

# REVISITING HAYEK: THE NEXUS OF VALUE, KNOWLEDGE AND POLITICS

By

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This is an essay in the history of ideas exploring the implications of Hayek's complex body of work for doing social science. I am concentrating on Hayek since he is the best known exponent of the Austrian school's Theory of Subjective Values. My presentation is motivated by two concerns: one, to show the continuing relevance of his entire opus and two, to counterbalance the influence of the dominant narrow interpretation of Hayek as the patron saint of free market liberalism. Even though he himself did not object to this image, a careful reading of his scholarly work shows his preoccupation with much more wide-ranging societal, even philosophical issues! As I will show in this paper, he wrote lucidly about the law, economics, justice, and democracy, topics whose discussion often generates more heat than illumination.

If the impact of the sphere of economics in political life is one of the most important aspects of modernity, then Hayek's analysis of the problematic relation between economics and politics is a significant contribution to our understanding of the contemporary world. I will introduce his argument for why the two should be treated as autonomic. He considered any crossing from politics into economics or vice versa a category mistake. Another distinctive feature of Hayek's overall approach besides carrying forward the Austrian school's agenda, was his rethinking of history and social institutions in the light of the limits of human knowledge. History and social institutions accordingly appear as order which emerges unplanned from individual actions directed at the achievement of subjective ends.

His analyses have given credibility to the view that the preeminence of individual rights is *the* accomplishment of the modern era. Individual rights: this implies the sacredness of property and the right of a person to engage in market transactions under democratic governance. Given this bundling of market and democracy under the rights of the individual, it is not far-fetched to see in any repudiation of the market economy also the potential unraveling of the liberal-democratic political framework.<sup>1</sup>

There are people who claim that individual rights and democracy as currently defined could be maintained without the market economy. What they fail to grasp is that once the organic connection has been severed, it gives rise to a whole new set of problems. Democracy has not been introduced to us as the ideal form of government by the people. It has come as a demand on every embodied individual to become actively involved in negotiating his or her life and to affirm thereby the subjectivity of choices and the irreducibility, not irreconcilability, of individual differences. If Hayek's work is approached in its entirety, one can discern an alternative ethos to the one typically associated with the democratic free market. This will

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<sup>1</sup> And vice versa. It appears that the assumption of an organic connection between free market and democracy is also held by the American government, since it is very concerned with establishing democracy in developing countries in the hope that the free market will follow.

effectively demonstrate that he held a more radical view of human nature and sociability than his self proclaimed followers.

Finally my essay brings out another provocative idea we owe to Hayek. He questions the very conception of common good which constitutes the focal point of the explorations of political thinking in search of the best regime. I will discuss the way Hayek approached this issue, taking into account his modification of the notions of good and value, and his concern to avert a relativistic outcome. It is well known that he assumed an antagonistic position with regard to socialist ideologies. But in my reading his work is also a critique of standard liberal democratic theories. These may not have realized that the philosophical and economic presuppositions of their own self congratulatory account of capitalism since the fall of the Berlin wall in 1989 do not survive Hayek's analysis unscathed either!

## BRIEF INTRODUCTION TO THE AUSTRIAN SCHOOL

The members of the Austrian school<sup>2</sup> were preoccupied with five themes introduced by Menger, the founder. These themes are: 1) the nature and origin of human institutions, 2) the method by which they should be studied, 3) the nature and aims of economic science, 4) the political implications of these investigations and 5) the role of the so-called historical school of economy in German affairs at the time.

The unifying characteristic of the Austrian critique of the historical school lay in the conviction that the latter's exponents, specifically Marx and his epigones, had not achieved an understanding worthy of a scientific economics. The Marxists' attempt to found a new economic science rested in the Austrians' eyes on an inadequate understanding of the nature of this science and resulted in lumping together areas like history, ethics, and economics which should be kept analytically distinct. Having neither secured the proper foundations for the new economic science nor done justice to its claim as a universally valid theoretical science, their effort to transform the field was doomed from its inception. It is no coincidence for the Austrians that the Marxist project was primarily politically inspired rather than scientifically conceived. They understood that Marx hoped to create a collectivist and organic model fitted to the unique character of German culture, which would provide an alternative to the liberal individualistic model. In retrospect, the Austrians should receive credit for having recognized before anyone else this wishful fantasy as common to both national and communist socialism.

Menger's methodological credo was to keep the economic separate from other concerns. He showed the fallacy behind the truism according to which all economic activity obeys moral rules on a par with juridical regulations and social customs and revealed the claim as what it was, a normative prescription to subordinate economic science to moral considerations. Consequently, he argued that a moral orientation in economics was no more nor less justified than an economic orientation in ethics! Anything else would be tantamount to denying the nature and unique problems of a theoretical and practical economics.

