

The Voluntary City: Choice, Community and Civil Society*

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INTRODUCTION

The fall of the Berlin Wall and the demise of socialism hastened intellectual realignments and a rediscovery of the virtues of free markets. Many on the left and the right now agree that markets provide best. This view focuses attention on the supporting institutions that are necessary for the material progress of both developed and developing nations. For markets to succeed, a working legal infrastructure (including traditions of lawfulness, a greater reliance on evolving common law over statutory law) and high levels of trust must be in place.

Beyond exploring intellectual shifts, however, it is important to examine carefully what people do (and have always done) as they strive to manage their everyday lives. Long before government institutions emerged as the definitive purveyors of institutions and social services, private citizens developed a variety of institutions that served the public welfare. Regardless of whether the current worldview emphasizes the merits of top-down planning or bottom-up action, the latter has always been consequential. The retreat of socialism and progressivism (and other manifestations of the "industrial counter-revolution"¹) has brought a new appreciation of spontaneous orders but the important fact is that these have always been there. Without black markets, for example, the communist states would have succumbed much sooner and many third-world countries would be even poorer.

We have come full circle. Accordingly, we are well advised to examine the power of bottom-up innovation in shaping human events now as well as in recent history. The authors of *The Voluntary City* document some of the most important episodes. They prompt questions for the next great debates. Markets may be necessary for material progress but are they sufficient? What exactly do we mean by progress? Can market economies protect workers from economic downturns? Can they provide for the downtrodden and unfortunate? What about non-material progress? Can markets be equitable? Can a market society develop community?

MARKETS, VOLUNTARISM, NON-PROFITS AND CIVIL SOCIETY

While recent accounts such as Putnam's *Bowling Alone* suggest a "no" to the last question, the contributors to *TVC* suggest that the scope for markets is much wider than is usually recognized.² The authors discuss examples of voluntary and contractual arrangements that also develop communities and deliver social services. These are shown to thrive on working legal

¹ Lindsey (2002).

² As is so often the case, we may be witnessing the resurrection of an older discussion once summarized very compellingly by Hirschman (1970).

infrastructures and social trust. If so, there exists a very significant virtuous cycle: Markets beget the institutions and organizations which, in turn, promote markets.³ The latter spur innovation, entrepreneurship and progress -- which create the demand for the economic freedoms that beget more riches. Liberty and prosperity expand along the way.

Some of the evidence comes from a rediscovery of the history of voluntarism in social services, including the remarkable history of fraternal orders and friendly societies in nineteenth century America and Great Britain. These provided members with medical care, unemployment insurance, sickness insurance, and many other social services.⁴

TVC studies illustrate that the authors do not have a blinkered view of either markets or human nature. With respect to markets, they call attention to the vital, but too often neglected, role of the non-profit sector. Proponents of markets view the profit-maximizing firm as an ideal and the attenuation of profit incentives an unwelcome divergence. Proponents of government, while more supportive of non-profits, have tended to see the non-profit sector as weak, frail and marginal. Yet, the non-profit sector in the United States today accounts for some 10 percent of GDP and nearly 15 percent of total employment. It is a major player in such important industries as health, education, and high culture; it was important in these industries long before receiving tax breaks or regulatory advantages.

Non-profits and the market both involve voluntary action. By focusing on for-profit firms, proponents of markets have often overstated the case for markets narrowly conceived. Yet by ignoring the role of non-profits, opponents of markets have *understated* the case for markets *broadly* conceived. What conventional economics refers to as market failure is actually a limited set of problems associated with for-profit firms. In *TVC*, the term "market" is broadened to include non-profit firms and other voluntary not-for-profit organizations; the scope of market failure is diminished. Thus, rather than arguing for a larger role for markets, the authors argue for a larger role for *civil society*. To favor civil society is not necessarily to regard self-interest as the sole or even most important motivator of human action.

The market/government debate has often proceeded as if it were a debate between self-interest and selflessness. Yet we now know that our ancestors learned to forge connections and developed a social nature for the practical reason that such connections enhanced survival, just as did their capacity for self-interest. Humans are neither purely self-interested nor purely altruistic. It should come as no surprise that other-regardingness is not absent from markets -- just as public choice analysis suggests that self-interest is not absent from government. Indeed, economists are beginning to examine the nature of economic benefits that individuals gain by

³ North (1990) chooses to discuss the unfolding of these processes using a game theoretic framework.

