

Hayek's *The Constitution of Liberty*

SUMMARY

- The core argument that runs throughout *The Constitution of Liberty* concerns freedom and its value to the individual, to society and to civilisation at large. Without freedom of action in particular, progress in these areas would be impossible.
- Modern civilisation is in crisis because the West has lost faith in the principles of liberty or freedom (interchangeable terms for Hayek). Opinion ultimately governs our actions, and Hayek will seek to reshape it through a political philosophy that restates basic principles, vindicates fundamental values, articulates a guiding 'ideal' (the Rule of Law), and clarifies standards that ought to determine policy.
- Freedom requires that the coercion of some by others in society be reduced as much as possible. One function of government is to prevent individuals from coercing other individuals, but then government itself must be prevented from using coercion improperly. In a free society, the exercise of government's coercive power is constrained and made predictable by general rules that apply equally to all individuals, including to those who make and enforce the laws. A free society is one that empowers individuals to develop and follow their own life plans. Attempts to manipulate the environment of individuals, e.g. by withholding vital information, are insidious forms of coercion.

- Freedom and responsibility cannot be separated. Responsibility means that each individual must bear the consequences of his actions. Hayek's 'individuals' are thoroughly enmeshed in social relations.
- Forgetting that man's knowledge is severely limited, modern rationalism is constantly tempted to plan and fashion the future comprehensively. Modern rationalism dates back to seventeenth-century philosophy, but later is exhibited most powerfully by socialism in its various forms. It gives rise to a destructive quest for perfection, in which inherited rules, traditions and moral values – invaluable gifts from the past – are thoughtlessly discarded. Ignorance is inevitable, unavoidable and the reality of all men, including those who occupy positions of power. Hayek is a strong critic of modern bureaucracy.
- Social order develops through spontaneous growth as well as through some measure of deliberate construction. Spontaneous growth occurs when individuals and groups with limited knowledge interact with other individuals and groups, giving rise to unplanned patterns of behaviour and institutional forms. Hayek applauds the Scottish and other British philosophers of the late eighteenth and early nineteenth centuries for recognising the importance of spontaneous growth; and he builds on their ideas to develop the theory of social evolution that underpins his philosophy of freedom. By turning to the Scots, Hayek emphatically rejects the earlier liberal theories of John Locke and his followers, which started from natural rights and from an original contract.
- Hayek rejects the idea of a 'natural' or 'factual' equality

between men. At the same time, he insists that individuals have a 'dignity' that we must respect. Hayek promises 'an ultimate justification' for freedom, which must be connected somehow to this idea of individual dignity: but he leaves the matter quite unclear. He does insist strongly that the Rule of Law permits social inequalities, whose beneficial results are generally overlooked by the misguided advocates of 'social justice'.

- Hayek regards democracy as the best practicable form of government, so long as a majority of the community is committed to individual liberty, the Rule of Law and limited government. Democracy is not primarily a way of life, but a set of procedures for organising and operating government. There are no inherent substantive ends or core beliefs that are essential to democratic rule. By conceding that the majority of a community may embrace any set of core beliefs that it chooses, Hayek is left with no basis for opposing totalitarian democracies on democratic grounds.
- Hayek applies his understanding of the evolutionary development of society in general to the growth of legal institutions and the Rule of Law. He traces this growth to England, America and Germany, but largely excludes French legal thought, which has favoured a rationalistic approach to the law which runs counter to a free society.
- The 'ideal' of the Rule of Law requires that existing laws share certain characteristics. Law must be general; it must be known and certain and apply equally to all; it must provide for an independent judiciary; it must limit the executive by legislative and judicial rules; and it must safeguard fundamental rights and civil liberties.

- Hayek does not favour passive government, but rather one that seeks many benefits for the community. Although he shares the ‘strong presumption against governments actively participating in economic efforts’, he nonetheless states that the ‘old formulae of laissez faire or non-intervention do not provide us with an adequate criterion for distinguishing between what is and what is not admissible in a free system’. As he explains, ‘it is the character rather than the volume of government activity that is important’. In economic matters, for example, an active government that assists the spontaneous forces of the market is preferable to a less active one that does the wrong things. In this regard he sees himself as following the best of the classical liberals, such as Adam Smith.
- In cases where coercion might be involved, the policy actions of government are limited by the Rule of Law. In other cases, Hayek recommends that government’s policies be judged by the principle of expediency, or what best serves the community’s interest.
- In the final part of *The Constitution of Liberty* Hayek examines many areas of contemporary policy concern – social security, taxation, healthcare, housing, urban planning, natural resources and education – in light of the principles developed in the earlier parts of his study. Two features stand out: Hayek is willing for government to provide a broad range of social services, in line with principles enunciated above; and he steadfastly opposes policies that aim at wealth redistribution or ‘social justice’.
- In approaching *The Constitution of Liberty*, the reader must above all be prepared for surprises, regardless of his

previous readings of the text. There are plenty of loose ends and undeveloped lines of reasoning in *The Constitution of Liberty*. A crucial concept that Hayek depends on but leaves undeveloped is that of ‘the community’. Very much along Lockean lines, Hayek holds that the majority of a community, for its own protection, can authorise government to suspend civil liberties in emergency situations. But that is not all. The majority can authorise government to coerce citizens even when they have not violated the law. Leading examples are the military draft and the imposition of taxes. The implication here is that the community’s interest is the highest end that government must seek, overriding the strict Rule of Law or in furtherance of it. Expedient policies are measured finally by the interest of the community. Another challenge in reading Hayek’s text is to penetrate his theory of knowledge – one that views man’s mind as ‘a product of the civilization in which it has grown up’. Can Hayek avoid a thoroughgoing relativism and make room for universal or transcendent standards?