

SOCIAL JUSTICE AND THE MORAL JUSTIFICATION OF A MARKET SOCIETY

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Abstract

The main focus of this paper is on the issues of social justice, legitimate scope of state power and the delicate relationship between the state and the market. These issues will be addressed on a two-level normative analysis. The first level will address the concept of social justice and address the issues why the dominant approaches to justice should be seen as morally problematic and somewhat inappropriate for the contemporary complex societies. Second level will focus on finding the moral justification of a market society or a free market system as the alternative framework for resolving issues of social justice without the extensive redistributive role of the state. In general, three broad approaches to justifying a free market society are: (1) the desert-based justifications, (2) the entitlement-based justifications and (3) the liberty-based justifications. Nevertheless, I will argue that only the liberty-based approach is defensible because other approaches are based on a somewhat narrow understanding of the market and the legitimate role of the state. Therefore, I believe that a liberty-based approach in combination with the Hayekian idea of a spontaneous market order can offer a sustainable moral justification of a free market society.

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INTRODUCTION

The issues of justice have always had a prominent position in political philosophy. In general, all relevant theories of justice can be classified according to two basic principles: (1) *the principle of individual freedom* (procedural theories of justice) and (2) *the principle of social justice* (distributive theories of justice). However, this distinction can be somewhat blurred which is especially evident in the case of liberal egalitarian theories which almost equally emphasize the importance of both principles. Classical liberals believe that the government should have a minimal role in society (*night-watchmen state*) and advocate the maximization of individual liberty, market freedoms and limitations of government power. However, classic liberalism and the appropriateness of the minimal state were brought into question because of the growing inequality among the citizens, which in turn led to the idea that the state should have a more significant role in people's well-being (*welfare state*). This implied certain corrections of unwanted market outcomes and a stronger market regulation in general. The Great Depression of the 1930s marked the beginning of the long domination of the Keynesian economics and only reinforced the role of government in society (interventionist or welfare economics) and its responsibility to the citizens. John Rawls's *A Theory of Justice* once again raised the issue of what is a just society and how should it be achieved. In contrast, numerous criticisms of Rawls's theory usually invoked classical liberal ideas in somewhat new doctrines of neoliberalism and libertarianism. Basically, it can be argued that the crucial aspect in the discussion about social justice is the issue whether the *invisible hand* of the market can actually produce just outcomes and individual welfare in general or does it require substantial steering from the government in order to achieve these goals. However, as I will show there is a lot of confusion about the concept of the invisible hand or the spontaneity of the market system. The purpose of this (rather) short introduction is to demonstrate that the discussion about the issues of social justice and what actually

constitutes a just society is far from being resolved; although liberal egalitarianism is currently the dominant approach to justice. My main focus will be on the issues of social justice, legitimate scope of state power and the delicate relationship between the state and the market. In short, I intend to address these issues on a two-level normative analysis. The first level will be focused on showing why the dominant approaches to justice should be seen as morally problematic and somewhat inappropriate for the contemporary complex societies and market economies, especially in the era of global economy. The starting step will be to address the fundamental concepts of freedom and social justice in its various forms and to show what their implications are. Crucial aspect of this discussion is to show what kind of notion of freedom is valuable and can be morally justified. Should the concept of individual freedom be defined only in negative terms, or should it incorporate a positive conception as well? In addition, I will address the issue whether attempts of creating a more just society through coercive (government) mechanisms are acceptable from a moral point of view. Second level will focus on finding the moral justification of a market society or a free market system as the alternative framework for resolving issues of social justice without the extensive redistributive role of the state. The most common justifications of a free market system stem from the contemporary libertarian criticism of liberal egalitarianism. The focus will also be on a more complex understanding of the relationship between the market and society, especially on the fact that the current theories of justice are based on a somewhat static view of social processes and functioning of the market.

CHAPTER 1

THE PUZZLE

At the moment, the predominant view is that theories that put more emphasis on promoting an ideal of social justice and equality “hold the moral high ground” over other theories which put more emphasis on market freedoms. This is so because there is no doubt that a market system produces certain (even great) inequalities and it is questionable whether the market distribution of benefits and burdens is just. I disagree with this view because I believe that it is possible to morally justify a free market society without the corrective government interventions. Of course, free market systems can be justified with some ease on economic grounds (greater efficiency of production and consumption) and on epistemic grounds (more efficient utilization of dispersed individual knowledge); however I am primarily not interested in such justifications (although they ought not to be ignored) but on developing a moral ground for justification. First of all, there is no doubt (as Serena Olsaretti argues) that the question “*should we have a market based economy*” is currently (and probably for an indefinite time) off the agenda. History has clearly shown that the alternative conception of economic organization – the centrally planned economy – is an inferior solution and it has been discarded. Therefore, since we can hardly expect that a new, more efficient, system of production will be invented in the near future; the market-based economy should be accepted as a starting assumption.

In addition, the issue of justifying a system based on individual freedom has also been a long-time preoccupation of all great liberal theorists, whose attempts Gray summarized in several broad strands. First, the doctrine of natural rights (Locke/Nozick), which is rather difficult to incorporate in modern framework of ideas without the notion of natural theology (i.e. in Locke’s theory, natural law was sustained by divine will from which it derived its

moral content) (Gray, 1986: 46). Second, Kantian philosophy which argues for moral equality on the grounds that individuals should always be treated as ends in themselves, and never as means to ends of others. Thus, a liberal society is the only social order appropriate for individual and autonomous rational agents (Gray, 1986: 50). The problem here is the embeddedness of the Western concept of modernity and individuality, which questions its universal character. Third, the classical utilitarian argument is based on maximization of overall social utility. Mill's attempt of reconciling utilitarian concern for general welfare with liberal concern for equality of freedom (*Harm principle*) ultimately fails because of the aggregate effects of utilitarian calculation of individual freedom (Gray, 1986: 53). Finally, various contractarian approaches (i.e. Rawls's or Buchanan's) all emphasize the notion of social contract (even if it is purely hypothetical) and fundamental commitment to individualistic ethics (the principle of *Greatest Equal Liberty*) (Gray, 1986: 55). It is a widely held belief that liberal egalitarianism, in the contractarian form, has successfully offered a defensible moral justification of an individualistic market-based society, thus it rightfully occupies the moral high ground over other theories. Two issues can be raised against this belief. First, the issue whether liberal egalitarianism should be regarded as occupying an *a priori* moral high ground (in contrast to available feasible alternatives). One of the morally most problematic issues is the fact that the ideal of social justice and extensive government interventions often conflict with other values, especially with individual freedom (if understood in negative terms). Second, I will question whether liberal egalitarianism is actually the appropriate way of resolving issues of social justice or justice in society in general. The fundamental questions here will be (1) whether government interventions arbitrarily limit individual freedom and undermine equality before the law and (2) whether it is possible to rationally design a more just society or do such attempts necessarily threaten to destroy the complex nature of contemporary societies. I do not believe that a liberal

egalitarianism is either effective way of creating a just society or that it can be sufficiently morally justified, thus I suggest that it should be rejected in favor of a free market approach. In order to provide a moral justification for such a system I will have to address the issues of social justice, especially the demand for a greater justice in distribution and the correction of some unwanted market outcomes which are perceived as unfair and unjust. In addition, the moral justification of a market society (in order to be defensible) will have to move away from the classical liberal justification which could (at least to some extent) rely on the sanctity of religion and God for its moral content. Also, a valid moral justification of a market society must avoid the problem of the so-called Platonic Guardians, or in other words people should be able to understand why individual freedom and free markets are invaluable for their well-being. I suggest that the starting point of developing a moral justification of a market society should be defining two crucial notions of individual freedom and social justice. The concept of social justice is especially important because, as I have noted, it is widely held that a market system cannot be morally justified because it produces unjust and unwanted outcomes. The issues of justice are fundamental for morally justifying any social order (thus, a market society as well), however they cannot be properly understood without the notion of individual freedom.

CHAPTER 2

THE CONCEPT OF INDIVIDUAL FREEDOM

The notion of freedom, although one of the fundamental concepts in political philosophy, is still highly “undefined” and there is no agreement on what the proper understanding of freedom is or why it should be valued in the first place. First of all, the concept of freedom can be understood as a negative notion (absence of obstacles, constraints or coercion) and in positive terms (ability for autonomous acting or self-realization). This differentiation reflects the disagreement between classical and modern liberals because the former have criticized government redistribution and interventions for unjustly limiting freedom, while the latter have argued that redistribution is fully compatible with freedom once the concept is understood in the proper or moralized sense. Without a doubt, when the concept of liberty is theorized in a positive or a moralized sense it can easily be shown that it is compatible with government redistribution, extensive welfare state and market economy. However, the real issue is whether after such re-conceptualization we can still talk about the notion of individual freedom or something completely different. The fundamental issue, according to Hayek, is that there is no clear consensus about the definition of freedom which makes it unclear why freedom is valuable in the first place.

2.1. Individual Freedom: One Concept Too Many?

Hayek argued that a lot of confusion in the discussion is based on misunderstanding the relation between *liberty* (negative understanding) and *liberties* (positive understanding). Throughout history many different understandings of freedom have been developed, however none of them should be confused with the original purely negative conception of freedom. For example, freedom should not be confused with notions such as: (1) political freedom, which refers to the right of people to participate in a political life of a community; (2) subjective or metaphysical freedom, which refers to the extent in which a person is guided by his own will; or (3) individual autonomy, which refers to the ability of an individual to satisfy his own wishes or his ability to do what he wants (Hayek, 2007). The last notion of freedom as autonomy usually leads to the discussion about the availability of resources or meaningful options, which according to Hayek are not necessary conditions of freedom.

With this in mind, Hayek¹ defines freedom as the “*independence of the arbitrary will of another*” or a condition in which the individual is not subordinate to the arbitrary will of others. (Hayek, 2007: 12). The notion of freedom should be understood only in negative terms (similar to the notion of peace) because it only describes the absence of coercion and it becomes positive only through what individuals themselves make of it. Coercion is understood as a situation in which an individual was (arbitrarily) prevented from acting in accordance with his own coherent plan (Hayek, 2007). However, if freedom is to be understood only in negative terms as the absence of coercion or constraints, then the crucial issue which has to be addressed becomes what constitutes as relevant constraints or coercive interferences which limits the freedom of individuals. Obviously, the strength of institutional arrangements necessary for promoting freedom will vary depending on the definition.

¹ I intend to use the notion of freedom based mostly on Hayek's theory, which I find to be the most sophisticated contemporary formulation of the classical concept of freedom.

