

Anthony Comegna ([00:20](#)):

Hello, everyone. Welcome to another week of Ideas in Progress. I'm your host, Anthony Comegna, and we're back with Georgetown university's Professor John Hasnas. Last time, of course, we covered John's fairly long and storied history around here, and now we're going to dig in on civil society. The readings are a whole lot of Scottish enlightenment, a good deal of Tocqueville, and a healthy amount of more modern writers to go along with them. We try to find a solid definition of civil society and struggle a bit to work our way through alternative decidedly non-classical liberal visions of civil society. Once again, it was very good fun. So let's get to it, more with John Hasnas.

Anthony Comegna ([01:01](#)):

Now, John, I love the way that you ended the last episode because that leads us just so perfectly into this week's show, which is on our, as we record, upcoming but as the episode goes out, our recent program, co-sponsored with Liberty Fund, on liberty and civil society. I'm definitely curious to see what you've made of some of these readings, some in particular, and we'll get to that later. But I'm also curious, off the start, just define it for us. What is civil society? Then given that we talked so much about your idea of the myth of the rule of law in the last episode, how do you see these two concepts as related?

John Hasnas ([01:49](#)):

You've asked me to define civil society. I'm not sure I can do that because, at least to me, civil society is merely what people do in the absence of something. I'll make an analogy. What is the free market? The free market is how people interact with each other when the government's not interfering. That can have all kinds of different dimensions, but it's anything that doesn't involve government interference. My view of civil society is probably parallel. If the government is not enforcing coercive rules, people are interacting on some other basis, and civil society is so generic and all-inclusive that, that's what it means to me.

John Hasnas ([02:44](#)):

Civil society, over the years, I have developed into what I'll call Hayekian ... I discovered Hayek partially from my interactions with other faculty at the IHS. I read Hayek, and I think his way of viewing the way things evolve through human interaction is a seminal thought. You can take that in many directions and I try to take it into the law. But it describes how order can be gained through repeated interaction, learning what works and what doesn't. Things that fail, you don't repeat. Things that succeed, you do repeat, and pretty soon you've got an organization that serves human needs and goals. That's civil society to me.

Anthony Comegna ([03:38](#)):

So it's very expansive. I mean it virtually includes every say, voluntary sphere of life, then.

John Hasnas ([03:46](#)):

Yes, it does. It probably includes several not fully voluntary spheres of life.

Anthony Comegna ([03:54](#)):

Maybe we can dig into that a little bit. Yeah, what would ... Because I'm sure this is going to come up or has come up whichever timeframe you want to choose, but what would be like a monastery? To some

degree, a monastery is coercive in that you think an angry and vengeful God or church might exact its wrath upon you if you somehow violate your creed, and so you have to follow it. What would be some examples of a coercive or non-voluntary element of civil society?

John Hasnas ([04:26](#)):

All right, I'm going to do something very ... that libertarians do. That's just not answer your question and reject the premise. Here's what I mean. I'm a libertarian. I'm a libertarian forever. I'm a libertarian from way back before any of you were born. I'm a libertarian before they used that word. That's my worldview. But I'm not a libertarian who sees as the fundamental distinction, the distinction between coercion and freedom. In fact, I think that just muddies everything. I call myself a Hayekian libertarian. The fundamental distinction is the distinction between monopoly and competition. I tend to be against government because government is a monopoly. It imposes one rule on everyone. It doesn't allow experimentation. It doesn't learn from human interaction. It doesn't learn and provide feedback. Just some people make the rules and others have to follow it.

John Hasnas ([05:32](#)):

If I can stop that from happening, everything else to me is the way the world should be organized. I don't care whether it's coercive or not. The common law is coercively enforced. It's just not monopolistically enforced. People join religious orders in which they've given away all of their free will to others who can coercively enforce rules. Lots of times it's terrible struggles to escape from these kind of groups. But as long as it's not monopolistic, as long as the groups are in competition with other groups and people can move one way or another, human beings tend to make what I consider positive progress slowly over time. It's not ... Freedom doesn't produce nirvana. Freedom doesn't produce absolute justice. I am not a natural rights person who says the world has to conform to my concept of what natural rights are. I'm happy to live in a world where things are getting slightly better every year.

John Hasnas ([06:50](#)):

I learned this from the economists. Going in, I didn't understand it, but they taught me the magic of marginal effects. If you live in a world where things are getting a little better every year, you live in utopia, because in 20 years, the prosperity is doubled. So this is a way of saying I don't see coercion or non coercion as the main dividing line or the useful philosophical dividing line. I see monopoly and non monopoly as the key dividing line. For me, civil society is everything that's on the non monopolistic side of that line.