⁴ Beito (Ch 8), Green (Ch 9), Tooley (Ch 10).

participating in various networks.⁵

The issue, therefore, is not human nature but rather how different institutions channel important aspects of human nature. Adam Smith argued that markets channel self-interest into socially beneficial directions. The public choice school of political economy argues that government institutions often channel self-interest in socially undesirable directions. But as of yet, *there is no well-developed theory of how other-regardingness is channeled by civil society or by government*. While such a theory is not developed in *TVC*, the authors provide case-studies to motivate such theory and to stimulate more historical study.

The authors argue that the voluntary arrangements that had evolved in the past (and that in some cases are returning today) had much to offer. The welfare state did not so much create new institutions as crowd-out the civic associations that people had been spontaneously fashioned to provide “public goods,” “safety nets” and even law and order. Were the spontaneously created institutions of the civil society better than the government institutions that replaced them? The papers in this volume cannot definitively answer this question, but remarkably they show *the question is real*.⁶

PRIVATE SOCIAL SERVICES

Current efforts to privatize social services are nothing new. They have prominent historical precursors that provide useful lessons. In the 19th century, in both the U.S. and Great Britain, fraternal societies provided social insurance and private schools supplied education. The same period saw the development of law and order in Britain well before the introduction of private police. Earlier precedents include the wholly private development of commercial law.

Legal Systems. The body of privately developed commercial law -- the Law Merchant, as it came to be known -- met the demand for commercial rule-making and adjudication as extended trade networks evolved in medieval and early modern Europe. Individual merchant arbitrators prospered once they established a reputation for fairness. Summarizing an elaborate history, Benson notes that, "In one form or another the law merchant has operated continuously for at least a thousand years." For much of this period, law merchant decisions were not backed by the coercive power of any court; rather, their force came from the threat of significant boycott sanction. Benson appropriately labels his discussion as "Justice without Government." Eventually, however, the state asserted jurisdiction in matters of commercial dispute. The rule of judges crowded out private merchant law, and lacking the commercial expertise of merchant

⁵ Sobel (2002) provides a brief survey of some recent contributions.

⁶ On the other hand, one author has criticized voluntarism because it undermines the governments' safety net (Poppendieck, 1999).

arbitrators, the decisions of judges did not always yield the level of fairness that had come to be known. The current rise of arbitration and conflict-resolution procedures indicates that here too we have come full circle; the swamped courts (and their clients) now welcome the competition.

Nor was private law limited to civil disputes. The administration of certain aspects of criminal law had private antecedents. Davies notes the historical development of "Associations for the prosecution of felons [which] were essentially private associations or clubs. They are just one example of the enormous range of clubs and societies set up in the course of the eighteenth and early nineteenth centuries, which met almost every imaginable human need." The need was less a product of inevitable crime that many associate with the existence of cities, but rather the criminality that accompanied rapid urbanization and associated social disruptions. Civil society found ways to maintain order that did not involve the state. Prosecution associations took advantage of the rise of newspapers and used them to advertise; rewards were offered for information leading to the recovery of stolen goods or the prosecution of culprits. Subscription lists of active members were posted with the same intent that modern neighborhood associations now post the names of private patrols engaged to inspect subscriber properties. Rewards were posted with the amounts largest if the offense was against an association member. The monopolization of crime fighting by the state (and the consequent crowding-out of voluntary activity in this realm) came much later. The "new police" were seen as a way to fight crime *and* maintain political stability. In recent years, of course, the circle has been joined with the reappearance of private security firms. These are usually restricted to simply guarding property, as was not the case with their precursors. Davies notes that, "the boundary between state and civil society ... should not be taken as fixed and determinate, now or historically."

