

Two recent reports call attention to the fact that the American society faces two "crises" rather than one. These studies are the National Commission On Civic Renewal's *A Nation of Spectators: How Civic Disengagement Weakens America and What We Can Do About It* (from here on *A Nation of Spectators*), and the Institute for American Values' *A Call to Civil Society: Why Democracy Needs Moral Truths* (from here on *A Call to Civil Society*).⁽²⁾ The first malaise results from the deterioration of the civil society reflected in declines in voter turnout, people interested in public affairs, and participation in voluntary associations, among other developments. The second results from the deterioration of society's moral fiber reflected in and further fueled by a decline in focus on the family, high rates of teen pregnancy and out of wedlock births, and a rise in the vile and violent elements of the mass culture, among other developments.

To highlight that these reports go beyond the topics encompassed in numerous previous examinations of the civil society, *A Nation of Spectators* repeatedly refers to the "civic moral conditions" of our country, and to the "moral and civil ills," to indicate that much more than civility is at stake. The second report, *A Call to Civil Society* (which in many ways parallels the Communitarian Platform⁽³⁾) states from the outset that a "democracy needs moral truths," and dedicates a good part of the discussion to the symptoms of the "moral crisis" and what might be done to overcome it. "Moral truths" is a phrase that up to now has been avoided by much of the literature on civil society for profound reasons explored below.

The author very much shares the basic diagnosis and prognosis of these two reports and has written two books in support of the same basic thesis.⁽⁴⁾ This article will argue, that in order to gain a more complete understanding of the two challenges, the deterioration of civil society and of society's moral fiber, and the ways they are to be faced, that we had best treat them as distinct notions rather than try to pack both into the notion of a civil society. This is suggested for both sociological and intellectual reasons.

Sociologically speaking, the term civil society has a rather deep ensconced meaning in both academic and public discourse. It is deeply associated with the Toquevillean notion of a society whose citizens' liberty is protected by a rich fabric of intermediary bodies that stand between them and the state, and that themselves are shored up by citizens able and inclined to participate in these bodies, termed voluntary associations. The enemy of the civil society thus is the overbearing state.

A typical definition of the civil society is "[t]hat area of social life that is neither familial and intimate on the one hand, nor state-directed on the other. It includes voluntary organizations of various kinds, ranging from private economic enterprises, to farmers' granges, to the Little leagues."⁽⁵⁾ Similarly, another source describes it "[c]ivil society is a particular form of society, appreciating social diversity and able to limit the depredations of political power."⁽⁶⁾ A third:

[t]he institutional core consists of the following combination of political and socioeconomic arrangements: a government which is limited and accountable and operates under a rule of law; a market economy (implying a regime of private property); an array of free, voluntary associations (political, economic, social and cultural); and a sphere of free public debate.⁽⁷⁾

Yet another scholar states that

The values of civil society are those of political participation, state accountability, and publicity of politics.... The institutions of civil society are associational and representative forums, a free press and social associations. The inhabitant of this sphere is the rights bearing and juridically-defined individual, i.e., the citizen. And the protection of the members of civil society is encapsulated in the vocabulary and the institution of rights.⁽⁸⁾

Literally hundreds of books and articles, if not thousands, use the term in this way. While it is true that one can find rather different definitions, especially in the original use of the term,⁽⁹⁾ there seems to me little doubt that currently the term is strongly established and hence resists being subsumed into other meanings, such as arguing that a civil society entails equal command of economic and social assets by citizens (equality), accepts the feminist orientation⁽¹⁰⁾, or is moral. This takes nothing away from the power of the moral renewal argument other than it needs, as the two reports strongly imply, an added and distinct concept from that of the civil society. I shall refer to this as the good society.⁽¹¹⁾

Intellectual analysis points in the same direction. It is the thesis of this article that the crisis of the good society, the means to revive it (to use Jean Elshtain's fine term),⁽¹²⁾ and the role of law within it, are all conceptually significantly different, although not necessary incompatible, with the same factors of the civil society.

After a brief discussion of the basic terms I delineate the difference in the following realms: basic philosophical anchoring; the basic role of law; differences between citizenship and membership; the kinds of virtues the two societies uphold; their rather divergent views of voluntary associations; their distinct relations to achieved vs. ascribed status; and perspectives on individual rights and social responsibilities. One reason one might be tempted to speak about the civil society even when one deals with issues of the good society (especially the moral crisis and how it might be overcome) is that the second concept is much more contested. People from a very wide ideological and political spectrum favor a civil society. A call supporting the renewal of a good society per se (without civil society overtones) is likely to garner much less support because what is entailed in social definitions of the good, those who are liberal fear would turn into an intolerant state, which would impose that which it considers virtuous. I hence must introduce a third concept, that of the prescriptive state, to show that a good society can be intellectually distinct and sociologically viable without becoming such an entity.