Of course, freedom cannot be unlimited in a society and it is impossible to completely eliminate coercion. Therefore, freedom is valuable only if it is supported by the network of rules which are designed to limit the aggression of others. In other words, freedom assumes (1) a guaranteed private sphere of individuals (set of circumstances with which others cannot interfere) and (2) limitations on the use of coercion in society. The stability of the system depends on the role of the state, which is entrusted with the monopoly of coercion; however its coercive powers also have to be limited by general laws. By definition, any arbitrary intrusion into the individual's private sphere is regarded as illegitimate restriction of freedom and infringement of individual rights. Nevertheless, as Petit correctly notes, although in most theories of freedom there is a difference between natural limitations (which do not restrict one's freedom) and limitations arising from the subjection to the will of others (which are illegitimate), there is no agreement on what non-subjection actually means. For example, Hobbes holds that freedom of choice requires non-frustration, which means that every option that an individual prefers must be accessible. In other words, non-frustration assumes that individual will only be frustrated if the option he prefers is obstructed (Petit, 2011: 697). Somewhat stronger notion is Berlin's freedom as non-interference, which similar to the Hobbesian view requires absence of external obstacles; however it focuses more on the deliberate interferences from other individuals. Freedom as non-interference requires not just that every option that an individual prefers must be accessible, but also that each option should remain accessible and each door open and not just the preferred ones (Petit, 2011: 698). The classical negative understanding of freedom has been heavily criticized because numerous formally available options do not guarantee that those options would be meaningful or that a person would be able to take advantage of them. In other words, only formal notion of freedom understood as absence of constraints is almost worthless without certain resources, abilities and/or a range of meaningful options. For example, John Gray holds that it cannot

really be shown why a concept of negative liberty should be valued intrinsically; therefore it has to be theorized in terms of its contribution to something that has an intrinsic value. According to him (following Joseph Raz's theory) that something is individual autonomy understood "as a condition in which a person can be at least part author of his life", which implies that necessary resources and meaningful options would be available equally to all - of course guaranteed by the government (Gray, 1992: 22). Under such positive understanding freedom requires a lot more than just non-frustration or non-interference. For example, Petit's conception of freedom as non-domination requires not only that the available options should be accessible (open doors) but that no one is blocking the access in any way (there should be no powerful doorkeepers who can shut the door) (Petit, 2011: 709). In other words, individual cannot be truly free if he is not autonomous as well, and he cannot be autonomous without certain conditions being satisfied (republican ideal of freedom). Therefore, government redistribution is justified and more importantly compatible with the notion of individual freedom if properly understood in a moralized way (usually as ideal of autonomy).

However, as I have already mentioned, classical liberals explicitly hold that the only proper understanding of freedom is in negative terms as absence of constraints or coercion. Other positive freedoms, such as autonomy or political freedom, although valuable in their own account should not be confused with the notion of individual liberty. In addition, Berlin holds that the notion of autonomy is problematic because it can easily be abused for paternalism and tyranny (Carter, 2012). On the other hand, Kukathas argues that the ideal of autonomy, although valuable, cannot really provide a sufficient justification for an extensive welfare state and redistribution because it is simply not that important (Kukathas, 1992: 102). The point is, as Hayek correctly argues, "whether someone is free or not does not depend on the range of choice but on whether he can expect to shape his course of action in accordance with his present intentions, or whether somebody else has the power so to manipulate the

conditions as to make him act according to that person's will rather than his own" (Hayek, 2007: 13). Therefore, a slave living under the rule of a benevolent master cannot be regarded as free, regardless of the options and resources that are available to him. In addition, the value of the ideal of autonomy is also somewhat undermined by the vagueness of the idea itself. Namely, if the notion of autonomy is understood as potential for self-realization (which implies redistribution of certain resources) then it also depends on someone's character and not just on available resources. In other words, according to Kukathas, a truly autonomous person is the one who is able to make the most of the available resources and opportunities he has (Kukathas, 1992: 107). The point is that evaluating whether someone is more or less autonomous will always be purely subjective because it involves assessment of one's starting capacities and a projection of what his available options might involve and finally his overall life opportunities. Such attempts, given the limitations of human knowledge and the complexity of the existing societies, will necessarily be based on pure speculation. Therefore, the notion of freedom does not assume any particular opportunities but only the right to decide how the given circumstances and available resources are to be used. The implication is that most of the outcomes will be insecure and that people may make numerous costly mistakes in their lives (Hayek, 2007: 17). Nevertheless, the notion of freedom cannot be separated from the notion of individual responsibility and every person is to be held responsible for his actions regardless whatever the consequences are. According to Hayek, an individual is free when he is acting in accordance with his own decisions and goals while being subjected only to general and abstract laws, which are equally applied to all (the concept of freedom under the law). Thus, freedom requires only non-interference and that individuals are all treated in accordance with the general law, which limits interferences and makes them more predictable.

In conclusion, failing to realize the fact that there is a significant difference between liberty and liberties because these concepts “are not different species of the same genus but entirely different conditions, often in conflict with one another” (Hayek, 2007: 12) undermines the true value of liberty and places a lot of responsibility and power in the hands of the government which can easily be abused for various intrusions into people’s lives while being justified by a noble rhetoric. Nevertheless, it still has to be shown why the notion of individual liberty, understood in negative terms, should be perceived as valuable.

2.2. *The Value of Individual Freedom*

In general, classical liberals have all found liberty valuable for its invaluable impact on individual well-being and society in general. Therefore, freedom is valued instrumentally for what it enables individuals to achieve, however showing that freedom also has an intrinsic value is somewhat more difficult. Hayek’s argument for individual freedom is based on his theory of knowledge according to which total knowledge exists only as dispersed individual knowledge that cannot be easily aggregated (Hayek, 2007: 22). Therefore, according to him “what is important is not what freedom I personally would like to exercise but what freedom some person may need in order to do things beneficial to society – this freedom we can assure to the unknown person only by giving it to all” (Hayek, 2007: 29). In addition, Hayek holds that liberty is desirable even if some may not take advantage of it because of its invaluable contribution to the overall development of any society, which in turn creates new opportunities that in the long run benefits every individual as well (i.e. the invention of a personal computer). Whether such innovations could be possible in an un-free society is rather doubtful. Hayek’s instrumental justification for individual liberty is complemented with three arguments that demonstrate that freedom should not be valued only instrumentally but intrinsically as well. First, Carter holds that if interpreted correctly Hayek’s theory also

demonstrates that freedom has an intrinsic in addition to instrumental value. Namely, for Hayek freedom is valuable as a means for achieving progress, understood as a process of discovery of new ideas, adaptation and learning. Nevertheless, freedom is still valuable independently from the value of the specific things it enables individuals to do, thus according to Carter it has a non-specific instrumental value, which in turn implies that freedom is valuable as such because what in the end matters are the choices individuals make (Carter, 1995: 836). Second, I believe that freedom for Hayek is not important only instrumentally but also because it guarantees respect for individual diversity and the notion of separateness of persons. Freedom is attractive because it enables individuals to use their unique knowledge and skills in any conceivable way without having to ask for permission from others in order to satisfy their interests and fulfill their potential. However, because only individuals can know what their specific knowledge and skills are, nobody else can determine how they should fulfill their potential. Thus, the decision ultimately has to be left to the individual to act in accordance with his estimates and available options (Hayek, 1962). This argument arises from the underlying Kantian principle of moral equality according to which all people should be treated as ultimate ends in themselves. Finally, freedom should be valued intrinsically because “freedom is the source and condition of most moral values” (Hayek, 2007: 6). In particular, Hayek holds that moral values can be developed only in an environment of freedom because only where an individual will be able to affirm the existing moral values only if he has a freedom of choice and it is responsible for its actions. Something is morally valuable only when it is a matter of choice, and not of coercion (Hayek, 1962). In addition, according to Kukathas, many actions and activities are valuable because individuals are free to choose and undertake them. Hence, will not be valued if individuals did not choose them freely but were coerced into choosing them. Nonetheless, this does not imply the need that choice has to be autonomous in order for a person to be considered free (Kukathas, 1992: 105).

CHAPTER 3

THE CONCEPT OF SOCIAL JUSTICE

The concept of social justice has become one of the most controversial concepts in contemporary political philosophy; although it is not always clear what it actually is. First of all, as Hampton correctly notes, there has never been an agreement on the nature of justice, which implies that people and philosophers disagree on what a morally justified state should be doing (Hampton, 1998: 122). For the purpose of this paper, I will differentiate between two fundamental approaches to social justice or justice in a society:

1. social justice understood as distributive or economic justice
2. social justice understood as procedural justice

As already mentioned in the introduction, I find various the dominant liberal egalitarian approaches to justice (with the associated extensive role of the state in society and different redistributive policies) somewhat morally problematic so I intend to raise several important moral dilemmas.

3.1. Social Justice as Distributive Justice: Liberal Egalitarianism

Without a doubt, the dominant approach to social justice is liberal egalitarianism which defines social justice as a distributive justice. In general, the concept of distributive justice deals with the nature of socially just allocation of goods in a society and with creating more just political/social institutions. It is argued that all individuals have extensive moral obligations to all people living in a society going beyond the traditional general negative duties not to harm others. Of course, such concept of social justice implies an extensive role of the state in a society and a stronger regulation of the market/economy. The focal point of liberal egalitarianism (and the discussion about social justice in general) is Rawls's *Theory of*

Justice, regardless if one tries to perfect it (Rawlsian theorists) or criticized it (contemporary classical liberals/libertarians, feminists, etc.). Hence, a short summary of Rawls's theory is absolutely necessary in order to conceptualize and contextualize the discussion about the issues of social justice. Secondly, I will proceed to other liberal egalitarian conceptions of social justice (resource-based and the capability-based) and the criticism of distributive justice from the classical liberal/libertarian perspective.