Anthony Comegna ([07:32](#)):

I have a lot of follow up questions about that. I guess I'm going to have to narrow it down because I first certainly want to offer a bit of challenge to the marginal view, although I certainly ... Hey, I'm a Mengerian old school, old school, old school Austrian in that sense. A causal realist to the extreme, and I think Austranism drifted from that significantly. So I like old school, Carl Menger, but-

John Hasnas ([07:58](#)):

Okay, I don't actually know what any of that means because I didn't get any of those references.

Anthony Comegna ([08:05](#)):

Okay, the-

John Hasnas ([08:06](#)):

The economists taught me about marginal effects. I got that one.

Anthony Comegna ([08:09](#)):

Yeah, no Menger was the founder of the marginal revolution, at least in the [Austrian 00:08:14] school, the important insight that marginal effects cause valuation. You value things on the margins as they're added to the available stock, and that determines price and other economic effects. But the point that I'm making ... Sorry for the outdated reference out there, but like I always say, I'm a historian of Jacksonian America. I live in the 19th century.

Anthony Comegna ([08:42](#)):

I agree with you that marginal effects are really, really important. Marginal change is what produces long-term massive change, but yet for plenty of people, they can't ... they face challenges that can't await marginal change, and so that seems perhaps aloof. You know what I mean? But I see civil society as a way of people directly meeting whatever their immediate needs might be, and that's the key thing about it. There are all sorts of things you can do immediately by yourself and with your community on a voluntary basis.

John Hasnas ([09:20](#)):

I agree with that. I think that's entirely correct. The reason why I considered myself a Hayekian is because I think it's great if everybody tries to do that. Many people will fail. What they try to do will not provide the goods or services they need to have a successful life, and that's too bad. Some people will succeed, and then everybody else will see what they did and copy them and we'll make, the society as a whole will make a lot of progress. That's good. It's better than saying, let's take a group of people who graduated from Harvard and give them power and let them make the rules, because we won't learn anything through trial and error, experimentation, and the way you ... This is Hayekian. Hayek argues that we are inevitably ignorant of many things, and the only way to learn is by trying things out, seeing what works, repeating what works well, and abandoning what doesn't. That's how you make the world a better place.

John Hasnas ([10:29](#)):

When I say marginal effects, what I'm saying is if we live in a world where that kind of experimentation takes place and people, wherever they are, from whatever segment of society they're functioning in, discover something that makes life better, we learn, it spreads, and society benefits overall. You're talking about civil society. One thing that all faculty do at IHS seminars, whether the students like it or not, is we give them references for reading. Articles, books, things like that, that we think are useful for them to read. I don't have that many, but one I always give out is I refer them to Charles Murray's book, *In Pursuit: Of Happiness and Good Government*, which to me is the best book on political science or political theory that I've encountered.

John Hasnas ([11:28](#)):

At the end of that book, he's got the best account of civil society that I've ever read. He's got a section on little platoons, and he explains how people organize themselves to solve problems. He's got a great account of how, when he says you don't need government to create communities. People have been doing that for 6,000 years. If communities are breaking down, you should be asking what is government

doing to interfere with community activity? At the end of that book, he's got something that was very impressive to me. He says if we lived in utopia, we wouldn't know it, because utopia is a situation in which ... There's no such thing as the perfect world. We never get to a world in which all problems are solved. Utopia is when we live in a world in which the maximum number of problems are solved, that can be solved without making things worse overall, so the Pareto optimal world.

John Hasnas ([12:34](#)):

But even if you live in that world, you will see things wrong that have to be corrected. If you lived in utopia, you wouldn't know it, and to the extent that you decide you got to have coercive power to solve a problem you can identify, you will destroy the utopia by interfering with the trial and error learning process that puts you there. So what I always argue for is the correct conception of the ideal society is one that's shot through with problems, but has an ongoing automatic mechanism for solving them that lets us learn over time and continue.

John Hasnas ([13:16](#)):

I'll give you one other analogy. I teach torts. I teach that every year. The students always want to know why are there so many cases about railroads? Why are they always railroad cases? My answer is because at the time those cases were being settled, railroads were cutting edge, new technology. Human beings didn't know how to use them safely, and the tort law trial and error process taught us what the necessary safety rules are. The reason why those cases are in the book is because that's where the rules came from.

John Hasnas ([13:53](#)):

I point out to them that when they're teaching tort law 30 years from now, most of their cases are going to be about things like new reproductive technologies, or internet issues, or intellectual property disputes, because those are where ... that's the areas in which we need to learn what the rules are and where they're developing through the trial and error process. This is a long and big digression to say that what I think about civil society is the same as what I think about everything else. Human beings need a field in which they can learn by trying things, finding out what works, and going from there.