Social Insurance. Following de Tocqueville's celebrated discoveries of Americans' penchant for organizations, Beito highlights the fraternal societies (including female organizations that nevertheless took the descriptor fraternal in their names) that arose during the 19th century to serve the indigent many years before the rise of the welfare state. Many of these self-help and mutual aid groups were actually sickness- and life-insurance orders. Their membership was in the tens of millions -- an "enormous army". Beito shows that in the 20th century, many of these groups were weakened by burdensome regulation. Fewer are now poor but many more have become dependents of the state. Beito contrasts this with the voluntary reciprocity arrangements, characteristic of fraternal orders, that depended on and cultivated civil impulses ("survival values") over entitlement. They too were crowded out. The remaining fraternal orders are social organizations that no longer attend to their mutual aid functions. Green details a similar rise and fall of "friendly societies" in Britain and Australia.

Education. Tooley shows that, before the advent of public schools, private education in England, Wales and the U.S. was not only of high quality but at least as widespread.⁷ The

⁷ The US comparisons only apply to white children. Black children were, of course, excluded by actions of the

presumed trade-off of quality given up for universality achieved rests on myth. Moreover, there is no evidence that public sector intervention improved either dimension. The early successes of for-profit U.S. schools is ascribed to the forces of competition. Recent findings by Hoxby⁸ that private schools actually benefit nearby public schools should surprise no one.

Moreover, substantial evidence gathered for contemporary India shows, "educational entrepreneurs meeting the educational needs of the poorest in society without any help -- nay, hindered by the state's obstructionism. ... What the situation in countries like India reveals is the extent to which the private sector can step in to cater to demand when state provision is either inadequate or nonexistent. It reveals the nature of the voluntary city at its most honorable."⁹

PRIVATE INITIATIVES AND THE BUILT ENVIRONMENT

For the case of the built environment, land markets and spontaneously developed private covenants met the challenge of the first wave of English urbanization.¹⁰ The common law had evolved to recognize these, allowing for flexible market-led rules of development that provided housing which proved to be exceptionally durable. The same can be said about the rise of private places and self-governing enclaves in St. Louis, the history of private turnpike provision in the United States in the early nineteenth century and the first U.S. industrial park.¹¹ Developers have always recognized the importance of tied sales: providing various infrastructures, including access, increases the value of properties they expect to bring to market. In this sense, they are in the words of Arne, "entrepreneurial planners." All entrepreneurs (and practically all people), of course, plan. We are, however, so used to associating planning of the built environment with a government-led top-down activity that Arne's conclusions may, at first glance, appear to be novel.

The demand for private zoning results from property owners' desire to mitigate two types of risk: one having to do with unpleasant spillovers from proximate noxious uses; the other risk flows from land uses making low property tax contributions but exacting high rates of local public goods utilization.¹² Not surprisingly, that demand had been met by the private institution

state.

⁸ Hoxby (2001).

⁹ Page 236.

¹⁰ Davis (Ch 2) also notes that "[a]ll of this happened in a society with no apparatus of planning laws and regulatory bodies, no public housing regulations, no zoning or land-use laws, no direct public action to supply housing or urban service."

¹¹ Beito (Ch 3), Klein (Ch 4), Arne (Ch 5).

¹² "Fiscal zoning" in the Hamilton-Tiebout model. Poor families with many children attending local property tax-financed public schools but occupying small lots are the canonical example cited in the literature. Hamilton's explanation of this effect is thought to complete the Tiebout model. An efficient outcome requires median-voter rather than Leviathan politics (Fischel, 1992). This is in a static context and says little about long run entry and

of restrictive covenants long before there was public zoning.

Whereas educational vouchers, privatized welfare, and arbitration all mark a limited return to the production of social infrastructure within the bounds of civil society, for the case of physical infrastructure, the return is more extensive. As a result of the migration of homeowners into developer-created and managed suburbs, modern-day American communities look increasingly like the private developments of nineteenth century Britain and St. Louis. Where property rights were secure and in-place, developers recognized the value of "pre-developing" the land. "Public" goods were supplied and transacted. Across the United States, this is now almost routine. There are now approximately 205,000 Common Interest Developments (CIDs that usually start as proprietary communities)¹³ housing more than 42 million people, nearly 15 percent of the housing stock. Likewise, there are now as many as 3,500 major malls and shopping centers in North America, most of which also involve the private development and management of "public" facilities and spaces and the careful assembly of complementary uses.¹⁴ Other examples include industrial parks and trailer parks, each of which offer lessees a variety of services such as trash disposal, parking, perhaps landscaping, etc.