3.1.1. John Rawls's Justice as Fairness and the Difference Principle

Rawls defines justice as *justice of fairness*, which according to him is not concerned only with general human welfare (as utilitarianism was) but with *each individual's welfare*. This is a political concept of justice because it presupposes a framework which enables legitimate use of political power. The subject of justice is the *basic structure* of society because its institutions have great effects on the overall life chances of the people living in that society (Rawls, 1971). For Rawls the issue of justice closely connected with his definition of society as a *cooperative venture for mutual advantage*. Social cooperation is absolutely necessary for citizens' prosperity, however it creates certain advantages for all participants (*cooperative surplus*) only if everyone (or nearly everyone) cooperates. Therefore, the issue of justice arises because citizens are not indifferent to how the benefits and burdens of that cooperation will be distributed among them. Conception of justice as fairness suggest that social cooperation should be fair for all participants, which implies that benefits and burdens of cooperation are distributed in a fair manner (Rawls, 1971). In Rawls's conception citizens are seen as (1) *free* (they are able to take responsibility for planning their own lives in accordance with the opportunities and resources that can reasonably be expected); (2) *equal* (they have the necessary capacities to participate in social cooperation, despite possible differences in talents or skills); (3) *reasonable* (they have the capacity for a sense of justice); and (4)

rational (they have the capacity to devise and pursue some conception of the good) (Wenar, 2008). In addition Rawls introduces the concept of *primary goods* (i.e. basic rights and liberties) as an account of citizens' fundamental interests and assume that people want more of these primary goods. Finally, Rawls proposes a hypothetical situation – the so called *original position* - in which free and equal parties are required to select principles of justice. The most important feature of the original position is the *veil of ignorance*, which ensures that each person in the original position is deprived of all facts that are irrelevant for the choice of principles of justice (i.e. race, class, gender, different prejudice, etc.). However, the parties in the original position are aware of the so-called *circumstances of justice*, for example they know that there is a moderate scarcity of resources or some general facts about social life (Wenar, 2008). The original position ensures the choice over principles of justice would be made in an “objective” and impartial way. Therefore, Rawls argues parties in the original position would choose the following two principles of justice by using *maximin* strategy: (1) the principle of equal liberty for all and (2) the principle of equality of opportunity and the difference principle, according to which social and economic inequalities should benefit the least-advantaged in the society. Additionally, Rawls insists that the first principle is prior to the second principle, which means that the equality of liberty has to be pursued before the distribution of social and economic resources. Therefore, according to Hampton, Rawls is not a strict egalitarian because he allows certain levels of social inequality if that benefits the whole society; however his theory of justice implies that people should be treated as equal despite their differences in natural talents, skills, beliefs, etc. (Hampton, 1998: 137).

In addition, certain Rawlsian authors, such as Charles Beitz and Thomas Pogge, have argued that Rawls's theory actually has serious cosmopolitan implications which Rawls failed to acknowledge. Rawls did try to extent his theory beyond a single society to the international arena (Rawls, 1999); however this attempt was heavily criticized for some discrepancy and

incoherence. Rawls's theory has been equally praised for its brilliance and criticized for its deficiencies and certain implications that could be seen as morally problematic. Some have attacked Rawls's arguments, while others focused more on his conclusions. The most famous criticism, of course, stems from the libertarian perspective which Hampton summarizes in the claim that "Rawls has failed to acknowledge the proper role that effort, merit, and responsibility should have in the distribution of resources" (Hampton, 1998: 143). These critiques will be addressed in latter chapters.

3.1.2. Ronald Dworkin's Resource-based Approach to Social Justice

In general, Rawls's theory, although not strictly egalitarian, endorses some form of the egalitarian concept of distributive justice. The most important question that any egalitarian should firstly answer is "*equality of what?*" or in other words what should the state make equal. Two basic approaches are resource egalitarianism (equality of resources) and welfare egalitarianism (equality of welfare or well-being). First of all, resource egalitarianism is believed to be superior to welfare egalitarianism (in any version²) because it is widely held (1) that it is easier to satisfy the requirement of the equality of resources and (2) because it preserves the notion of individual freedom. In other words, in resource egalitarianism the responsibility for achieving well-being is divided in such a way that the society (the state) is responsible only for providing the means (resources) and the individuals themselves should be responsible for their well-being. The underlying logic is that one's life cannot be regarded as a good life if the individual did not achieve it alone. Both Rawls and Dworkin are resource egalitarians; however they endorse different types of resource egalitarianism. Thus, the issue is whose version (Rawls's or Dworkin's) is superior.

² Welfare egalitarianism is usually associated with three basic approaches: (1) equality of enjoyment, (2) equality of success and (3) equality of overall life success.

First of all, Dworkin argues that it is rather difficult to distribute resources equally and genuinely fair because it is not easy as giving the same amount of resources to each person and than keeping constant this achieved equality. Dworkin wants to distribute resources in such a way that everybody is given enough (one should be content with the given amount) to be able to take responsibility for pursuing her/his concept of the good life; however absolute equality is not required³ (Hampton, 1998: 155). In addition, Dworkin argues (against Rawls) that the difference principle simply does not live up to the ideal of resource egalitarianism (thus, to the appropriate concept of social justice) or to the division of responsibility in a society. Namely, the difference principle is insensitive to the reason of inequalities and the choices that have lead up to the situation. People should be helped regardless of anything. The difference principle also identifies the least advantaged only in terms of income and wealth, and misses some other relevant inequalities (i.e. the disabled persons, who would need additional help). In other words, Rawls has focused only on the notions of income and wealth and has wrongly ignored various inner (natural) inequalities for which people, according to Dworkin, should also be somehow compensated. Of course, such claim has various theoretical and practical problems, i.e. what resources should be given to someone who is blind.

In conclusion, Dworkin's version of resource egalitarianism opens some additional issues Rawls's theory has not appropriately addressed; however in the end both of them have a similar underlying conception of social justice according to which a society is responsible for the just distribution of resources and achieving a greater degree of social equality.

³ Dworkin proposes two thought experiments: (1) the so-called auction on the deserted island and (2) the hypothetical insurance to show his point (Hampton, 1998: 155)

3.1.3. The Capability approach to Social Justice (A.Sen/M.Nussbaum)

The capability approach to social justice is based on the claim that freedom to achieve well-being has moral priority, which in turn should be understood in terms of people's capabilities or real opportunities. In a more narrow sense, this approach is based on a framework that provides information needed to evaluate someone's well-being and overall life. Relevant information is contained in the notions of human *functionings* (different states of human beings and activities that a person can undertake, i.e. being well-nourished) and *capabilities* (the associate opportunities to achieve the former) (Robeyns, 2011). Of course, the capability approach assumes that it is possible to make interpersonal comparisons of well-being between two persons (or groups) at the same time or how are they personally doing over some time. Both notions (functionings/capabilities) should be seen as the metric of interpersonal evaluations of well-being, thus indirectly of social justice. The basic claim is that functionings should be understood as constitutive of a human being which means that every person should have a meaningful number of functionings. Such demand implies an important role of the state in redistribution of needed resources or opportunities. In addition, the capability approach is based on the analytical distinction between means and ends, thus it should always be clear whether something is valued as an end in itself or just as a means to a valuable end. In this approach, the ultimate ends are people's capabilities (understood as freedoms or opportunities to pursue well-being) (Robeyns, 2011). For example, the capability theorists have criticized Rawls (primary goods approach) and Dworkin (resource egalitarianism) because they both value particular means to well-being rather than the ends. The capability approach is focused on the ends because it is believed that people significantly differ in their ability to convert means into valuable opportunities (capabilities) or outcomes (functionings). However, the point is to place people in conditions in which they can pursue their ultimate ends.

The capability approach has been criticized for lacking certain elements needed in order to be a full theory of justice (i.e. principles of justice, a standard of injustice, some distributive rule, etc.). Arneson holds that Nussbaum's theory of social justice probably comes closest to a comprehensive theory of justice, especially because she develops "thresholds" according to which a society should be arranged in order to enable people to function at an adequate level and pursuing their conceptions of a good life (Arneson, 2007: 395). However she did not appropriately address the issues what social justice actually requires once those thresholds are met.

3.2. Socio-Political Justification of the Welfare State

The concept of the welfare state and its justification is, as demonstrated in previous chapters, closely related to the notion of social justice. However, some theorists hold that the welfare state does not have to be justified through the notion of distributive justice, but that is justified on political grounds. In this chapter I will address Robert Goodin's political justification for the welfare state. In general, certain historical events (i.e. post-world war crisis) influenced the evolution from the old poor-law arrangements to the modern welfare state based on the universal provision of social services and people's democratic rights to access to these welfare provisions (welfare rights) (Goodin, 1988: 19). Therefore, according to Asa Briggs, a famous British historian, "a welfare state is a state in which organized power is deliberately used (through politics and administration) in an effort to modify the play of market forces" in order: (1) to guarantee a minimum income to individuals and families, (2) to reduce the extent of insecurity and (3) to ensure that all citizens receive the best standard available in a society (Briggs, 1961: 16). Nevertheless, according to Goodin, a welfare state is before all a "political artifact" which arose out of political compromise, thus it has the support of many different groups for various reasons (Goodin, 1988: 3). Thus, it is difficult to discuss

about a single unified concept because there are various welfare programs that are only partially coherent. The point is that the concept of the welfare state does not necessary have to be connected to the extensive role of the state but that the actual welfare states range from less extensive to more extensive ones. Accordingly there are numerous ways in which a welfare state can be justified (and criticized as well) ranging from arguments relating to providing a basic minimal income in order to secure a life worthy of a human being to arguments justifying a more extensive welfare schemes in order to create a more equal and just society. According to Goodin the traditional (leftist) justifications were appealing to the notions of:

- *needs* or provision of welfare in order to raise everybody above some “social minimum” or “poverty threshold”;
- *social equality* or redistribution of resources until everyone is “equal”, and
- *fraternity* or promotion of social solidarity

However, for various reasons, none of these justifications are satisfactory. For example, sometimes the values in question are unclear (needs approach) or even epiphenomenal (equality approach) or sometimes the actual relation between the values in question and the welfare state is unclear or it cannot be proven (communitarian argument) (Goodin, 1988: 25). Therefore, Goodin argues that the moral foundations has to be found in some other concepts, namely that of exploitation and dependency (Goodin, 1988: 121). The risk of exploitation of such dependencies justifies public welfare provision because he believes we have a moral duty to “protect the vulnerable” which is inseparably connected to the notion of (economic) exploitation (Goodin, 1988: 148). In addition, Goodin reaffirms the role of the welfare state by connecting the notion of “protecting the vulnerable” (which is our duty) to problems of market failures in providing public goods (basically the argument is that charity is also a public good). However, the justification ought not to be based only on the logic of correcting market failures but on the (crucial) role of the welfare state in safeguarding the preconditions

of a market economy *by securing property rights*, which implies that everyone's basic needs are met through certain extra-market allocation if necessary *and the independence of agents*, which implies reducing their potential dependency (Goodin, 1988: 161). Goodin concludes that the market economy without an extensive welfare state simply cannot be morally justified because it produces great inequalities, dependency and exploitation. Thus, a moral justification of a market system necessary implies (as a moral and political necessity) the existence of a welfare state responsible for resolving these issues. However, there are some issues with Goodin's justification of the welfare state. First, the concept of exploitation is rather vaguely defined; especially it is not clear what actually constitutes taking an "unfair" advantage on the market. Second, his attempt of connecting the notion of "protecting the vulnerable" via economic exploitation (which assumes a zero-sum-game by default) with an extensive role of the state is somewhat inconclusive and most definitely does not imply the extensive welfare state. For example, the argument that the market is unable to provide certain services due to the public goods issue only implies that the state must ensure that these goods are supplied, but not that the state has to be the only supplier (Hasnas, 2003: 115). The same argument applies for the issues of relieving poverty (or protecting the vulnerable) in a given society. Finally, although Goodin tried to offer an justification of the welfare state independently of the notion of distributive justice, the fact is that these two concepts are at the moment inextricably interconnected (although this was not always the case) because the state is the only "institutional agent" capable of promoting an ideal of social justice. However this the issues of government welfare provision and extensive interventions in order to correct unwanted market outcomes are not as uncontroversial as its advocates would like to argue.

