too common in many programs of our contemporary systems of social provision.

⁷⁵ The Hayekian-flavored Niskanen Center has begun just this task. See: <https://niskanencenter.org/blog/revitalizing-liberalism-age-brexite-trump/>

⁷⁶ Van Paris and Vanderborght (2017), 255n44

Works Cited

- Ackerman, Bruce A and Anne Alstott. 1999. *The Stakeholder Society*. Yale University Press
- Boucher, David. 2015. "Schmitt, Oakeshott and the Hobbesian Legacy in the Crisis of Our Times." In *Law, Liberty, and State*. Eds David Dyzenhaus and Thomas Poole. Cambridge University Press.
- Caldwell, Bruce. 2004. *Hayek's Challenge: An Intellectual Biography of F. A. Hayek*. 1st ed. University of Chicago Press.
- George, Henry. 1938. *Progress and Poverty*. New York: The Modern Library.
- Gourevitch, Alex. 2016. "The Limits of a Basic Income: Means and Ends of Workplace Democracy". *Basic Income Studies* 11(1): 17-28
- Harvey, Philip. 2007. "A Survey of Full Employment Advocates". *Journal of Economic Issues* 41(4): 1161-1168
- Harvey, Philip. 2011. *Back to Work: A Public Jobs Proposal for Economic Recovery*. New York: Demos
- Harvey, Philip. 2012. "More For Less: The Job Guarantee Strategy". *Basic Income Studies* 7(2): 3-18
- Hayek, F.A. 1960. *The Constitution of Liberty*. Chicago: The University of Chicago Press
- Hayek, F.A. 1967. *Studies in Philosophy, Politics and Economics*. 1st ed. Clarion Books. Published by Simona and Schuster
- Hayek, F.A. 1973. *Law Legislation and Liberty Volume 1: Rules and Order*. The University of Chicago Press
- Hayek, F.A. 1976. *Law Legislation and Liberty Volume 2: The Mirage of Social Justice*. The University of Chicago Press
- Hayek, F.A. 1979. *Law Legislation and Liberty Volume 3: The Political Order of a Free People*. The University of Chicago Press
- Hayek, F.A. 1983. "Coping With Ignorance" in *Knowledge, Evolution, and Society*. 1st Ed. London: Adam Smith Institute.
- Hayek, F.A. 1994. *Hayek on Hayek: An Autobiographical Dialogue*. Eds Stephen Kresge and Leif Wenar. The University of Chicago Press
- McNamara, Peter. 2013. "On Hayek's Unsentimental Liberalism". In *F.A. Hayek and the Modern Economy: Economic Organization and Activity*. Eds: Sandra J Peart and David M Levy. Palgrave Macmillan
- Meadowcroft, John and Mark Pennington. 2007. *Rescuing Social Capital from Social Democracy*. London: The Institute of Economic Affairs
- Meyer, J.M. 2009. "The Concept of Private Property and The Limits of the Environmental Imagination". *Political Theory* 37(1): 99-127

- Munger, Michael C. 2012. "Basic Income Is Not an Obligation, But It Might Be a Legitimate Choice". *Basic Income Studies* 6(2)
- Munger, Michael C. 2014. "Libertarian Mungerfest: Part V – Hayekian Socialism". www.bleedingheartlibertarians.com/2014/03/7495
- Murray, Charles A. 2006. *In Our Hands: A Plan To Replace The Welfare State*. Washington, D.C.: AEI Press.
- Paine, Thomas, 1797. *Agrarian Justice*. Digital Edition by www.grundskyld.dk
- Pateman, Carole. 2004. "Democratizing Citizenship: Some Advantages of a Basic Income. *Politics & Society* 32(1): 89-105
- Pateman, Carole. 2007. "Why Republicanism?". *Basic Income Studies* 2(2)
- Pettit, Philip. 2007. "A Republican Right to Basic Income?". *Basic Income Studies* 2(2)
- Purdy, David. 1988. *Social Power and the Labour Market*. Basingstoke: Macmillan Education
- Raventós, Daniel. 2007. *Basic Income: The Material Conditions of Freedom*. London: Pluto Press
- Schmitt, Carl. 1932. *Langnamverein Address: Strong State and Sound Economy*.
- Scheuerman, William E. 1997, "The Unholy Alliance of Carl Schmitt and Friedrich A. Hayek". *Constellations* 4(2): 172-188
- Van Parijs, Philippe and Yannick Vanderborght. 2017. *Basic Income: A Radical Proposal for a Free Society and a Sane Economy*. Harvard University Press
- White, Stuart and Daniel Leighton. 2008. *Building A Citizen Society: The Emerging Politics of Republican Democracy*. London: Lawrence & Wishart.
- Zwolinski, Matt. 2013. "Why Did Hayek Support a Basic Income?". www.libertarianism.org/columns/why-did-hayek-support-basic-incom
- Zwolinski, Matt. 2015. "Property Rights, Coercion, and the Welfare State: The Libertarian Case for a Basic Income for All". *The Independent Review* 19(4): 515-529
- Zwolinski, Matt. 2016. "Libertarianism and the Welfare State". In *The Routledge Handbook of Libertarianism*. Eds Jason Brennan, Bas van der Vossen, and David Schmidtz.