Foldvary (citing early work by Spencer Heath in the Georgist tradition) shows that these are, in fact, "territorial" goods whose value to nearby users is capitalized in land values, sending the required market signals and undermining another market failure story. This turns George's conclusion "on its head" because of the logical conclusion that market signals allow developers to fashion the natural and profitable entrepreneurial responses. In fact, private communities are seen as able to remedy the twin local government problems: free-riding ("public" goods) and transfer-seeking. He notes the gains from management not encumbered by the inflexibility of zoning or covenants but operating according to contracts embodied in a set of association rules. Developers have the possibility of buying development rights from the community.

In the case of CIDs, developers fashion rules of governance that itemize rights and obligations that will run with the land after residents have purchased homes.¹⁵ Such rules must

exit. It is also unclear how fiscal zoning is justified by local police powers. The usefulness of zoning as an instrument of "scientific planning" to "shape development" has been found to be "a myth" (Nelson, 1977); not surprisingly, that would be a complex task beyond the competence of top-down planners.

¹³ Boudreaux and Holcombe (Ch 12).

¹⁴ Number reported in the *Directory of Major Malls* (2000). Cohen (2002) reports, "Of the more than 45,000 shopping centers in the U.S. in 2001, the vast majority (97 percent) were strip centers with just 1,200 enclosed regional malls dotting the landscape." p. 10. She quotes John T. Riordan a recent head of the International Council of Shopping Centers as follows: "A shopping center is not a building but a management concept, a way common management causes separately owned businesses to behave as one." P. 10.

¹⁵ Nelson (1977 and Ch 13), Pennington (2002) and TVC contributors Foldvary (Ch 11) and MaCallum (Ch 14) have proposed that proprietary communities should be able to collectively hold and market the public goods that are the neighborhood development rights. The state would divest itself of these rights and they would no longer be bargained away by the city zoning and planning boards and other agencies of local government. Two-party bargaining (between community and developers) would replace the agency problems inherent in the current three-

be fashioned to pass a market test; in the eyes of prospective buyers, they are an important attribute of the property being bought. The rules are best provided by developers because, after the fact, residents would face transactions costs obstacles if they were to attempt to create such rules from scratch. For the case of shopping centers and malls, the developer retains management and control.¹⁶ Nelson (Ch. 13) also argues that developers must have the rules in place in order to protect themselves from early residents' efforts to change the nature of the project before it is completed.

Most new residential and retail development takes these forms. In both cases, market participants have realized that the large-scale private ownership of land makes it possible for most externalities to be internalized.¹⁷ Many economists have long noted that the real lesson of the Coase Theorem is that markets present entrepreneurs with incentives and opportunities to discover new ways of defining property rights so as to internalize externalities. This is precisely what developers have done. Present and prospective benefits are registered (capitalized) in land values, creating the signals the developers use to create an efficient mix and arrangement of highest and best uses. Externalities and possible "spillover effects" do not automatically point the way to the inevitability of top-down land use planning -- as is so widely supposed. The fact that shopping mall owners charge differential rents, rewarding "anchor stores" for their ability to draw consumers and exacting payment from the beneficiary smaller stores via higher rents internalizes (disposes) of an "externality"; we would have to accept that wealth that had been somehow left to dissipate.¹⁸

Nelson notes that public zoning was promoted as a way to extend and improve nuisance law and also to be a tool for Progressive-era "scientific planning." Nelson is skeptical of such an enterprise. How could top-down planning do such a thing? Unable to really grasp future demands, planners zone vacant areas restrictively and make it difficult to achieve zone changes. They are supported by homeowners who have an interest in the status quo and in limiting new development. The resulting restrictions that have forced up the price of housing in most of the western U.S. The "affordability crisis" is no mystery.

In fact, zoning which was originally a taking and redistribution of property rights has evolved into a *de facto* community property right. Zoning now serves primarily to maintain

party situation (developer, community and politicians); community members would share any profits. This would lessen NIMBY (not in my backyard) conflicts. Nelson also suggests legal changes that would extend these advantages to old and established neighborhoods.