3.3. Critique of Distributive Justice and the Welfare State

Although, it would seem that the liberal egalitarian conception of social justice as distributive justice (understood broadly) is widely accepted both by academics and the general public, the concept of social justice (as distributive justice) is far from being precisely defined and justified. The most common argument for promoting distributive justice is that reasonable people perceive that certain market outcomes are simply unjust and that it is the duty of the state to correct them through redistributive policies and regulation in order to create a more just society. However, there is one controversial issue with it, namely the fact that if the majority likes the conception of distributive justice the state is promoting, those who are in a minority can do little about it and they are basically stuck with a political society that in their view is using political power unjustly to do wrong things (Hampton, 1998: 122). In addition, if we combine this issue with the fact that social justice is an idea without a precise meaning or in Minogue's words it is an abstract term which refers to many different ideals underlying various projects of creating a more just society (i.e. socialism, communism, welfare state, etc.) (Minogue, 2005: 255). The concept of social justice, according to its advocates, should be seen as a universal concept because it is not grounded in a particular way of life but on rationality and need, while being formulated in terms of rights. However, the doctrine of social rights is usually confined only to Western countries (Boucher, 2005: 256). Minogue correctly argues that social justice is simultaneously an idea and a political project aimed at reconstructing the existing complex societies in accordance with the pre-determined ideal. Nonetheless, due to its monistic nature the ideal of social justice has a potential to be totalitarian in practice, as Hayek correctly demonstrated in his *Road to Serfdom*. Hiding behind the abstract concept of Society (as the bearer of responsibility) does not avoid the issue that it is actually the state that uses its power in order to impose a pre-determined ideal on a society. There is something intuitively wrong about this project regardless how noble its

rhetoric is. A lot of criticism of the ideal of social justice and the extensive role of the state arises from the contemporary classical liberal/libertarian perspective which can be summarized into three fundamental critiques: (1) the Nozickian claim that the welfare state violates individual rights; (2) the contemporary classical liberal critique that the welfare state undermines the fundamental liberal concept of equality before the law; and (3) the Hayekian critique that the concept of social justice is conceptually meaningless.

3.3.1. The Libertarian Critique: Nozick's Entitlement Theory of Justice

Robert Nozick's entitlement theory of justice, probably the most famous formulation of a libertarian theory of justice, is based on a fundamental claim that "individuals have rights, and there are things which no person or group may do to them (without violating their right)" (Kymlicka, 2002: 103). In general, Nozick's entitlement theory is based on several assumptions: (1) individual agents are the only object of moral concern; (2) all relevant rights are property rights and individuals' rights are inviolable; (3) the moral notion of separateness of persons requires full endorsement of the notion of self-ownership (people own their minds and bodies); and (4) natural assets are initially un-owned, but they can become owned through unilateral acquisition (in accordance with the constraint of the Lockean proviso) (Olsaretti, 2004: 90). From these assumptions Nozick develops his theory of justice which is based on three fundamental principles:

1. A principle of just initial or original acquisition, which explains how previously un-owned assets become owned (entitlement holdings)
2. A principle of justice in transfer, which explains how holdings that were already owned get acquired
3. A principle of rectification of injustice, which explains how to deal with holdings if they were unjustly acquired or transferred (Nozick, 1999: 151)

In short, someone who acquires a holding in accordance with the acquisition principle becomes entitled to do with it what he/she wants, thus holdings can be transferred to others (who gain entitlement over them). Finally, a rectifying principle ensures that everyone is rightfully entitled to their holdings (although Nozick did not specify how this principle would actually be realized). Therefore, if it is assumed that everyone is entitled to the goods they currently possess (*holdings*) then “any distribution that arises by free transfers from a just situation is itself just” (Kymlicka, 2002: 103). According to Nozick, his three principles exhaust the subject of justice because justice requires nothing less and nothing more. Theory of entitlement is a historical non-patterned theory of justice different from the so-called end-state theories of justice that are focused only on the present state of the distribution of resources and from so-called patterned theories of justice which are based on an ideal that resources should be distributed in accordance with some predetermined ideal or pattern (“*to each according to his _____*”).

In order to show that no patterned theory of justice is morally justified Nozick offers an intuitive argument of Wilt Chamberlain, which Johnsons summarized in the following way:

1. Assume any favored distribution D_1 in accordance with any preferred pattern for a society S and assume that S is a fairly large society (1 million people)
2. Assume that this society S is one in which each person has R_n holdings
3. If D_1 is just then each person is entitled to R_n
4. If each person is entitled to R_n , then each may dispose of R_n as she sees it fit
5. Wilt Chamberlain is a member of S and he has R_n
6. Suppose each person in S freely contributes 0.25 cents of her R_n to Chamberlain
7. In the resulting distribution D_2 , Chamberlain has his R_n and additional 250,000 dollars and every other member of S has R_n minus 0,25 cents (Johnson, 2007)

This argument should demonstrate that any distribution which results from free exchange between persons entitled to their holdings must be just ($D_1 \rightarrow D_2 \rightarrow \dots D_n$) and that liberty (free exchange) always disrupt any favored ideal of distribution. The new distribution D_2 is just because it resulted from an initial just distribution through voluntary actions, which means that certain outcomes (i.e. on the market) may be undesirable; however they cannot be regarded as unjust. The only limitation on the freedom of individuals to use their holdings/resources is the harm principle (freedom of others). Hence, the only morally justified state is the minimal state, which has the duty to protect individual rights that are natural and pre-political, because any other more extensive state will necessary violate individuals' rights which is morally unjustifiable (Kymlicka, 2002: 104). It is perfectly obvious why the dominant understanding of social justice as distributive justice is completely unacceptable to libertarians. However, Nozick's theory can be criticized on numerous accounts, as I will demonstrate in latter chapters as part of the libertarian justification for a free market system.

3.3.2. The Contemporary Classical Liberal Critique

The contemporary revival of classical liberal ideas started with Ludwing von Mises, however it is widely held that Friedrich Hayek laid out the most sophisticated reconstruction of classical liberalism. In particular Hayek is most famous for critique of social justice, which is based on three main arguments:

- governmental interventions and redistribution undermine the classical concept of equality before the law
- the concept of social justice understood as distributive justice is morally problematic and conceptually meaningless in a market system
- it is impossible to rationally construct a desirable system in accordance with some pre-determined ideal, for example social justice

First, the demand for greater equality and social justice, as I have demonstrated, necessary involves an extensive welfare state that redistributes wealth in accordance with some pre-determined principle of distribution. However, the request for a greater social equality (achieved through redistribution) is in conflict with the classical principle of equal treatment of individuals. According to Hayek, the problem is that “formal equality before law is incompatible with any governmental activity which deliberately aims at a material or substantive equality of different people - therefore, in order to produce the same outcome for different people, they would have to be treated differently because to give different people the same objective benefits does not mean to give them the same subjective opportunity” (Hayek, 2001: 106). Such a robust demand for justice could be justified if the market inequalities were generated as a result of someone's conscious decision or a responsible agent; however since they are a consequence of numerous disaggregated individual actions and many unpredictable circumstances they cannot be regarded as just or unjust. Thus, any attempt of realizing some “higher goals” (regardless how noble they are) through state coercion and discretionary powers necessary undermines the stability of the legal system and involves a degree of arbitrariness and potential totalitarianism (Hayek 1998, 3: 68). Second, Hayek argues that the concept of social justice itself is rather conceptually incoherent and problematic. The demand for greater social justice is based on a somewhat narrow understanding of the functioning of a market system which in turn justifies assigning collective responsibility for market outcomes and justifies extensive government interventions and redistribution. In general, justice judgments are always moral judgments about individual actions and situations which are not brought about through intentional actions (human design) are not relevant for justice judgments (i.e. natural disasters). As Cragg noted those situations can be unfortunate and regrettable but they cannot be described either as just or unjust (Cragg, 1983: 564). Hayek argues that the same logic should be applied on market outcomes which are not caused by

intentional human activities but they arise from many unpredictable and unplanned circumstances as an aggregation of numerous individual voluntary transactions. Thus, since market outcomes⁴ are a product of many unpredictable circumstances and not of someone's individual will they are neither just nor unjust. In other words, the concept of social justice, according to Hayek, is necessary meaningless in a market system because market outcomes will always depend on accident and luck. In addition, a system based on individual freedom (negative understanding) cannot be determined in accordance with some *a priori* ideal without undermining the notion of freedom itself. Hayek's argument is based on a complex understanding of the functioning of markets as a game of skill and luck (*catallaxy*) in which someone's greater skill (although providing greater chance) does not guarantee overall success. Market rewards reflect only the value individuals produce for others and not some pre-determined ideal (i.e. moral merit or desert). A market system without those elements could not perform its main function of utilization of dispersed individual knowledge and efficient allocation of scarce resources. Finally, Hayek criticizes the notion that it is possible to reconstruct the existing (unjust) system in accordance with the ideal of social justice because he believes that such an attempt (even if it was desirable) will necessary fail due to the limitations of human reason, dispersed nature of knowledge and complex nature of a society. Attempts of rationally reconstructing a society in accordance with some pre-determined ideal are nothing more than an illusion or a fatal conceit (Hayek, 1988: 12). The main problem is neither in the ideals such as equality or justice (which are both very desirable values) nor in the fact that markets can produce large social inequalities (which may be undesirable) but in the fact that notion of social justice requires extensive coercive powers of the government in order to be realized. In other words, the government (while having no conceptual tools or the necessary knowledge) is expected to promote general welfare in

⁴ Of course the argument assumes certain market freedoms.

accordance with the idea of social justice. However, entrusting such a task to public officials in a system without effective limits (not only formal) on governmental power will necessarily lead to abuses of power and arbitrary decisions in the interest of the most powerful electorate. In such cases, government interventions cannot be morally justified because a particularistic ideal, concealed behind the veil of democratic legitimacy, is forcefully imposed on a society. The powerful illusion of social justice has contributed to the development of a commonly accepted myth that the stability and functioning of any society depends on extensive role of the government (i.e. market-corrective interventions, redistribution of income, etc.). However, this seemingly inevitable role of the government actually arises from a self-reinforcing process in which the initial imposition of an external distributional pattern leads to an increasing dependency of individuals and various social groups on the political decisions, which in turn creates new expectations and demands for additional interventions. Thus the government intervenes in more and more aspects of the social life of the individual which creates a myth that social stability would not be possible without extensive government interventions (Hayek, 2007: 219). Cragg summarized Hayek's position on social justice in two main arguments: (1) market economy cannot sustain a notion of redistribution in accordance with some pre-determined ideal, such as social justice and (2) it is not possible to possible to rationally (re)construct an economic system in order to do so (Cragg, 1983: 565).