Three ideal types

Following a very long tradition which has generated thousands of books and articles, the term "civil society" is best used to refer to societies that have a rich fabric of voluntary associations and other intermediary bodies that stand between the individual and the state, and whose citizens have the wherewithal required to sustain such a society (e.g. are able to think critically). In a book often cited in this context, Peter Berger and Richard Neuhaus define the civil society as

. . . those institutions that stand between the private world of individuals and the large impersonal structures of modern society. They "mediated" by constituting a vehicle by which personal beliefs and values could be

transmitted into the mega-institutions. They were thus "Janus-faced" institutions, facing both "upward" and "downward."⁽¹³⁾

Among the many others who define or treat the civil society in same manner are Robert Fine and Shirin Rai, Benjamin Barber, E.J. Dionne, and Robert Putnam.⁽¹⁴⁾ Putnam in particular relies on a Toquevillean perspective:

When Alexis de Toqueville visited the United States in the 1830s it was the Americans' propensity for civic association that most impressed him as the key to their unprecedented ability to make democracy work. Recently, social scientists of a neo-Toquevillean bent have unearthed a wide range of empirical evidence that the theoretical premise of his argument is no less accurate today--that the quality of public life and the performance of social institutions (not only in the United States) are powerfully influenced by norms and networks of civic engagement.⁽¹⁵⁾

The term "good society" might be used to refer to societies that rely mainly on their moral infrastructure (families, schools, communities) and informal social controls to foster a core of substantive (as distinct from merely procedural) moral values.(For an outstanding recent treatment of these, see the discussion of "everyday democracy" by Nancy Rosenblum.⁽¹⁶⁾) And the term "prescriptive state" might be used to refer to states that to a considerable extent rely on their means of coercion to enforce such values and that have an extensive list of values they seek to impose rather than a limited core.

I cannot stress enough that these are three abstractions or ideal types. Actual societies mix various elements of these categories, although some are much more of one kind than others. I return to the question of combinations after the ideal types are further discussed. This is a particularly important issue given that there are those who argue that ultimately a civil society rests on the moral foundations provided by the good society, a position explicitly embraced by *A Call to Civil Society*.

To illustrate the differences among the three basic concepts: No society has ever truly approximated the civil society, but Britain and the United States are often said to have approximated such a social order. A relatively pure case of a good society in the terms defined here was found in the early kibbutzim because these communities have strong shared definitions of the good but foster it with next to no reliance on coercion. Examples of strongly prescriptive states can be seen in theocracies such as contemporary Iran, Taliban Afghanistan, and nationalistic or socialist tyrannies such as the Nazi regime, the USSR, and North Korea. Comparatively very mild and moderate versions of the prescriptive state are advanced by American social conservatives who wish to outlaw abortion, ban divorce, require prayer in public schools, ban homosexual activities, vastly increase the kind of actions for which criminal punishment is metered out as well as sharply increase the severity of these punishments, all of which are measures that seek to control behavior through the force of the state.⁽¹⁷⁾

Philosophical foundations

The three concepts are anchored in three social philosophies. The civil society rests on classical liberalism and its contemporary offshoots. Given that this philosophy seeks to rely on each person to define the good rather than the society, liberalism seeks to leave value

decisions as much as possible in the private realm, keeping the public realm thin and procedural and hence of very limited substantive normative moral content.⁽¹⁸⁾

John Rawls seems to go a step further, not only implying that the various mediating institutions are morally equivalent, but also suggesting that the entirety of civil society--not merely the liberal state!--is little more than a neutral zone in which various virtues compete, and in which none is prescribed or even preferred as a matter of societal policy. (I write "seems" to indicate that I do not join here the very elaborate debate concerning what Rawls says, really meant to say, and how he changed his mind from one volume to the next.) The following quote seems to me to speak quite directly to the issue at hand, and it is this Rawls I address here:

. . .all discussions are from the point of view of citizens in the culture of civil society, which Habermas calls the *public sphere*. There, we as citizens discuss how justice as fairness is to be formulated, and whether this or that aspect of it seems acceptable. . . .In the same way, the claims of the ideal of discourse and of its procedural conception of democratic institutions are considered. Keep in mind that this background culture contains comprehensive doctrines of all kinds that are taught, explained, debated against one another, and argued about--indefinitely without end as long as society has vitality and spirit. It is the culture of daily life with its many associations: its universities and churches, learned and scientific societies; endless political discussions of ideas and doctrines are commonplace everywhere.⁽¹⁹⁾

This text is compatible with the notion that a civil society is not a good society because it does not promote one "comprehensive doctrine," but rather simply provides the forum in which a plurality of such doctrines can be debated "indefinitely without end," within the numerous voluntary associations. Civil society is thus desirable because it affords and sustains endless debate, thereby precluding any general consensus on the good to which society at large can subscribe and attempt to foster in its members. In that sense, the "endless" element is not merely dismissive but actually essential.

Michael Walzer, often considered a communitarian, espouses the same basic viewpoint very clearly:

I would rather say that the civil society argument is a corrective to the four ideological accounts of the good life than a fifth to stand alongside them. It challenges their singularity but it has no singularity of its own. The phrase "social being" describes men and women who are citizens, producers, consumers, members of the nation, and much else besides--and none of these by nature or because it is the best thing to be. The associational life of civil society is the actual ground where all versions of the good are worked out and tested. . .and proved to be partial, incomplete, ultimately unsatisfying. . . . Ideally, civil society is a setting of settings: all are included, none is preferred.⁽²⁰⁾

The good society builds on communitarian philosophy. It assumes social definitions of the good, and that a well functioning society, let alone a good one, requires a core of substantive

(rather than merely procedural) shared values which in part define not only public but also private proper behavior. To transmit these values from generation to generation, the good society heavily relies on the family, schools, and the community (including its places of worship and civic associations). It also draws on moral dialogues⁽²¹⁾ to recast values bequeathed by earlier generations. And a good society relies first and largely on informal social controls (or the moral voice⁽²²⁾) rather than on coercion to undergird shared values.