¹⁶ Deng (2002) sees both, ground-lease-based shopping malls and self-governing CIDs, as market responses to the two hold-up problems that characterize land use conflict in the U.S.: regulatory takings and NIMBY.

¹⁷ Market participants usually lead the way, fashioning innovative arrangements and it takes a while for social scientists to figure out what they are up to. Peter Pashigian and Eric Gould (1996) gathered data on rents charged by mall developers and found that department stores get a break on rental charges, compensating them for the external benefits they bestow by generating high volumes of customer traffic.

¹⁸ Pashigian and Gould (1998).

neighborhood quality, a practice that never would have passed legal muster when zoning laws were first introduced. Economists have cited the utility of "fiscal zoning" -- keeping out low-income households who would be free-riders, usually by maintaining large-lot requirements. The actual not-so-scientific planning of most zoning boards involves *ad hoc* transacting, the thinly disguised buying and selling of these rights, often without the knowledge or acquiescence of the communities involved. Explicit buying and selling of zoning is, of course, illegal but exactions, "impact fees" -- trades with developers for easements and other concessions are what occupy zoning boards most of the time.

Nelson suggests Supreme Court efforts to limit these transactions, while possibly well intentioned, "could bring the whole land-development process to a virtual standstill."¹⁹ On the other hand, the CID movement has the potential for privatizing this activity and making it more efficient by limiting the role of third-party zoning boards. Developers and private neighborhood associations bargain directly with potential entrants, which Nelson notes is a "Coasian" solution to the NIMBY problem.

Nelson also asks: why cannot older neighborhoods, the ones with the biggest problems, avail themselves of these benefits? At the same time, why not recognize and ratify the true nature of zoning that has evolved? "The typical role of the legislature ... is not to create new rights but to ratify rights that evolve."²⁰

Are neighborhood associations, then, "public" or "private" entities? Citing Ellickson (1982), Nelson discusses the important point that memberships in homeowner associations are entirely voluntary, in contrast to conventional cities, where the *likelihood* of involuntary membership is much higher. Another difference is the requirement of one-person-one-vote. These points bear repeating because Fishel (200x) celebrates the corporate nature of cities.

Older neighborhoods still rely on top-down zoning imposed by eminent domain because of the high transactions costs associated with any alternative avenue to tenure modification. Signing up existing residents to new property rights arrangements is much more difficult than having them associated with purchase at the outset, as in new communities. Nelson sees this as an "inequality" and prescribes various changes in state law that would make the transition to privatization feasible, thereby introducing,

"suburban powers of exclusion -- the rights of private property, if now in a collective form -- into the inner city. This strategic redirection would require strong inner city neighborhoods, free from the meddling of city hall and able to choose who will live in and who will be excluded from the neighborhood. Inner-city private neighborhoods could then

¹⁹ Page 348

²⁰ Page 321.

exercise authority over their own police, garbage, street cleaning, snow removal, recreational facilities and other services. They could have the ability to enforce aesthetic controls over the uses and of and alterations in neighborhood properties, thus ensuring the maintenance of an attractive exterior environmental appearance. In short, what inner city neighborhoods really need is some form of private neighborhood association."²¹

They would get this by the introduction of an important property right. Creating new property rights in neighborhood environmental quality would create incentives to maintain it. This would include broader powers to exclude criminals and, thereby, reduce crime -- probably many such areas' biggest concern -- and the surest way to bring about some measure of "equality" with the suburbs. Nelson sees this as a key part of the revival of the key role of neighborhoods in Americans' lives, one that, "would represent a large step toward the full dismantling of the failed zoning legacy of the Progressive era."²² He does not, however, see this as true secession; neighborhood residents would still be taxed by the municipality and would retain their voting rights.

Like some of the other TVC authors (and unlike most commentators on urban affairs) MacCallum notes, "a profound revolution in local government in the U.S., namely the addition of a new level of government below that of the municipality."²³ Yet, parting company with his fellow contributors, and siding with critics of the intrusiveness of CID rules and boards, MacCallum sees CIDs as just a way station on the way to full fledged land lease "entrecoms". In the latter contract, and entrepreneurialism fully replace politics and its attendant conflicts -- and impulses to nurture community are more likely to be preserved. He ventures furthest on the voice-to-exit continuum. The author invokes the model of the hotel as a community where precisely this substitution has successfully occurred and asks why it cannot be universal. (Similar and related examples include shopping centers, industrial parks, research centers, trailer parks, marinas, etc.)