3.4. Arguments against Hayek: Does Social Justice Matter?

Some have argued that the notion of social justice has lost some of its original appeal after Hayek's conceptual critique that social justice is nothing more than an illusion built on a fallacy of a fatal conceit. However, his argumentation is not completely bulletproof as some of the critics have noticed. First of all, Plant holds that the argument that there is no moral responsibility for market outcomes (since they are not intentionally caused by individuals, but arise as an aggregation of various voluntary actions influenced by unplanned circumstances) is somewhat flawed. Namely, individuals bear moral responsibility not just for their intended actions, but also for foreseeable outcomes, and there is no doubt that those who "enter the market with least are likely to leave with least" (Plant, 2005: 270). In addition, it has also been argued that all other situations which were not caused by intentional actions, for example natural disasters, are not matters of injustices but only of misfortune. Since market outcomes are not intentional, but spontaneous in nature, the same logic applies to market outcomes. However, as Shearmur argued the issue is not just how certain outcomes have arisen (intentionally or spontaneous) but how we respond to them (Shearmur, 2003: 139). We feel morally obligated to help victims of different natural disasters, so why are market outcomes different? Thus, Plant argues that if there is a way of compensating those who have not succeeded on the market, then failing to do so should be regarded as injustice (Plant, 2005: 271). However two fairly simple Hayekian responses can be offered: (1) advantages of a market society (generation of wealth and minimization of coercion) are morally more important than the disadvantages it produces (i.e. inequality of opportunity) and (2) assistance to people in extreme misfortune will be provided through extra-market means (minimal safety net), however this is not a matter of justice and an extensive welfare state is not needed (Shearmur, 2003: 139). Second, Plant holds that the argument that negative liberty is not related to possessed resources and/or available options and that it should have priority

over social justice underestimates the actual relationship between freedom, ability and opportunity. The point is that liberty should be valued for what it enables people to do, namely their ability (Plant, 2005: 271). Again, as already argued, available options are important for the quality of life but they have nothing to do with the notion of individual freedom (Chapter 2). Finally, according to Shearmur, Hayek has failed to provide a satisfactory answer to the issue why should people actually accept a system which they find morally unacceptable and unjust (regardless if they are right or not) (Shearmur, 2003: 10). This is the most damaging criticism of a market system because without moral justification a market society cannot be seen as an acceptable social order. Without a doubt, it is true that Hayek did not produce a full account of moral foundations of a market society; however the same argument can be used against the liberal egalitarian/egalitarian opposition. Why should individuals (i.e. libertarians) accept such social arrangements (extensive welfare state/government interventions) if they find it fundamentally unjust?

The last point leads me to the conclusion that the concept of distributive justice is purely rhetorical because in a morally diverse society it is difficult to expect that an agreement about the justifiability of any principles of distributive justice will be reached. Thus, any principle will necessary involve coercive imposition on a part of society and discretionary use of power (in order to achieve the chosen ideal) which is incompatible with the notions of equality before the law and the rule of law. Failing to acknowledge this fact implies having almost blind faith in the possibilities of effective democratic control against tyranny, which is courageous indeed. In conclusion, returning to the starting question, does social justice matter in the end? The answer is fairly straightforward – “Yes it does” because the notion of justice has been highly valued in every society at all times of history. However, notion of social justice understood only as distributive justice, although attractive as an ideal, has no such value and it is purely rhetorical in complex contemporary societies. In addition such an ideal

is morally problematic (at least for some) and more importantly highly unattainable because it would require almost totalitarian powers in order to be completely realized⁵. Cubeddu holds that one of Hayek's main points is not that the notion of justice is worthless, but that the issues of social justice have fallen into an interpretative monopoly of "liberal intellectuals" who believe that social justice (in their understanding of the term) was the foundation and the ultimate goal of democracy (Cubeddu, 2005: 185). Pursuits of such ideal of justice through coercive apparatus of the state will necessary is unjust for some and cannot be regarded as a universal ideal acceptable to all reasonable people. However, given the embeddedness of the concept distributive justice in public opinion suggests that Hayek's elegant circumventing of the issue through conceptual critique may be perceived as insufficient to morally justify a market society by itself.

⁵ For example, how should equality of opportunity be achieved without constant intrusive interferences from the state in order to nulify all the potential inequalities that arise over time?

CHAPTER 4

THE MORAL JUSTIFICATION OF A MARKET SOCIETY

It is widely held belief that liberal egalitarianism has the “moral high ground” over any free market alternative, which cannot be (sufficiently) morally justified because they produce great inequalities and unfair outcomes (of course, in contrast to some ideal of social justice). However, discussion about freedom and social justice (and objections that were raised) has revealed that this belief is not necessary true, especially if it can be shown that free markets can be justified. I am not interested in the justification of the market society based on economic grounds (since this is relatively uncontroversial) or epistemic grounds (the most efficient mechanism for utilization of knowledge), but in finding a moral ground for justification. This will not be easy because the distribution of benefits and burdens generated on a free market is perceived as unjust. The usual criticism of a free market idea is based on the claims that markets produce various unwanted outcomes (i.e. social inequality, unfair opportunities), which cannot be justified without external (non-market) corrective mechanism(s) (i.e. the welfare state). Olsaretti holds that the free market advocates have to show that the resulting distributional outcomes can be perceived as just (Olsaretti, 2004). Arneson argues that although nothing logically implies that free markets would generate significantly unequal distributions of income/wealth over time, the fact is that many likely circumstances show otherwise (Arneson, 2007: 405). Thus, a moral justification of a market society has to show that the resulting distributions can be perceived as acceptable and just. However, before proceeding the issue why pursue a market society in the first place has to be addressed. The issue here is whether liberal egalitarian arrangements, given the complexity of existing societies and the dubious moral value of the notion of distributive justice, can still be perceived as morally justifiable themselves, especially in relation to available alternatives. I

believe they cannot. First, it is not true that the process of redistribution does not involve unacceptable moral trade-offs because there is no doubt that the ideal of social justice requires certain limitations of individual freedom and extensive government powers. Liberal egalitarian justification is valid only on the “moralized” understanding of individual freedom as a positive notion which confuses two distinct notions and should be rejected. As I have already argued, individual freedom (as absence of coercion) is morally more important than positive liberties (Chapter 2.1) or distributive justice (Chapter 3.4). Additionally, an extensive welfare state, which is implied by the liberal egalitarian notion of social justice, undermines the concept of equality before the law and enables unjustifiable discretionary powers of public officials. Second, extensive government interventions into the market disrupt its main functions of allocating scarce resources in order to produce wealth (or additional value for different individuals and society as a whole) and efficient utilization of dispersed knowledge in society (which is important for further development). In addition, justifications of government interventions underestimate the complexity and importance of a market system and its institutions (i.e. certain inequalities) for the whole society and overestimate the competence of the public officials to make market-wise interventions. In short, a market system is valuable only if it is allowed to function properly. Thus, I believe that liberal egalitarian theories cannot sufficiently show that attempts of creating a more just society in accordance with some pre-determined ideal through coercive measures are acceptable moral point of view. With this in mind, I can proceed to the main issue – morally justifying a free market society.

4.1. What is a Market Society?

A market society or a free market society is another complex concept that has been understood in numerous ways. First of all, the concept of a market society should not be confused with the term capitalism because it involves the notion of free market, which capitalism does not necessarily (i.e. state-capitalism or welfare capitalism). Second, the concept of a market society cannot be used interchangeably with neoliberalism because neoliberalism has become an empty concept which defines everything in general and nothing specifically. Third, market society is conceptually different from Anarcho-capitalistic society in the Rothbardian tradition and libertarian minimalist societies because it does not necessary imply the need for the abolishment or minimization of the state, just limitations on its coercive powers. In short, a free market system does not assume the existence of the laissez-faire system or a capitalist anarchy as usually claimed, but a system of abstract rules (norms/laws) in combination with diverse institutions and practices (tacit knowledge) without abolishment of the state. Hence, the concept of a market society, which I intend to justify, should be understood in the following way:

1. In a narrow understanding as the free or unregulated process of exchanging full property rights, which means that the goods and services which are rightfully owned are transferred and exchanged at whatever conditions the rightful owners choose (Olsaretti, 2004: 2).
2. In a more broader or complex understanding as the Hayekian notion of *catallaxy* or the extended (market) order

The first (narrow) definition is self-understandable, so I will proceed to the Hayekian notion of *catallaxy*. Hayek has introduced the term *catallaxy* (from the Greek word *katallaxia* which means “to exchange” and to “admit in the community”) in order to replace the somewhat inaccurate term *economy* which implies a set of consciously coordinated activities designed in

order to allocate certain resources (or assets) among competing goals in accordance with their relative importance on a single hierarchy. Thus, market society understood as *catallaxy* is a particular kind of a spontaneous order, based on market relations arising from (voluntary) actions taken by (free) individuals within a framework of certain rules (moral and legal, i.e. rules of property and contracts), which serves to a multitude of separate and incommensurable objectives of its members while enabling a high degree of harmonization of different individual expectations and the most efficient utilization of individual knowledge and skills (Hayek 1998, 1: 108). In general, three common attempts of justifying a free market society are: (1) the desert-based justifications, (2) the entitlement-based justifications and (3) the liberty-based justifications.

4.2. Desert-based Justifications

The concept of desert is a common feature in everyday morality (i.e. when said that some people deserve to succeed while others less fortunate assistance), however its applicability as a basis for moral justification of a market system is rather questionable (i.e. due to its heterogenic nature). In general, the concept of desert should be seen as a pre-institutional or natural moral notion, independent of public institutions and their rules, which implies that there is something about a person in virtue of which (desert basis) he/she deserves something (Scheffler, 2000: 968). However, in modern liberal theories, relatively little significance was given to the concept of desert. For example, Scheffler notes that desert for Rawls desert has only a derivative role in the issues of distributive justice, while a more significant role in retributive justice (Scheffler, 2000: 965). Therefore, as Olsaretti correctly notes, the concept of desert has to be limited, due to its heterogenic nature and numerous varieties, in order to be relevant for justice-related issues. The appropriate principle of desert should be understood as a relation between a person P, the desert basis B and something that

is deserved X via B. In addition, moral justification of a market system requires that the principle of desert satisfies three formal constraints. First, it must not be a principle based on moral or virtue because on the basis of virtue people deserve happiness and/or moral merit, not income. Second, it must be pre-institutional, thus it should not be determined only by the rules and purposes of institutions in question. Third, it must be an independent principle and not parasitic on some independently formulated principle, for example of justice (Olsaretti, 2004: 15). Therefore, desert-based moral justification of free markets, in order to be successful, has to show that the principle of desert is a defensible principle of justice (in accordance with the above mentioned constraints) and that free markets reflect that principle.