The prescriptive state relies on socially conservative conceptions. Of these, the most commonly observed are religious, in those instances where religious groups sanction the use of the state to enforce their very extensive (as distinct from "core") list of values, reflected in the dictates, duties and obligations imposed by the state. Secular tyrannies have a similar pattern, although the values they promote are often national, social, or both, rather than religious. Prescriptive states of both kinds often seek to control most of what a person does, consumes, reads, hears, and even thinks.

The basic role of the law

The three approaches define the basic role of law in society rather differently. Much more will be said about this subject below, but as an early observation, the civil society seeks to minimize reliance on the law because it sees it as a tool of the state that such an approach seeks to countervail. In addition, this philosophy views the law as largely instrumental, facilitating voluntary arrangements among parties, especially contracts.

Most important, in civil society law is designed to be evenhanded, fair, and largely procedural. The law is "blind;" all citizens are to be treated equally. Indeed, one of the main objections liberal advocates of the civil society raise to conceptions of the good society is that on the face of it they are discriminatory because some people are viewed as more moral than others. This possibility disappears when the society per se has no shared definition of the good and this matter is left to each individual. As Will Kymlicka states,

Some communitarians argue that the liberal preference for the cultural marketplace over the state as the appropriate arena for evaluating different ways of life stems from an atomistic belief that judgements about the good are only autonomous when they are made by isolated individuals who are protected from social pressure.⁽²³⁾

The good society seeks to minimize reliance on the law not because the law often preempts private decisions but because it often undermines (although it does sometimes serve to reinforce) informal social controls by replacing them. Also, while the good society recognizes the instrumental role of the law, it also draws on its expressive role, to state and underscore the values the society cherishes. Thus, when the law in such a society enforces parents' duties to their children, its primary purpose is not to facilitate familial arrangements but to communicate the high value this kind of society puts on parenting. And laws that "require" people to be good samaritans serve more to define such a moral expectation than to make people good samaritans by the small fines imposed if and when a person is charged and convicted of not being a good samaritan.

Most important, the good society is willing to rely on the law to promote a limited but important list of substantive social values, even if this means treating citizens unequally.⁽²⁴⁾ Such measures include environmental protection, reverse discrimination, and limited reallocation of wealth. (An argument can be made that all such laws are meant to ensure that

all citizens will become equal, but one can show quite readily that actually these laws reflect substantive concepts of what is considered good by the societies that enacted these laws.)

While prescriptive states too might prefer not to resort to the law, given the strong and wide disaffection of their members, and the very extensive and comprehensive list of values to which they demand compliance, these states end up making law and law enforcement the mainstay of their regimes.

Citizens thin and thick vs. members

The three approaches differ fundamentally in their view of the place of the person within the social order, which is highlighted in their legal treatment of citizenship. The civil society draws a sharp line between the citizen and the person. The citizen is the role the person has in the public realm (paying taxes, voting, serving in the military and on juries; obeying the law), while most of life takes place (or ought to take place) in the separate private realm of the individual. While the thin realm of citizenship is governed by various laws, the thick private realm is subject to individual choices. While there is some role for laws in the private realm, for instance those concerning private property, basically the civil society is not merely incompatible with a thin layer of laws in the private realm, but also with a thin public realm, and hence with relatively few laws governing public roles. (Feminist⁽²⁵⁾ and communitarian⁽²⁶⁾ criticism of this sharp distinction between the public and the private realm seems to me well taken.)

While the ideal citizen's role in the civil society is limited, proper citizens of the civil society are expected to be active, follow public affairs, participate in local decision making, and so on, rather than act like passive consumers, a point often stressed by Benjamin Barber⁽²⁷⁾ as well as Henry Boyte and Nancy Kari.⁽²⁸⁾

The good society's main concern is with membership, not citizenship, that is with the roles of person plays in various social bodies, largely governed by mores rather than by laws, although obviously these have a role. Most of the responsibilities of the good person are neither political nor personal but social: to one's children, parents, spouse, friends, neighbors, or other members of his or her immediate community and more encompassing social entities. While in actual societies various laws help to define some of these membership roles (e.g. child support) in the ideal good society, people fulfill their social roles most often because they believe that this is the right thing to do rather than because they fear the law. To repeat, the early kibbutzim approximated this ideal type.

A core concept of the prescriptive state is thick citizenship and thin membership, as it in principle recognizes little of the personal sphere. Citizenship is typically involuntary (as highlighted by sealed borders). Citizens' duties are very numerous, reflecting a vast list of values which are ensconced in numerous laws and adherence to which is enforced by law. These concern practically every aspect of personal life, including what people wear (e.g., veils), eat (no pork), drink (no coca-cola), listen to (no jazz nor BBC), the number of children permitted, and so on. Moderate versions of such states are found in authoritarian communities in the USA in the '50s, for instance, those in which hanging a UN flag, frequenting a gay bar, or introducing a black person into a public school, led to violence supported by the state.

A closely related and very telling difference among the three types of societies concerns their view of human nature. As I have spelled out this point elsewhere,⁽²⁹⁾ I note here merely that the civil society views people as essentially good in nature, but corruptible by the state. The prescriptive state views people as highly impulsive, rather irrational, and in need of restraint by the state. The good society views people as initially, in childhood, as rather impulsive and

irrational but open to socialization capable of developing them into good persons, allowing for an intact moral infrastructure. Given that unlike the civil society this concept does not view people as good by nature, it recognizes that even if socialization is highly successful people will be considerably tempted by the lower angels of their nature and require a continual exercise of informal social controls if they are to be as good as they can be. Accordingly, while both the state and the society can corrupt people, the society is often a major source which introduces and sustains their virtues.