Urban planners, environmentalists and many others tout top-down state planning (e.g., "smart growth", "controlled growth", "planned growth", presuming that the alternative "sprawl" is random and chaotic) as the way to develop "livable communities," but the threat of ever more regulatory takings has prompted most prospective homeowners to choose places to live (and shop) that are more privately planned than state planned.²⁴ Market participants, in this case profit-seeking developers, not technocrats, visionaries, politicians or judges, are the key

²¹ Page 343.

²² Page 354.

²³ Page 371.

²⁴ The 2000 census data show that, in spite of hundreds of "smart growth" ordinances passed in recent years (and billions of dollars spent on public transit), suburbanization, auto ownership and auto use are still rising. Many of the new suburban developments also happen to be private communities. Most of the latter, moreover, are not of the gated sort that so unnerve the critics.

facilitators of the CID and shopping center phenomena. In fact, the efforts of the controllers are very likely to incite interest in exit options, including more movement to the far-flung newer cities and private communities. Most people simultaneously relocate into both.²⁵ Both offer more secure (and market tested) property rights, being less likely to be influenced by long-established interest groups. These and all manner of "stakeholders" have standing in the era of environmentalism, undermining property rights and local governments' credibility as a their guarantor.²⁶ This is all in the guise of "participatory planning" -- often thought to be a way to reveal useful information to top-down planners.

The use of land is *not* a "special case" exempt from the power of markets to fashion orderly and efficient outcomes. In fact, quite the opposite is true.²⁷ Just as Nobel prize-winner Friedrich Hayek (1988) and fellow Austrian economist Ludwig von Mises demonstrated the folly of top-down economic planning, Jane Jacobs (1963) exposed the problems of top-down city planning. Top-down planners of all stripes are fatally hobbled by their inability to tap local knowledge, the sheer magnitude of which would in any event overwhelm them.²⁸ In a competitive market, local knowledge reappears,²⁹ lessening the dependence on politics and increasing flexibility; "public" goods (and spaces) in CIDs and in shopping centers are provided more optimally; the capitalization of benefits in land rents more efficiently finances public goods provision; and market-tested rules of governance are developed. Private developers now routinely supply what had been thought to be "public" goods -- without the widely presumed market failure. Just as many people presume the inevitability of top-down planning because of external effects and information problems, events show the opposite: the inevitability of bottom-up approaches to these problems exactly as the Hayekian critique makes clear. It takes decentralized markets to generate the required information through trial-and-error learning. In the

²⁵ Suburbanization is a long-standing phenomenon explained by the attractions of cheaper land, cleaner air, better schools, less taxes, etc. More secure property rights simply add to the list. All of this is facilitated by the increasing footlooseness of industry as well as by the mobility that the auto-highway system affords.

²⁶ The median voter model predicts efficient fiscal zoning, according to Fishel (1992). Indeed, Fischel celebrates the relative efficiency of suburban municipalities but says less about all of the private governments that operate within their boundaries. Moreover, it is increasingly the case that the locational preferences of employees (households) dominate the locational preferences of employers in the modern economy where evermore firms are "footloose". Surveys show that most moves are now for "housing-related" reasons (Schachter, 2001).

²⁷ Supporters of conventional zoning argue that it is required to mitigate externalities. Yet, they are also critical of the resulting land use trends. Their resolution of the paradox is to advocate more top-down controls, usually ones administered at the state level. This would head off suburbanization beyond the boundaries of metropolitan planners' control. Yet, even here people can still escape the controllers, as have those Portland residents who have moved across the river into Washington's Clark County (a Portland suburb). The way to rescue top-down land use planning, it appears, would be to have it administered at the national level.

²⁸ Top-down land use planners routinely prescribe higher densities. Not surprisingly, they have no way of being specific and actually specifying any particular density -- let alone make such recommendations for large numbers of parcels for many years into the future.