In general, two basic desert-based arguments for justifying free markets are:

1. *the compensation argument*, which stipulates that incomes are deserved compensations for job-related costs (i.e. those who undertake hazardous jobs deserve extra income because of the high related costs)
2. *the contribution argument* according to which income is deserved as a reward for productive contribution

Both arguments have basically the same logical structure:

- the principle of compensation/contribution is a defensible principle of desert
- distribution in accordance with the principle of compensation/contribution is just
- at least some rewards people receive on the free market reflect the principle of compensation/contribution (Olsaretti, 2004: 40)

The *compensation argument*, according to Olsaretti, should be rejected because it is not a defensible principle of desert and the free market does not adequately register cost, which undermines the justness of the resulting distribution (Olsaretti, 2004: 40). First, the compensation principle is not a defensible principle of desert because it is not an independent principle. Namely, the compensatory argument uses a parasitic notion of desert based on

independently defined notion what is a just state of affairs (Olsaretti, 2004: 55). Second, the compensation argument is unsatisfactory because the resulting distribution on a free market cannot be perceived as just and/or deserved (which is required by the argument it should). According to Olsaretti, the compensatory argument does not show that the incentive payments people receive on the free market are just because they are deserved. In addition, she continues, the fundamental problem is that the notion of fair opportunity is violated because some individuals have an unfair advantage over others (Olsaretti, 2004: 58).

On the other hand, *the contribution argument*, although somewhat more sophisticated, fails on similar grounds. Olsaretti holds that this argument ultimately fails because the free market distribution of incomes simply does not meet the conditions under which differential deserts would be justified. The main problem is the fact that differences in individual productivity are ultimately determined by the possession of natural talents (which are seen as morally arbitrary inequalities) and sheer luck). Hence, the resulting distribution cannot satisfy the requirement of fair opportunity or the requirement of comparative justice (Olsaretti, 2004: 63). David Miller responded that good intentions are not enough and that desert has to reflect the value/benefits created for others on the markets, which will inevitably depend on some external (unpredictable) circumstances. In addition, the factor of luck should also be differentiated to integral luck and circumstantial luck in order to properly understand its effects. The notion of integral luck refers to the pure luck effects (i.e. incredibly lucky winning goal in a football match), while circumstantial luck is defined as a situation in which luck determined whether someone had the opportunity to compete in the first place (Olsaretti, 2004:76). Therefore, the point is that only circumstantial luck disrupts the principle of desert in a free market distribution. In the end, according to Miller, what actually matters is individuals' responses to different life circumstances which can never be completely eliminated in reality. Olsaretti finds this argument unsatisfactory and holds that all luck-based

circumstances (factors outside individual's control and consequently their moral responsibility), which affect what people receive on the market, should be eliminated if the market is to be morally justified (Olsaretti, 2004: 71). Otherwise any desert-based justification is self-defeating because desert will never be adequately measured by the market value, which implies that some will always fail to receive what they actually deserve (some will be rewarded higher and others lower than they deserve)⁶. Therefore, the sustainability of desert-based justifications depends on elimination of all (or most of) luck-based circumstances, however as I will show later the element of luck simply cannot be detached from the functioning of the market system and market outcomes (due to the unpredictability of individual freedom) will never reflect any predetermined principle of distribution, thus neither of desert. Finally, even if it were not for these issues, the desert-based justification is unsatisfactory because it can offer only justification for labor markets and not for the whole market society.

⁶ For example, an entrepreneur can become extremely rich on a free market due to fluke decision which due to circumstances turn out to be highly profitable, without actually deserving it

4.3. Entitlement-based Justifications

In general, entitlement-based justification in order to justify a free market system appeal to previously established entitlements of individuals (i.e. individual rights of self-ownership and private property) in combination with related notions of freedom, voluntary choice and procedural justice. Only a free market system enables that these (pre-given) rights be freely exchanged and respect for these rights is the only requirement of justice (Olsaretti, 2004: 86). Free market outcomes are (inherently) just because they arise from an exchange of legitimately acquired (and transferred) private property rights that individuals have over themselves (the notion of self-ownership) and over external resources. The actual pattern of the distribution is irrelevant (Olsaretti, 2004: 3). The (libertarian) argument is that a free market society implies by definition that all interferences (with individuals) are going to be voluntary (consented to), thus there will be no limitations on individual freedom (Olsaretti, 2004: 89). The most famous libertarian theory is Nozick's entitlement theory of justice (Chapter 3.3.1) the moral foundations of which is based on the Kantian that interpersonal sacrifices of individuals cannot be justified without their consent. Without a doubt, the element on which the whole libertarian argument stands is the notion of self-ownership, thus it should be addressed and evaluated thoroughly.

First of all, according to Cohen, the notion of *self-ownership*, which holds a crucial place in a libertarian justification of free markets, is a reflexive concept which determines person's moral relation to himself. To own something implies to have a right to freely use it and recognizing individuals as self-owners means to respect their moral jurisdiction over themselves (Olsaretti, 2004: 91). The basic libertarian argument, developed by Nozick, is that individuals have natural rights which are inviolable and should be respected implies a strong theory of rights necessary for the protection of the separate existence of individuals, which in turn is important for allowing individuals to pursue their individuality, realize their goals and

define their lives alone or through voluntary cooperation. Of course, the notion of the notion of separateness of persons requires nothing less than full respect for each person as a separate person. Thus, since individuals are seen as inviolable, no person (without consent) can be used (or sacrificed) for the achievement of ends of others which implies that only legitimate interferences are those needed to secure self-ownership rights of others (minimal state). In addition, the concept also implies that each individual is alone responsible for himself (the principle of self-responsibility) with only negative duties to others (requirement not to harm, however not to help as well). Finally, the free market system is the only mechanism that (1) recognizes and respects the exercise of full property rights and (2) realizes liberty and justice because justice requires that individuals freely exercise their justly held resources (entitlements). Kymlicka summarized the Nozickian self-ownership argument in the following way:

1. People own themselves.
2. The world is initially unowned.
3. You can acquire absolute rights over a disproportionate share of the world, if you do not worsen the condition of others (The Lockean Proviso).
4. Absolute rights over a disproportionate share of the world are easily acquired

Therefore:

5. Once private property has been appropriated, a free market in capital and labor is morally required. (Kymlicka, 2002: 112).

Of course, the argument is based on the assumption that the free market is “a *perfect sphere of voluntaries*” which enables mutually advantageous exchanges, which in turn respects individual's inviolable rights (Olsaretti, 2004: 95). However, as Kymlicka argued the notion of self-ownership, on which the entitlement-based justification of free markets rest, is not a plausible interpretation of the Kantian principle of moral equality (*individuals should not be*

treated as means, but as ends in themselves) or individual autonomy for that matter, thus it should not be seen as an attractive notion in the first place (Kymlicka, 2002: 108). This argument also challenges Nozick's principle of justice in acquisition (full property rights in external resources) for not offering a defensible justification. This objection returns to the discussion (Chapter 2) what is actually needed in order for someone to be autonomous. Rawls (liberal egalitarians in general) believe that individuals should have a certain share of society's resources in order to be truly autonomous, while Nozick in contrast argues that they only need rights over themselves and that any redistributive scheme is morally illegitimate (due to individuals inviolable rights). In other words, Rawlsian framework (especially the difference principle) is incompatible with the notion of self-ownership because (1) if I own myself and my talents, (2) then I also own everything I produce, hence (3) coercive redistribution violates the principle of self-ownership. Thus, according to Nozick, one does not own his talents if others have legitimate claims on the derivatives of his talents. The point is that recognizing people as self-owners is fundamental in treating them as morally equal and only a free market system (due to its voluntary nature) respects that notion in full (Kymlicka, 2002: 108). However, according to Kymlicka the Nozickian position can be criticized on two accounts. First, the notion of self-ownership does not necessary imply absolute property rights (and in turn a minimal state) because the notion of self-ownership does not specify anything about owning external resources, while claiming that people have a right to a fair share of resources does not undermine the notion for self-ownership. Second, the principle of self-ownership is an inadequate account of treating people as equals and as such inferior to the liberal egalitarian one (Kymlicka, 2002: 109). One of the issues with the Nozickian defense of free markets based on the notion of self-ownership (with the associated full property rights) is the fact that, although markets ideally involve only exercises of self-owned powers (and the obtained derivative property), in practice legal rights over external goods are also exchanged.

The problem for Nozick is to show (in addition to justifying his interpretation of the Lockean proviso⁷) that the initial acquisition was just and legitimate (the legitimacy of property in a historical theory of justice depends on the legitimacy of previous property), especially since historically things usually get appropriated by force (Kymlicka, 2002: 111). Nevertheless, according to Kymlicka, even if these issues about acquisition are disregarded, the principle of self-ownership does not by itself generate a sufficient moral justification of a free market society. Namely, the notion of self-ownership is emphasized in the first place because it enables people to live their own lives through protection of their autonomy, however to be autonomous in a free market society one has to have ownership not just over oneself (formal self-ownership) but also over certain resources (substantive self-ownership), and not only ownership over oneself (formal self-ownership) (Kymlicka, 2002: 122). In other words, there is no reason why self-owners would prefer libertarian regimes over liberal egalitarian ones because libertarians cannot guarantee that each person would own a meaningful set of resources, thus the notion of self-ownership by itself is insufficient to provide a valid moral justification of a free market distribution (Kymlicka, 2002: 124). Thus, the principle of self-ownership is attractive only insofar as it promotes the ideas of individual autonomy and self-determination (Chapter 2); however this is possible only if a fair share of resources is distributed. In contrast, Narveson argued that the issue of unjust initial holdings of natural resources is rather meaningless for today's inequalities in world which all result from different talents, skills, knowledge and of course luck. For example Bill Gates become did not become rich because of the "unfair initial distribution" or at the expense of others (Narveson, 1998: 16). In addition taxation in order to correct these inequalities most definitely does not promote individual freedom because it only produces gains for some at the expense of others. Thus, taxation is not justified (Narveson, 1998: 23). Narveson is certainly right in several

⁷ Which, due to limitations of this work I cannot properly address.

aspects; however he fails to show why the notion of self-ownership should necessarily entail absolute property rights and a purely minimal state.

On the other hand, Olsaretti argues that the libertarian assumptions (self-ownership, voluntariness as the necessary and sufficient condition of justice, etc.), even if all of them were accepted as valid, they would still not provide a sufficient justifications for a free market (Olsaretti, 2004: 96). The problem is in, according to her, in the libertarian understanding of the notions of voluntariness and individual freedom. First of all, libertarians hold that individual liberty (understood in negative terms) is one of the fundamental values and that only a free market society enables respects and maximization of freedom, while also realizing realizes justice. In other words, a politically just society is the one in which individuals are free to shape their lives in any way and whoever with they choose⁸ (Olsaretti, 2004: 101). In short, the libertarian argument can be summarized in the following way:

- all obligations and interferences must be voluntary consented to
- the free market satisfies the requirement of voluntariness
- society in which the voluntariness requirement is satisfied implies that freedom will not be limited as well
- such a society is the free market society (Olsaretti, 2004: 110)

However, Olsaretti holds that the libertarian claim that a free market society is a society in which individuals would be subject only to minimal non-consented obligations (with their rights properly respected) is based on a flawed understanding of voluntary choice, harm and freedom (rights-based understanding), which according to Olsaretti, is indefensible and should be rejected (which of course undermines the free market justification) (Olsaretti, 2004: 108).