Which virtues?

While analysts of all three kinds of societies refer to virtues, the list of virtues they extol and are needed to sustain each kind of society are far from identical, a point all too often disregarded. The typical virtue list of the civil society consists of moderation, tolerance, self control, critical thinking, following news about public affairs, participating in public affairs (democratic process), and volunteering. Others claim that

[b]eing honest, kind, dependable, fair, and respecting others' rights are some of the character traits most highly valued in our society. Initiative, organization, decision skills, and readiness to apply all the above traits to betterment of the community (citizenship), are also highly regarded....⁽³⁰⁾

These civil virtues have two important attributes: they concern individuals (unlike, say, the virtues incorporated into public policies and laws, for instance those mandating national service in Germany) and they are by and large procedural rather than substantive.

Take, for instance, staying informed about public affairs (rather than merely sports and consumer goods), as an attribute of individual citizens. It is basically content free: there is no particular kind of the very large world of public affairs of which staying informed is considered, in principle, as more virtuous than any others. Tolerance is another personal attribute, closely related to self control. Both of these are content free: the virtuous citizen of the civil society is not more tolerant of, say, Jews than blacks and blacks than homosexuals, and so on. The same of course holds for religious tolerance that encompasses all religions as well as atheism.

The essential virtues the civil society requires are personal rather than social ones (those which the society considers good). This point is illustrated by laws concerning marriage. Advocates of the civil society have difficulty explaining why they refuse (when they do refuse) to recognize gay marriages, polygamy, and many other "alternate lifestyle" arrangements as equally legal as traditional marriages as long as these arrangements are between (or among) consenting adults, who wish to encode their relationship in a legal form.

In the same vein, public education, an essential feature of the civil society, is focused on building up personal virtues and capabilities, critical thinking for instance,⁽³¹⁾ rather than social ones, such as dedication to preserve the environment for future generations. During a panel discussion on the subject during the 1999 meeting of the American Political Science Association a line repeated was that civic education should entail "transmission of knowledge and skills but be character neutral." When one of the participants suggested that children should be taught reverence for the constitution, Amy Gutmann argued that there was no reason to exempt the Constitution from critical examination. The well known debate on whether Amish children should be exempted from attending required secondary education concerns the question of whether they can be citizens of a civil society without learning to think critically.⁽³²⁾

In contrast, members of the good society are expected to have not only merely personal, but also relational and social virtues. In addition to being reliable citizens, they are also supposed to be good parents, friends, neighbors and community members. That is, particularistic loyalties (rather than merely reciprocity) are an earmark of members of the good society.

Above all, members of good societies are expected to contribute to select causes the good society seeks to foster, rather than merely choose their own causes. The good society, for instance, holds in higher regard working in soup kitchens and clinics for the poor, volunteering to serve in the Peace Corps or AmeriCorps, and helping AIDS victims, more than donating to the opera or serving on a country club board. Many continental societies value the welfare state, lower inequality, and social amenities even if these social virtues entail sacrificing some measure of economic growth. (They advance these social virtues as good in their own right rather than as instrumental values that help people become equal and effective members of the civil society.)

Education for membership in the good society includes developing commitments to substantive values and a shared definition of the good. Commitments to the protection of the environment are a case in point as are various notions about the virtue of diversity and social justice.

The prescriptive state's list of virtues is still different. The good citizen is one who first of all complies with the law and discharges diligently and in good faith the numerous state defined duties. Better yet, the virtuous citizen voluntarily makes contributions to the state, above and beyond those demanded by it, for instance donating time or resources to causes the state specifies. And, the good citizen helps law enforcement by checking on neighbors, friends and kin, to ensure that they also conduct themselves as virtuous citizens.

The differences among the three kinds of societies are highlighted by their tax laws. Civil societies seek tax neutrality; they prefer to avoid favoring one behavior over another. Proportional taxes are compatible with the civil society; progressive taxes only to the extent that they can be shown as promoting the ability of citizens to partake in the civil society, but not to the extent that they promote a particular conception of social justice in its own right.

In contrast, a good society might well provide special tax privileges to behavior it considers socially virtuous, for instance, being married or having children. (Many societies provide subsidies to those who have children.)

The same issue arises with regards to public support of the arts and other cultural projects. Champions of the civil society strenuously objected when federal agencies such as the National Endowment for the Arts and the National Endowment for the Humanities sought not to fund projects that offended some core social values, for instance photos that showed Christ on a cross dipped in urine. A good society would take it for granted that it will provide public funds only to projects that enhance, or at least do not undermine, that which it considers virtuous.

The prescriptive state tends to require people to follow its various dictates and punishes them when they do not, rather than rewarding them when they do. For instance, divorce is banned rather than marriage rewarded; abortions are banned rather than adoptions provided for children not wanted by their parents; community service is required rather than extolled to the point people volunteer; the armed forces rely on the draft rather than on pay and patriotic persuasion.