Anthony Comegna ([14:35](#)):

Well, let's jump from right there and expand a little bit on some of the readings that we have specifically. Since you mentioned him last time around, David Beito and his collection with Peter Gordon and Alex Tabarrok, *The Voluntary City*. We have a couple of chapters from that book included in our reading list for the weekend. David Beito has been on the show before. I've been to several Liberty Funds with him. We're friends and colleagues, and of course, I love and respect his work like you do. But tell us about this concept that they introduced. I love just the very concept embedded in the title, *The Voluntary City*, which is a book about mutual aid. What does that concept say to you? What do you think they're getting at with that title and the rest of the volume?

John Hasnas ([15:24](#)):

Like you, so I know David. I'm friendly with him. I think everybody should read his stuff all the time. He's the kind of historian that does important work in the following sense. I don't want to be insulting to any historians or you, since it's not my field, but most of what I consider history is people looking in the past at the actions of governments. So history is the history of war. It's the history of tyranny. It's the history of conquest. It's the history of governments. David looks at the past and says, "What are people doing?"

He looks at the way people interact in fraternal societies, the way people supply education to each other, the way people organize themselves to solve problems when there's no big brother forcing them to do one thing or another. I think I ... It was a context in which I described to you when I talked to people about common law, I'm just pointing out something that's obviously there and in front of everybody that they don't notice.

John Hasnas ([16:38](#)):

David does that in the field of history. He's saying, look, we know how these problems were solved. Nobody's looking at them. Let me call your attention to X, Y, and Z. That's why his work is incredibly valuable, because it lets us see that there's an alternative to solving problems than using the stick of government. Another useful statement that I got from my experience with the IHS is one time when I was walking with David Schmitz and talking about something, an article ... a lecture I had to give, he gave me this simple statement. He said, "Oh, that's good. The best way to prove that something is possible is to show that it already exists."

John Hasnas ([17:29](#)):

Now, I try to do that with law. David does that with history. The best way to show that you don't need government to provide important services like education, like welfare is to show that we've been doing it without government for centuries and for decades. The best way to show something's possible is to show it already exists. He's in the business of doing that. That's why I think everybody should read his work.

Anthony Comegna ([17:57](#)):

Yeah, that's wonderful. I am a huge, huge advocate for what's called history from below. You said history for pretty much forever up until say, the 1960s and people like EP Thompson, it was all history of governments and kings and wars and conquests and new nations and whatever. Nothing much of note at all about average people and their lives and the improvements or the destruction wrought upon them. I love that people like David do that. I also love that this session ends, or this program ends with a very strange reading for IHS audiences, I'm sure, from historian Peter Linebaugh, but he is one of those historians from below. He's all about the average people trying to escape power, wherever it might be concentrated on the fringes of settlement out here in the new world in particular.

Anthony Comegna ([18:55](#)):

This essay is about May Day. I'm curious really, just to know your thoughts on the piece and what your reaction to seeing it was and what kinds of things you might be curious to know from the students about their own readings of this.

John Hasnas ([19:14](#)):

Yeah, I'm not sure I understood its significance until you explained it to me. But he seems to be saying something like ... If I'm going to relate this to civil society, he seems to be saying something like civil society is organized either malignantly or beneficially, and you can go either way. Obviously, he thinks that the capitalistic side is the malignant side, and people just cooperating is the beneficial side. You know what? He's got something that's correct there again, since everything I do relates back to either tort law or Hayek Hayek, and I'm a Hayekian. I mean, he seems to have the two sides of the coin and not realize the different spheres. So if I'm a Hayekian, I want to say there's the relationships that work on

the small scale among people who know each other well and can interact personally. Then there's the other sphere where we're dealing with strangers, and we need a different way of interacting.

John Hasnas ([20:29](#)):

If I want to make an analogy, the article you've referred to, the green seems to be the interactions you have when you're in the small group where everybody knows each other and it's sharing and goodwill. The red is when he's talking about capitalism, corporations, power structures, people who are oppressing others. He's obviously against that kind of thing, but that's at the higher level. What he seems to have missed is that you need different rules at the different ... in the different levels. He, I think, characterizes the capitalistic level as the sanguine red malignant side, because he's noting that the rules of the small group aren't observed there. Maybe what you need to do is let him read some Hayek, and everything will be okay.

Anthony Comegna ([21:37](#)):

That was, as I said before, very good fun. I do love throwing curve balls into reading lists sometimes, shaking up the material you might expect to encounter, and seeing how our students react to it. In this case, I'm also glad I got to get John's reaction. By the way, our deepest thanks and appreciation to Professor John Hasnas for joining us these past two weeks, and for doing such a fantastic job in our recent discussion colloquium. Finally, thank you out there, audience. Thanks for tuning in week after week and making IHS a regular part of your intellectual life. Keep it up. We'll do the same and we'll all keep the progress coming.