⁸ Of course, as I have already mentioned the basic justifications arise from the meta-principles of self-ownership and responsibility.

The main problem arises from the Nozickian rights-based definitions of harm and freedom used problematic because:

- it limits the range of interferences that would be seen as harmful, for example being left unemployed is not seen as harmful, and
- it relates only to issues when someone is being prevented from doing what one has the right to do, thus being inconsistent (Olsaretti, 2004: 116)

First of all, it is not true that even in a free market society all relevant interferences will be voluntary consented to simply because individuals are affected by voluntary transactions of others without their consent (i.e. spill-over/externalities of other people's voluntary actions which are by definition not full voluntary effects). The point is that libertarian argument that all interferences will be voluntary is simply not correct, thus trying to circumvent this issue through limiting the scope of voluntariness requirement to rights-infringement and by a flawed moralized definition of freedom cannot be accepted (Olsaretti, 2004: 119). Therefore, the entitlement-based justifications ultimately fail to generate an acceptable argument for a market society. The most important issue, according to Olsaretti, is the fact that in such a society there would be many situations of limited choice⁹ which in turn would undermine the notion of voluntariness of choice itself (and thus the moral requirement of justice). The problem is in the libertarian concept of voluntariness, which is based on a rights-definition, because it does not determine whether a transaction is just or not, but only whether individuals were acting within their rights (Olsaretti, 2004: 128).

Olsaretti is right that the libertarian account of voluntariness and its relation to the market system is unstable and as such cannot provide a defensible justification of a free market society. Nevertheless, this might not be a problem if we accept Hayek's argument that once people have agreed "to play the game" (participate in the market) and have profited from

⁹ Limited choice is understood as the situation in which there are no acceptable alternatives other than participation in a given situation (whatever options are available), for example taking a hazardous job just to avoid unemployment and poverty.

it (in broad understanding) they also have the moral obligation to respect even the unwanted outcomes (Olsaretti, 2004: 112) or that the functioning of a free market system will necessarily involve certain un-consented circumstances (Hayek 1998, 2: 116). However, the real problem lies in the fact that libertarians cannot demonstrate how weak individuals (or the *vulnerable*) would be protected in a libertarian free market society in which there is no guarantee that some individuals would not fall below the threshold of extreme poverty which cannot be morally justified on any account. Of course, the issue is in the notion of self-ownership, which according to libertarians implies absolute property rights and a minimal state. Nevertheless, nothing in the notion of a free market society, according to Hayek, implies that the state should not provide certain services (financed through taxation) as long as the provision of those services is non-coercive, universal in character and done in accordance with the rule of law (Hayek, 2007). Providing assistance to the weakest members in a society is a matter of public charity which is compatible with a free market system as long as it is provided outside the market and without restrictions of freedom (Hayek 1998, 2: 87). Therefore, there is no reason why the government should not provide a minimum of social protection in the form of guaranteed minimal income or standard of life. Hayek argues that such notion can be justified on several accounts, for example:

- it is in the interest of all
- it may be perceived as a general moral duty to assist those who cannot help themselves and earn enough for a decent life (for any reason)
- it is important for social and political stability

Moreover, it resolves Nock's challenge to libertarians that a free market cannot really be regarded as a voluntary arrangement because individuals do not have a reasonable choice not to participate in the market transactions by offering them a decent alternative (Nock, 1988). However, a more extensive welfare provision cannot be expected or justified.

4.4. Liberty-based Moral Justification of a Market System

In general classical liberals/libertarians defend a free market society and oppose government interventions on the claim that such a system contrasts the governments' tendency to expand and centralize their powers, with the most important power being the ability to control economic life, thus limiting their control over individual lives. Assuming that the economic activity provides material means for realizing individual goals, a free market system is both a necessary condition and a consequence of individual freedom because, according to Hayek, one cannot be free in the choice of his ends if he does not have the freedom of choice in the means (Hayek, 1962). As already mentioned (Chapter 2), the concept of freedom by definition cannot be expressed in positive terms because it becomes positive only through what individuals themselves make of it. Thus, concept of freedom should be understood only in negative terms – as absence of constraints – and differentiated from different positive notions of freedoms or liberties. In addition, the notion of freedom does not depend on the number and quality of available options, which means that one can be free even in situations of limited options. Thus, freedom should be differentiated from autonomy. As such, freedom has an instrumental and an intrinsic value. Finally, individual freedom should be seen as the source and condition of most moral values, as demonstrated by Hayek (Chapter 2). Thus, freedom has moral priority over other moral values. With this in mind, a social order that enables and maximizes liberty should be seen as the most appropriate and morally justified. Such system is a free market system which enables effective control over coercive powers of the government and in turn preserves our civil and political liberties.

Kymlicka summarized the logical structure of the liberty-based argument:

1. a free market system involves more freedom
2. freedom is the fundamental value
3. thus, the free market system is morally required (Kymlicka, 2002: 138)

However, Kymlicka holds that a liberty-based justification is somewhat difficult to sustain because in order to find the appropriate social system a measure of liberty is needed. In other words, liberty must be measurable and comparable among different individuals; otherwise it cannot be determined whether a free market system maximizes each individual's freedom. This issue can be approached *quantitatively* by measuring which liberties are valuable to people or *qualitatively* by determining what interests liberty serves. Nevertheless, according to Kymlicka both approaches ultimately fail. On a quantitative approach it is not possible to determine why some liberties are more important than others, while the qualitative approach cannot explain why liberty is important in the first place and not the interests it serves (Kymlicka, 2002: 138). In addition, both Kymlicka and Dworkin argue that freedom does not have an intrinsic value itself but that it should be valued only because it serves different interests, which implies that the focus should be on guaranteeing certain basic freedoms necessary for pursuing a valuable life (whatever the definition) (Carter, 1995: 820). However, Carter's response clearly demonstrates that this objection is not that damaging to liberty-based justification after all. According to him, freedom is not valued only because it serves different interest, but because it "is *an interest in itself*" or in other words freedom has an intrinsic value and should be valued independently from the value of interests it serves. Hence, the notion of freedom should be perceived as a single commodity and it should be measured only *tout court* and not in a more detailed manner as separate measurements of certain freedoms across different dimensions (Carter, 1995: 823). Therefore, since I see no other obvious reason why the liberty-based justification should be rejected I can proceed. The aim is to show that a free market system is, in addition to being the only non-coercive mechanism of coordinating economic activity in complex societies, an indivisible component of individual freedom and as such should be perceived as morally justified and more attractive than the liberal egalitarian alternative. The point is that the concept of distributive justice is

not an appropriate notion because it is based on a narrow understanding of the market as a zero-sum-game, which should be revised in favor for a more complex understanding¹⁰ which would show the significance of a free market for individuals and society in general. First of all, as already suggested (Chapter 4.1.) a market system should be understood as *catallaxy*, a spontaneous market order based on voluntary individual actions within a framework of abstract rules (requirement of justice), thus it is a non-zero-sum-game that creates wealth by increasing available resources and opportunities of all participants while retaining the competitive character of a game (Hayek 1998, 2: 116). The main function of markets is the division and utilization of dispersed individual knowledge (and associated tacit knowledge) in a society in order to discover new ways of using scarce resources and satisfy even more individual preferences. The implication is that market outcomes will necessarily be unpredictable, even unwanted, because they depend on a combination of skill and luck. However, as such certain market outcomes may seem undeserved and unfair to some. Therefore, the first challenge in morally justifying a market society is to show why market outcomes should be acceptable to everybody, even if they may seem unfair to some. Hayek argues that disappointment of certain expectations is necessary for the adaptation of the whole society to new and constantly changing circumstances (the negative feedback). In other words, in a constantly changing environment it is simply impossible to protect all expectations of individuals and still allow them freedom to use their specific knowledge and skills (Hayek 1998, 2: 72). Second, it is unrealistic to expect market outcomes to reflect any predetermined notions such as individual merit or desert, which cannot be objectively assessed in the first place. Market outcomes will reflect only the value of service provided for others (Hayek 1998, 2: 73). Also, as Menger correctly notes, market value is always subjective because it does not depend on some inherent value of goods or services but on the

¹⁰ Of course, since there has never been a free market society the following argumentation will be purely theoretical and based on fundamental economic axioms.

relationship between certain things and individuals on the market (Infantino, 2003: 102). Thus, expecting that market outcomes will reflect anything else besides subjective value is simply an unfounded illusion. Similar argument can be used to refute criticisms that market outcomes are too dependent on luck and natural talents which are morally undeserved. Namely, luck is a purely subjective phenomenon, which cannot be properly defined and by definition it cannot be controlled. For example, it can rarely be determined whether some brilliant idea conceived in a moment, which turns out to be highly profitable (e.g. Facebook) is the result of years of preparatory efforts or pure luck and circumstance. Nevertheless, since it is impossible to differentiate between these two cases and since everyone is equally subject to luck, a person should be allowed to full benefit regardless whether he deserves it or not (Hayek, 1962). Of course, the same can be said for the claim that our natural talents are undeserved because it is simply impossible to determine how much the overall success depends on talent and how much on effort developing that talent. In addition, there is no guarantee that any talent, although perceived as valuable in a given society, will turn out to be profitable simply because talent is only one element of success. However, as Arneson argues, people's motivation for entrepreneurship would significantly be reduced by redistribution of market gains in order to make people more equal (Arneson, 2007: 405). Finally, market outcomes (positive and negative) and associate social inequalities should be seen as legitimate because they arise from an unpredictable game, as a aggregate result of numerous voluntary and transactions that were conducted in accordance with accepted abstract rules that equally apply to everyone (requirement of justice), and which in the long run increases overall chances of all by creating new opportunities (Hayek 1998, 2: 117). In addition, Hayek holds that once people have agreed "to play the game" (participate in the market) by accepting the given rules of behavior as just, they also have the moral obligation to respect even the unwanted outcomes (Olsaretti, 2004: 112). Otherwise, peaceful coexistence in a society

would be impossible. Of course, all these arguments are based on a fundamental assumption that the concept of private property is morally justified itself. Freeman correctly holds that private property should not be seen as an intuitively clear notion or a natural category (as libertarians usually assume) but a legal and moral category which presupposes a legal framework that determines the rights and duties of individuals regarding the control and use of things (Freeman, 2001: 129). Hence, the notion of private property is not morally valuable by itself but as a mechanism of safeguarding and promoting individual freedom. History has proven numerous times already that individual freedom is seriously jeopardized whenever the right to private property is restricted.