Three views of voluntary associations

From the viewpoint of the discussion at hand, the most important characteristic of civil society is that it draws no difference among voluntary associations with regard to the substantive values that are fostered by these associations. I am not suggesting that these associations are without specific normative dispositions. Little Leagues, for instance, may cherish a healthy body and sporting behavior (or--winning at all costs); book clubs foster respect for learning and culture, and so on. But from the viewpoint of their contribution to civil society, they all are treated by champions of civil society as basically equivalent; none is, normatively speaking, inherently morally superior to the other.

Certainly champions of civil society do recognize some differences among voluntary associations, but these are limited to their functions as elements of the civil society rather than to their normative content. For instance, voluntary associations that are more effective in developing citizenship skills are preferred over those that are less so. But the actual values to which people involved in these groups apply their skills is not under review, nor are other substantive values such associations embody.

For the civil society, an association that facilitates playing bridge has the same basic standing as the Red Cross; members of the Elks command the same status as those of the Promise Keepers; and bowling leagues are indistinguishable from the North American Man/Boy Love Association (which advocates removing the age of consent for sex), whose members meet to exchange tips on how to seduce boys younger than eight. Beyond league bowling (and bridge playing), other mainstays of "social capital" that Robert Putnam found in his studies of civic society in Italy as more soundly civil and democratic than others were bird-watching groups and choral societies.⁽³³⁾ Bird-watching groups may enhance respect for nature and choirs may cherish culture (or certain kinds of culture over others), but this is not the reason Putnam praises them. As Putnam puts it, he extols them because "[t]aking part in a choral society or a bird-watching club can teach self-discipline and an appreciation for the joys of successful collaboration."⁽³⁴⁾ So could most, if not all, other types of voluntary associations.

While from the basic standpoint of the civil society, one voluntary association is basically as good as any other,⁽³⁵⁾ they differ greatly from the perspective of the good society, precisely because they embody different values. Thus, to the extent that American society cherishes the notion of interracial integration, it views the Urban League and the NAACP as much more in line with its values than the Nation of Islam; and the Ripon Society more so than the Aryan groups--all voluntary associations.⁽³⁶⁾ Berger and Neuhaus concede this point in a revised edition of their book:

Possibly, though, we were a bit carried away in our enthusiasm for these institutions, overlooking the fact that some of them definitely play nefarious roles in society. Thus, strictly speaking in terms of our definition, the Mafia, the Ku Klux Klan, and the social branch of an organization seeking to get the government to negotiate with visiting aliens in UFOs could also be described as mediating structures. They do, indeed, mediate between individuals and the larger society. It just happens that the beliefs and values thus mediated are criminal, immoral, or just plain crazy. We would suggest now that there are (to put it plainly) both good and bad mediating structures and that social policy will have to make this differentiation in terms of the values being mediated.⁽³⁷⁾

Walzer clearly distinguishes the civil society from the good society. Indeed, at one point he makes mocking reference to a potential slogan for civil society, "join the associations of your choice,"⁽³⁸⁾ arguing that it entails a less than morally-compelling and mobilizing vision. Walzer regrets that the anti-ideological nature of the civil society makes it unable to inspire citizens, but implies that this feature is necessary to prevent the idealization of the state. I will return to the importance of this point, which reflects a fear, implicit in Walzer's remarks, that the social formation of the good will lead to authoritarianism, if not totalitarianism.⁽³⁹⁾

I digress to note that no society is "good" in some ultimate sense; they are societies that aspire to promote specific substantive social virtues, and in this sense aspire to be good societies. The extent to which they are successful, and the normative evaluation of the specific virtues one society promotes as compared to others, are subjects not studied here because this would require an extensive treatment that I have provided elsewhere.⁽⁴⁰⁾ All that I argue here is that good societies promote particularistic, substantive formations of the good; that these are limited sets of core values that are promoted largely by the moral voice and not by state coercion. The conditions under which the particular values fostered earn our acclaim are not studied here.⁽⁴¹⁾

The difference between the two ways of treating voluntary associations is reflected in tax and other laws. A civil society grants all voluntary associations a tax exempt status, whatever the social virtues it promotes or undermines. A good society would deny such exceptions to all associations that offend any of its core values; for instance discrimination against minorities and women.

While both the civil and the good society draw on voluntary associations, these play rather different roles within the two systems. In civil societies, voluntary associations serve as mediating institutions between the citizen and the state, and help cultivate citizenship skills (ways to gain knowledge about public affairs, form associations, gain a political voice, and so on); they develop and exercise the democratic muscles, so to speak. In the good society, select voluntary associations also serve to introduce members to particularistic values, as well as to reinforce individuals' normative commitments. Thus, attending and actively participating in a meeting of the Moral Majority, the National Rifle Association, the AFL-CIO, and Mothers Against Drunk Driving, serves not merely to develop civic skills but also to enforce a whole slew of substantive values, although of course rather different ones.

The prescriptive state's views on voluntary associations is well known and hence requires no discussion. It tends to consider them as a threat to its general regime and to specific laws. Prescriptive states tend to enact laws banning voluntary associations or seek to ensure that they serve the state by maintaining a voluntary appearance while actually serving as arms of the government.