²⁹ Regions grow when local entrepreneurs innovate successfully. They do so by combining and recombining diverse local knowledge in novel ways. Desrochers (2001) points out how this insight by Jane Jacobs has been overlooked by social scientists' emphasis on the benefits of specialization.

process, market participants are far more productive than central planners can ever be.

As governance moves to higher levels, the collective choice problem of democracy, the incentives individuals face to demand services when they think others will pay, becomes stronger. Yet, the mobility of factors (long thought to induce governments to respect property) has recently increased. In part, this is driven by technological developments and is likely to accelerate. The increased mobility of people and capital forces governments to compete, placing a check on Leviathan. CIDs and other private developments are part of this phenomenon, developed in Hayekian fashion to compete with faltering state institutions.

This view (and TVC's supporting evidence) undermines the widespread emphasis on all sorts of "market failures" -- and the presumed benign corrective capabilities of politics and government. Rather, significant experience suggests that, "market-challenging" goods like roads, health insurance, unemployment insurance, police services, education, and law can and indeed have been privately provided (Ch 15).

Yet, there is more. A traditional attack on property rights centers on the premise of a conflict between self-serving behavior in the marketplace and impulses towards civility and civic association. Communitarians argue that community and social capital are in decline and warn that a deficit of social capital is associated with a host of negative social consequences such as increased crime, poor economic performance, and political disillusionment. It is a mistake, however, to correlate this decline with "capitalism" as it also coincides with the rise of the welfare state which acted to crowd-out the private provision of many collective goods and social services. The critics may be wrong in more ways than one as it has been argued that the welfare state has sapped the virtues necessary for civility, civic association, *and* success in the marketplace. Rather than undermining community, civil society may take root in the commercial and communal spaces, facilities and institutions now taking shape in response to market demands.³⁰

Another example is enhanced political participation by property owners in the direct governance of their major financial asset, their home. The primacy of local politics is well known and CID politics are as local as governance becomes. We do not yet know much about the links between CIDs and civil society but the pairing appears to be a more promising solution to the crisis in civic engagement than the spatial determinism of the New Urbanists which banks on mandated porches, bay windows and similar design features to do the job.

THE FUTURE OF CITIES

³⁰ Brooks (2000) devotes a whole book to the post-"me generation" synthesis of bohemian and bourgeois sensibilities. People's demand for community is alive and well and being met at Starbucks and similar chains.

Just a few years before the fall of the Berlin Wall, Nobelist James M. Buchanan worried that unless a constraining constitutional structure is resurrected, the overreaching state will continue to swell.³¹ Yet, it is no longer simply a one-way street; powerful forces are at work expanding both liberty and prosperity. The cases documented in *TVC* show that we are rediscovering voluntary institutions and arrangements that were crowded-out or regulated out of existence by the fling with socialism and progressivism. *The Voluntary City* shows that the scope for markets broadly conceived, i.e. the scope for civil society, is even larger than the emerging consensus recognizes.

The voluntary arrangements of civil society are capable of producing a host of so-called public goods including aesthetic and functional zoning, roads, planning and other aspects of physical urban infrastructure. Civil society can also produce social infrastructure including education, conflict resolution, crime control and many of the social services currently monopolized by the welfare state. Can voluntarism foster the broad range of civic resources in the modern age? Can it restore a "civic voice"? Can it foster the set of connections that enhance the economic as well as the non-economic sides of life? The weight of the evidence developed in *TVC* says "yes" to all of these. The bottom-up refashioning of social relationships is the most promising.³² Perhaps the events accompanying the fall of the Berlin Wall are much more auspicious than anyone has yet suggested.

Human progress comes in fits and starts -- often to the point where its very existence is obscured and even denied by some. Yet, advances over the last several hundred years in humanity's material condition have been stunning.³³ Having lived at subsistence levels for most of their existence, large proportions of the human race have only relatively recently advanced far beyond these levels. Such dramatic shifts are best explained by the identification of virtuous cycles, including positive feedbacks between prosperity and freedom. These provide the settings for people to contract and associate voluntarily.

³¹ Buchanan (1994).

³² A similar view is expressed in Wilson (1999).

³³ McNeill (1991) places the beginning of the run-up at about 1000 AD when serious long distance trade (and associated interactions) became established in many parts of the world.

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