With this in mind, I believe that all attempts of correcting market outcomes through extensive government interventions, such as redistribution of income or protection of certain social interest cannot be justified because they arbitrarily limit individual freedom and disturb the spontaneous market processes, thus they are fundamentally arbitrary and unfair to some. For example, after the global economic crisis broke out in 2007 governments around the world intervene into markets, not to help the poorest (or the most vulnerable), but to bail out the richest and the most powerful (bankers) at the expense of the whole society (of course, without even obtaining consent of the governed). The same objection applies to any reason for intervening, regardless how noble it may be. Another example is attempting to achieve greater equality in accordance with some ideal of social justice through an extensive welfare state. I have already demonstrated why such attempts are morally objectionable and incoherent (Chapter 3), however I believe that they should not be perceived even as attractive notions. Hayek holds that redistribution may reduce the gap between the rich and the poor in the short term; however it also undermines the functioning of the market system by preventing necessary adaptations to new circumstances which in turn maintains the status quo, which mostly damages long term opportunities of the least advantaged in society (Hayek, 2007: 40).

In addition, even if government interventions would be accepted as necessary and justifiable there seems to be no common measure of advantages and disadvantages of different individuals, thus no ground for redistribution, especially if the market game is not perceived as a zero-sum-game. According to Mises, determining something as fair or unfair (the basis for intervention) is always a subjective value judgment and not an objective fact that could be verified (Mises, 1998: 243). Arneson notes that a response to this objection could be that redistribution should ensure the “equality of distribution of each and every good with which social justice is concerned”; however this only opens up the question whether the notion of social justice is purely rhetorical in the first place (Arneson, 2007: 396). Therefore, the point is that some social justice demands are purely subjective in nature and cannot be regarded as legitimate because they could easily be abused for various paternalistic intrusions into people’s lives and political machinations. However, as mentioned before, a free market system does not imply a minimal state; hence according to Hayek governments can legitimately undertake a range of socially valuable functions, for example providing assistance to those in need (Chapter 4.3) and public goods and services that could be undersupplied on the market ranging from education to basic health care. The only requirements are that these provisions are universal, non-coercive and done in accordance with the rule of law (Hayek 1998, 3: 41). Still this does not mean that the government should have exclusive monopoly rights or even a privileged position in these issues because market mechanisms may become applicable again. Thus private agencies should not be discouraged in offering public services for profit (Hayek 1998, 3: 47). In addition, Thomas Scanlon made an interesting point that inequality itself is not always our greatest concern because it can be problematic for different reasons in different situations (Scanlon, 2004). Therefore, various social demands can be resolved without redistributive policies, for example by improving the legal framework and the quality of public services that would benefit everybody in society.

The point I wanted to make with introducing a more complex understanding of a market system, as a spontaneous order that is constantly adapting to new circumstances and a means of exchanging individual knowledge, is that most demands for government corrective interventions are based on narrow understanding of availability of opportunities of individuals on the market. Constructing hypothetical overall life opportunities of different individuals as the basis and justification of government interventions ignores the fact that circumstances on the market (especially if not protected) are constantly changing and with it options that are available to different individuals. Without a doubt, in today's complex and globalized markets specific individual knowledge is the most important asset and even a single idea (with a bit of luck and effort) can turn to be highly profitable for someone and invaluable for the society in general. Therefore, a free market society is a progressive society in which individual liberty is crucial because it enables constant adaptations to new circumstances which in turn significantly increases overall long-term opportunities for all. According to Hayek, progress should not be understood only in pure economic sense as economic growth but as a "process of formulation, creation and modification of the human intellect through the process of adaptation and learning, in which opportunities, values and needs of different individuals are changing as well" (Hayek, 2007: 33). In such understanding, complex market system is invaluable for individuals because it enables them to use their specific knowledge in the most profitable way which in turn contributes to their diversity and development as human beings.

Thus, I believe that most people would find a free market system as morally justified because the long term advantages – for example, maximization of freedom to utilize one's specific knowledge and skills, limitations on all forms of arbitrary coercion in society and increase in general overall opportunities - outweigh any short-term outcomes that may be perceived as unwanted. Hence I can proceed to the final part, namely showing why a (spontaneous) free market order is essential for individual freedom. The answer is hidden in

the underlying truth of all issues discussed in this paper - people simply cannot agree what a just society would be – therefore, the only reasonable and fair solution is to choose a social arrangement that offer greatest possibilities for testing different alternative arrangements without coercing others. The fundamental truth is that there is no privileged source of knowledge not just because there is no such thing as absolute truth but also because all available knowledge exists only as dispersed individual knowledge. Therefore, if no one can possible know what the most appropriate and fair social arrangement is; the focus should be on developing an arrangement in which each individual would be free to use his specific talents (whatever they may be), available resources and knowledge in accordance with his own coherent plan without being arbitrary coerced by those in power. According to Infantino, in circumstances in which human ignorance and fallibility is assumed, the only appropriate system is the only which promotes the principle of liberty as the “*habitat for development*” (Infantino, 2003: 89). A free market society, due to its individualistic and spontaneous nature, is the only feasible social order without a single hierarchy of binding goals - the so-called *nomocratic* order or *cosmos*. According to Hayek the fundamental difference between a spontaneous market order (*cosmos*) and any organization (*taxis*) is that the former, because it has not been deliberately created in accordance with some general plan has no purpose, except freedom itself which is its fundamental principle (Hayek, 1998). On the other hand, a society based on any other principle, for example social justice, necessary implies a particularistic hierarchy of specific goals and duties that everyone has to serve because it was imposed on society. In addition, all attempts of rationally reconstructing a society, which is a complex order based on various formal and informal institutions, in accordance with some predetermined hierarchy of goals will necessarily involve arbitrary restrictions of individual freedom because, as Cubbedu correctly argues, all potential innovation that could jeopardize the legitimacy of the established hierarchy would be rejected *a priori* (Cubbedu, 2005: 223).

Recent events have clearly shown that a system based on extensive government interventions and an extensive welfare state cannot be so easily dismantled after it has been enacted, even though it clearly demonstrates its flaws and rigidity. Without innovations and adaptations to new circumstances, no society can survive at least not on today's level of sophistication and population.

In other words, a market society is the most appropriate social arrangement because it is a pluralistic society *par excellence* which by definition supports a multiplicity of different individual goals which are harmonized through voluntary and mutually advantageous exchanges on the market. Also, limitations on all forms of coercion in a society enable forming of various consent-based sub-societies based on any conceivable principle of organization (similar to Nozick's idea of an liberal meta-utopia), and in most drastic cases of disagreement with the existing abstract arrangement of a market society there is no reason why a certain group should not succeed and become an independent society/state (Mises, 2002: 109). For example, there is no reason why in a free market society an egalitarian sub-society cannot be formed on voluntary grounds. Experimentation with different social arrangements can only increase the overall complexity of the society, which in turn creates new opportunities for others in society without coercing them into joining. Also, individuals can seek greater security through such voluntary arrangements or simply to increase the chances of satisfying their interest. The possibilities in an abstract market based society are infinite. As Mill argued, all ideas should be treated with the same respect until proven wrong (Mill, 1986). Nevertheless, the point is that no idea, regardless how noble it may be, should be imposed on free men because as Mises argues "if men err and go astray, then one must endeavor to enlighten them by instruction. But if they cannot be enlightened, if they persist in error, then nothing can be done to prevent catastrophe" (Mises, 2002: 156). Thus, a free market system due to its spontaneous nature and necessary limitations on all forms of

coercion is society provides the most stable conditions for maximizing individual knowledge which in turn protects and fosters individual freedom, while contributing to the moral, intellectual and economic development of a society. With this in mind, the moral justification of a free market society can be summarized in the following way:

1. Individual freedom is the fundamental moral value (source of most moral values) that should be valued intrinsically (freedom of choice) and instrumentally (utilization of dispersed knowledge which is needed for progress)
2. Advantages of a free market system (generation of wealth, minimization of coercion and maximization of liberty) are morally more important than its disadvantages (social inequalities)
3. Freedom has moral priority over social justice
4. A free market system involves more freedom
5. There is no moral ground for government interventions into market outcomes because market outcomes are neither just nor unjust

Therefore:

6. The free market system is morally required and justified

In conclusion, a free market society is morally justified because it is the only feasible social arrangement that generates wealth and allows people to determine their lives in accordance with their individual plans and available resources. Also, the abstract character of the society enables satisfaction of the greatest number of individual expectation, while allowing peaceful coexistence of an infinite variety of subjective ends (Mises, 2002: 87). In addition, it also enables peaceful coexistence with other (non-liberal) cultures on the domestic and international level.

CONCLUSION

The argument that a free market cannot be morally justified because it generates outcomes that are perceived as unfair because they are too dependent on circumstances that are beyond individual control and great social inequalities is simply flawed because it is constructed around a narrow understanding of a market system as a zero-sum-game. However, the market system is a complex spontaneous non-zero-sum-game in which individuals do not just exchange their material assets but also their knowledge, skills and services. A free market system, due to its spontaneous nature, is a highly adaptive order in which new ideas and opportunities are constantly generated. This in turn creates new options for individuals to benefit from their specific knowledge and talents. Therefore, a social arrangement that enables people to use their specific skills and knowledge in any profitable manner or in order to achieve certain ends (whatever they may be) should be seen as more attractive than an arrangement in which the market is highly regulated and potential adaptations to new circumstances dependent on political will. In addition, such a system is morally justified because its advantages are morally more important than its disadvantages such as outcomes dependent on luck or social inequalities. Nevertheless, some people may still believe that the notion of social justice is morally significant and more important than the advantages a free market society generates. However, as I have demonstrated, a lot of social justice demands are simply illegitimate and the rationale for extensive interventions shaky at best. The point is that a lot of those demands can be resolved without extensive government intervention, for example through improving the overall quality of life in a society or by offering better legal protection through improvements in a legal framework. A billionaire in a well-ordered society, with limitations on government power and coercion and a functional legal system, cannot really do much harm to those less-advantaged. Thus, rejection of the notion of distributive justice does not limit the discussion about what constitutes a just

society; in fact it opens the discussion because a free market society is based on the notion that there is no privileged source of knowledge and no principle is declared *a priori* as morally invaluable. Every individual is free to pursue his individual goals and experiment with various social arrangements without anybody being able to impose additional duties on him without his consent. Finally, the discussion about social justice moves away from redistribution or government interventions to the discussion about how the overall quality of life can be improved through collective non-coercive and private efforts. Thus, the issues of social justice have not been abolished – they have just been redefined in accordance with a more complex understanding of the market system, which is invaluable for survival of any society until a better mechanism is found.

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