Achieved versus ascribed relations

It is far from accidental that while hardcore advocates of the civil society invariably view voluntary associations as the pillars of the civil society, families and communities are often not cited at all, or added as an afterthought. For instance, David Boaz writes that "civil society is all the rage these days. The term refers to the complex network of voluntary organizations in society--churches, schools, clubs, associations, business, labor unions and so on."⁽⁴²⁾ In a special issue of the *Brookings Review* dedicated to the civil society, editor E. J. Dionne, Jr. characterizes the civil society as (a) "a society where people treat each other with kindness and respect, avoiding the nastiness we have come to associate with 30-second political ads and a certain kind of televised brawl." And (b) "a collection of voluntary associations that includes Boy and Girl Scouts, Little League, veterans groups, book clubs,

Lions and Elks Associations, churches, and neighborhood crime watch groups."⁽⁴³⁾ Most discussions stress the second feature. "Bowling alone" has become somewhat of a symbol for this line of thinking. Robert Putnam argues that bowling with one's friends (which he terms alone) is less sustaining for civil society than bowling as members of a bowling league because such leagues are part and parcel of the voluntary associations that civil society requires.⁽⁴⁴⁾

In effect, one of the best indicators of the underlying position of various advocates is to note the place of families and communities in their analysis. While civil society purists do not list them at all, those who combine the advocacy of a civil and good society list both voluntary associations and families and communities as "intermediary" bodies. For instance, Jean Bethke Elshtain describes the civil society as such:

By civil society, I mean the many forms of community and association that dot the landscape of a democratic culture, from families to churches to neighborhood groups to trade unions to self-help movements to volunteer assistance to the needy.⁽⁴⁵⁾

And those who are strong advocates of the good society but prefer the language of the civil society for various reasons list families and communities first and all other bodies as secondary.⁽⁴⁶⁾

The underlying reason for this position is that families and communities are often much less voluntary and provide much fewer opportunities for civil education and practice than voluntary associations. This is especially true of ascribed membership, the kind one acquires by birth rather than fashions, i.e., the kind of membership one has in one's family, one's initial membership in an ethnic or racial group, and "birth" residential and other communities (e.g. religious). Even those families and communities one joins cannot be as readily changed as membership, say, in the Elks or a bowling league.

While some have claimed that being a member of an ascribed group can also serve to build up one's public skills, which are essential for the civil society, this is often not the case. I fully agree with McClain and Fleming when they wonder about David Blankenhorn's claim that families are the primary place to prepare good citizens, for instance during dinner table talks.⁽⁴⁷⁾ Families, when they work well, lay the groundwork for good people, forming their character, not their political skills. Nor are families role models of democracy or a place to acquire the skills of participation in a voluntary association.

All this is not to deny that these ascribed or semi-voluntary groups are incompatible with the civil society; far from it. Indeed, they often serve as a very effective bulwark against the state. But they are not as attractive to civil society theory and practice as full-fledged voluntary associations.

The opposite is true for the good society. Families and communities of all kinds are mainstays of the moral infrastructure and informal social controls. The strong affective bonding these social units entail ensures their effectiveness as socialization units and mechanisms of social enforcement. They have a relatively strong hold on their members. In contrast, voluntary associations' hold on their members, on average, is much lighter and often has limited or no moral content. Bowling leagues or informal groups may foster some mores of their own (concerning fair play, punctuality and such), but as a rule have very little impact as far as the main moral foundations of society are concerned. The same holds for

chess clubs and, albeit somewhat less so, for choirs. (These are, of course, the examples given by Putnam of the mainstays of democracy, and the civil society.)

The prescriptive state is wary of both voluntary associations and ascribed social units. It uses its powers to abolish or coopt ascribed groups as well as voluntary associations. Thus, both the Nazis and the USSR tried to suppress the family or use it for their own purposes. The same can be true of ethnic and religious communities.

The relationship of these distinctions to the law are as follows: the civil society prefers contracts over familial and other ascribed obligations, because contracts are voluntary while ascribed obligations are given. (This point was made as early as 1861 by Sir Henry Sumner Maine.⁽⁴⁸⁾) The good society combines respect for ascribed relations (especially those of the family and community one is born into as distinct from one joins by marriage or mobility). The prescriptive state seeks to reach directly to individuals and is hostile to both ascribed and achieved relationships that are not state driven, derived, or controlled. Both the Nazis and the Communists (especially in the earlier era of the USSR) were rather hostile to the family and demanded that members put loyalty to the state and its laws above those of the ascribed relationship. However these states had no more respect for achieved relations, like joining a labor union.

Rights and Responsibilities

There is a strong affinity between the civil society and the championing of individual rights. The main reason is that individual rights are first and foremost claims against the government, meant explicitly to hold it at bay and to secure the private realm. The fact that individual rights are considered universal and not particularistic, bound to one group or community, further enhances the compatibility. Last but not least, such rights entail no social definition of the good other than their own goodness. Hence, practically all the numerous laws nourished by the bill of rights are standard fare of the civil society.

The key concept of the good society is often said to be responsibility, the sense that one is morally committed to attend to certain tasks such as taking care of one's children, helping one's friends, and assisting members of one's community. Whether these responsibilities are also ensconced in the law is of secondary importance because the good society is failing when it has to rely on the law as the first line of defense to shore up these responsibilities. To reiterate, responsibilities are first and foremost moral commitments.

Some communitarian writing has been interpreted, perhaps not without reason, as implying that communities are essentially social units that foster responsibilities but are hostile to rights. However, as I have argued extensively elsewhere,⁽⁴⁹⁾ a good society can combine respect for individual rights while nourishing social responsibilities. Thus, there is no inherent contradiction between, say, the right to free speech, assembly, protection from unreasonable search and seizure, etc, and living up to one's responsibilities to one's children, friends and so on. And in those situations where tension does arise between rights and responsibilities, the good society need not assume a priori that responsibilities have the higher claim. In short, a high respect for rights and for responsibilities can be combined. The main difference between the civil and the good society is that the first is right focused, while the second one is concerned with balancing rights and responsibilities. (The same holds for liberty and social order, not discussed here.) The core concept of the prescriptive state is duty. Duty entails obligations imposed on the citizens by law, and largely enforced by the law.

Combinations

Now that the basic elements and features of the three ideal types have been explored, one can turn to the question of combinations, especially that of whether a society can be both civil and good? For starters one should note that no society is completely free of any of the three basic types; all have some measure of state coercion, some shared definition of the good, and as a rule some civility, although sometimes it is hard to find. The question therefore concerns only those combinations in which two of these elements play a central role in the societal makeup.

While space will not allow me to demonstrate this point here, it seems clear that there is a considerable amount of tension between the civil society's focus on liberty and the good society's focus on the definition of shared values, which of course means that certain ranges of behavior are considered immoral. (In American history this issue arises in terms of what is the American genius, a society based on individual rights, republican virtues, or some combination of the two.⁽⁵⁰⁾) However to the extent that the good society relies on education and persuasion rather than coercion, the two kinds of societies can be reconciled.⁽⁵¹⁾

Finally, one may argue, as *A Call to Civil Society* does among many others, that the civil society relies on a moral base provided by earlier generations (a base sometimes defined as religious and as based on one particular scope of religious tradition, such as Judeo-Christian, Christian, or Protestantism⁽⁵²⁾). Moreover, that as this base is eroded, the civil society is endangered. As *A Call to Civil Society* states,

Because our civic truths are largely constitutional and procedural, they do not tell us how to pursue happiness or how to live a good life. Instead, they establish principles of justice for a society in which pluralism is a fact and freedom is a birthright. In addition to civic truths, then, our democracy depends upon moral truths.⁽⁵³⁾

A communitarian readily sees the merit of the basis thesis but might well argue that the shared values in question could be religious or more broadly spiritual, or based on secular ethics, for instance on what Sanford Levinson called the constitutional faith.⁽⁵⁴⁾

In conclusion

The preceding analysis illustrates the merit of drawing a distinction between the civil and the good society (and between it and the prescriptive state). These concepts draw on rather different social philosophies, rely on different kinds of laws and treat the laws they do rely on differently. Moreover, their social formations--from voluntary associations to families and communities--play rather distinct roles and are viewed differently in the laws of these various kinds of societies. There is no law against collapsing all these differences and folding these conceptions into one, that of the civil society. However this article claims that such over packing of the term is hindering sound analysis.

ENDNOTES

1. I am indebted to Natalie Klein for her research assistance and to Linda McClain and Rachel Mears for comments on a draft of this article.
2. *A Nation of Spectators: How Civic Disengagement Weakens America and What We Can Do About It*, Final Report of The National Commission On Civic Renewal, 1999, and *A Call to Civil Society: Why Democracy Needs Moral Truths*, Institute for American Values, 1998.

3. Amitai Etzioni, *The Spirit of Community: Rights, Responsibilities, and the Communitarian Agenda* (New York: Crown, 1993), appendix; and The Communitarian Network's website, available at <http://www.gwu.edu/~ccps>.
4. Amitai Etzioni, *The Spirit of Community: Rights, Responsibilities, and the Communitarian Agenda* (New York: Crown, 1993); Etzioni, *The New Golden Rule: Community and Morality in a Democratic Society* (NY: Basic Books, 1996).
5. Bernard Susser, *Political Ideology in the Modern World* (Boston: Allyn and Bacon, 1995), 277.
6. John A. Hall, "In Search of Civil Society," in John A. Hall, ed., *Civil Society: Theory, History, Comparison* (Cambridge, MA: Polity Press, 1995), 25.
7. Victor Perez-Diaz "The Possibility of Civil Society," in John A. Hall, ed., *Civil Society: Theory, History, Comparison* (Cambridge, MA: Polity Press, 1995), 81.
8. Neera Chandhoke, *State and Civil Society: Explorations in Political Theory* (Thousand Oaks, CA: Sage, 1995), 9.
9. For older derivations of the phrase, see Dennis H. Wrong, *The Problem of Order* (NY: Free Press, 1994), and Dominique Colas, *Civil Society and Fanaticism: Conjoined Histories* (Stanford, CA: Stanford University Press, 1997).
10. Susan H. Williams, "A Feminist Reassessment of Civil Society," *Indiana Law Journal* 72, no. 2 (Spring 1997), 425ff; Linda McClain and James E. Fleming, "Some Questions for Civil Society-Revivalists," (manuscript to be published).
11. Cf. Robert N. Bellah, *The Good Society* (NY: Vintage Books, 1992).
12. Jean Bethke Elshtain, *Democracy on Trial* (NY: Basic Books, 1995), p.16.
13. Peter L. Berger and Richard John Neuhaus, "Response," in *To Empower People: From State to Civil Society*, ed. Michael Novak (Washington, D.C.: American Enterprise Institute, 1996), 148-49.
14. Robert Fine and Shirin Rai, eds., *Civil Society: Democratic Perspectives* (Portland, OR: Frank Cass, 1997); Benjamin R. Barber, *A Place For Us: How to Make Society Civil and Democracy Strong* (NY: Hill and Wang, 1998); E.J. Dionne, ed., *Civil Society: What is it? Why is everybody talking about it?*, *Brookings Review* 15:4 (Fall 1997); Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1994).
15. Robert D. Putnam, "Bowling Alone, Revisited," *The Responsive Community* 5, no. 2 (Spring 1995), 18-33.
16. Nancy Rosenblum, *Membership and Morals: The Personal Uses of Pluralism in America* (Princeton, NJ: Princeton University Press, 1998).
17. Amitai Etzioni and Robert P. George, "Virtue and State: A Dialogue," *The Responsive Community* 9, no.2 (Spring 1999), 54-66.
18. For more discussion, see Charles K. Rowley, ed., *Classical Liberalism and Civil Society* (Northampton, MA: Edward Elgar, 1997).
19. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 382-83.

20. Michael Walzer, "The Concept of Civil Society," in *Toward a Global Civil Society*, ed. Michael Walzer (Providence: Berghahn Books, 1995), 16-17.
21. For discussion of these as compared to reasoned deliberations see Amitai Etzioni, *The New Golden Rule*, 102-110.
22. For discussions of the moral voice, see Amitai Etzioni, *The New Golden Rule* (NY: Basic Books, 1996), chapter 5.
23. Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (NY: Oxford University Press, 1990), 219-220.
24. See William R. Lund, "Taking Autonomy Seriously," *The Responsive Community* 9, no.1 (Winter 1998/99), 20.
25. Elizabeth Frazer and Nicola Lacey, *The Politics of Community: A Feminist Critique of the Liberal-Communitarian Debate* (Toronto: University of Toronto Press, 1993); Susan Okin, *Justice, Gender and the Family* (NY: Basic Books, 1989).]
26. Amitai Etzioni, *The Limits of Privacy* (NY: Basic Books, 1999), Chapter 6.
27. Benjamin Barber, *A Place For Us: How to Make Society Civil and Democracy Strong* (NY: Hill and Wang, 1998).
28. Harry Boyte and Nancy Kari, *Building America: The Democratic Promise of Public Work* (Philadelphia: Temple University Press, 1996).
29. Etzioni, *The New Golden Rule*, chapter 6.
30. David C. McClelland, ed., *Education for Values*, (NY: Irvington, 1982), 134.
31. Amy Gutmann, *Democratic Education* (Princeton, N.J.: Princeton University Press, 1987). Compare to William Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (Cambridge: Cambridge University Press, 1991).
32. For additional discussion of this subject see Eamonn Callan, *Creating Citizens: Political Education and Liberal Democracy* (NY: Clarendon Press, 1997).
33. See Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993).
34. *Ibid.*, 90.
35. The relevant differences are instrumental, rather than principled or normative (for example, the relative size, the level of public education, etc.).
36. See Suzanna Sherry, "Without Virtue There Can Be No Liberty," 78 *Minnesota Law Review* 61 (1993). A somewhat similar point is made by the noted civil theorist Benjamin Barber. While Barber is a fan of voluntary associations generally, he warns against those that are so "privatistic, or parochial, or particularistic" that they undermine democracy. He writes: "Parochialism enhances the immediate tie between neighbors by separating them from alien 'others,' but it subverts the wider ties required by democracy--ties that can be nurtured only by an expanding imagination bound to no particular sect or fraternity." See Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley: University of California Press, 1984), 234-35.
37. *Ibid.*, 149-50.

38. Ibid., 25.
39. For further discussion and criticism of this conception of civil society, see Jean Cohen, "Interpreting the Notion of Civil Society," in *Toward a Global Civil Society*, ed. Michael Walzer (Providence: Berghahn Books, 1995).
40. See Etzioni, *The New Golden Rule*, 217-57.
41. Etzioni, *The New Golden Rule*, chapter 8.
42. David Boaz, "Enemies of Civil Society," *Cato Policy Report* (July/August 1999), 2.
43. E.J. Dionne, Jr., "Why Civil Society? Why Now?" *The Brookings Review* 15 (1997): 5.
44. Robert Putnam, "Bowling Alone, Revisited," *The Responsive Community* 5 (1995): 18-33.
45. Jean Bethke Elshtain, *Democracy on Trial* (NY: Basic Books, 1995), 5.
46. See, for instance, *A Call to Civil Society*, 7.
47. Linda C. McClain and James E. Fleming, "Some Questions for Civil Society-Revivalists" (manuscript to be published).
48. See "Maine, Henry Sumner," in *The International Encyclopedia of the Social Sciences*, Volume 9, (USA: Macmillan & Free Press), 530-532.
49. Etzioni, *The New Golden Rule*.
50. For discussion see Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution* (New York: Harcourt, Brace, 1955). In response to Hartz, see, among others, J.G.A. Pocock, *The Machiavellian Movement: Florentine Political Thought and the Atlantic Political Tradition* (Princeton, NJ: Princeton University Press, 1975); Isaac Kramnick, *Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth Century England and America* (Ithaca, NY: Cornell University Press, 1990); and Rogers M. Smith, "Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America," *American Political Science Review* 87, no.3 (September 1993): 549-66.
51. For much more discussion, see Etzioni, *The New Golden Rule*, chapter 2.
52. Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (Los Angeles, CA: Roxbury Pub. Co., 1996).
53. *A Call to Civil Society*, 12.
54. See Sanford Levinson, *Constitutional Faith* (Princeton, NJ: Princeton University Press, 1988), and for more discussion, Amitai Etzioni, *The New Golden Rule*, chapter 8.