To illustrate that he was not merely building himself a strawman to attack, take the case of Max Weber who even considered himself influenced by Menger. A cursory reading of Weber's 'Economy and Society' shows that he interpreted theoretical economics and its laws from a Neo Kantian perspective. This is not surprising given his philosophical training. But he characteristically replaces the Mengerian motto "Theorie des subjectiven Wertes"( i.e., theory of subjective value) with "Subjektive Wertlehre" ( i.e.,

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<sup>2</sup> The Austrian school is represented in this essay by Menger, von Mises and Hayek. If I were to expand the circle I would include figures like Boehm-Bawerk, von Wiesse, Popper and even Schumpeter as peripheral members and fellow travelers.

subjective theory of value) thus shifting subjectivity from its original place in individual values and actual encounters to the domain of a scientist's modeling effort, a substantive shift in meaning and associated claims.

Evidently, Menger's project was more complex and radical than even someone as intellectually ambitious as Weber realized. While the latter was concerned to find a justification for the two types of scientific investigation, namely the nomothetic and ideographic, and operated under this positivist dichotomy, Menger had set himself the more ambitious task of dealing with the relation between the historical and natural sciences within the framework of a *unifying conception of knowledge*. Unfortunately, this project failed to rouse interest among the philosophers and social scientists of his day, who remained indifferent to the implications of such a research programme for the development of economic science.

## HISTORICISM CONTRA POSITIVISM

The Austrians conceive history as an indeterminate, non directed process in which individuals pursue their subjective ends and are influenced by the consequences of their actions whether intended or not. Their conception provides an alternative to interpreting history as a purposeful movement with a goal outside the personal ends of people which can be disclosed by means of revelation or philosophical speculation. It also rules out an interpretation of history as the flowering of a rationality beyond earthly concerns which leads human society, through laborious efforts of overcoming ignorance and prejudice, toward a constellation in accord with its lofty dictates. The Austrians reject all attempts to make sweeping generalizations about the meaning of human life and that claim a knowledge that outstrips the limits inherent in human understanding. Their objection is that any attempt to interpret history as the outcome of purposeful action or human reason would be tantamount to affirming that it is possible to know the meaning of this process of becoming. It would also imply that it has a significance over and beyond that of the myriad senses individuals try to express in and through their lives.

Specifically, Hayek's criticism concerning historicism (in which he includes historical materialism) is not that it is antithetical to the treatment of social phenomena according to scientific theory, but instead that it is a form of scientism. Hayek is aware that the term historicism has two distinct connotations. The first, the older of the two, contrasts the specific task of the historian with that of the scientist and denies the possibility of a theoretical science of history. The second, a more recent one, expresses the belief that history is the royal road which leads to a true social science. Both have in common that they assume social instituting to be the outcome of axiomatic stipulations which, for Hayek, were of their own making.

Hayek proposes an alternative account. His is based on the *Eigendynamik* specific to each unique human situation which must be accounted for as the emergent outcome of many forces operating through long stretches of time. His idea is specifically geared to address Menger's question, how diverse institutions could arise as the unintended result of the separate actions of so many different people. He starts by criticizing the historicist distinction between a theoretical history and a historical theory, showing the inconsistency of the claim that there was a necessary correlation between the topics investigated and the methods applied in their study. Following Menger Hayek argues that for understanding any concrete phenomenon, whether of nature or of society, both kinds are needed. Hayek goes on to sketch a conception of history as the involuntary result of individual ends that come about as individuals strive to solve their problems relying on falsifiable knowledge and limited rationality.

The object of his inquiry addresses not only a person's limitations in discerning the good and striving to achieve it, but also the notion of good itself, critically approached in the theory of subjective values. Just as one can find fault with the concept of common good in classical politics, one may attack the

classical conception of value in economics. Therefore any conception of political order founded on the so-called common good appears to be untenable. The radicalness of the theory of subjective values for political thinking becomes apparent as soon as this issue is broached. It is important to understand why Hayek focuses on this: He feared the hybris of constructivism<sup>3</sup> with its conviction that the human mind has reached a state of development that enables it to build the perfect social order. In such a planned society there would be little room for individual initiative; everything would be preordained and reified. The actual members of such a society would themselves undergo a mutation from ends into means, and become (e)valuated in terms of their contribution to the attainment of given ends. Such aspiration to a top down command and control of all forces of society Hayek identifies with collectivism to which scientism adds a veneer of respectability. Methodological collectivism becomes a blueprint for political collectivism of the kind Stalin established in Russia around the time Hayek offered his analysis.

## THE THEORY OF SUBJECTIVE VALUE

Hayek characterizes true individualism as a description of a state in human socialization. It constitutes for him an attempt to understand the forces which shape the social life of actual men and women, and only secondarily a set of political maxims. He expresses the opinion that true individualism is not animated by an ideal type of independent, self-interested individuals but rather by embodied people whose character is shaped through their direct participation in society. The false individualism or rationalist individualism on the other hand, draws its inspiration from the conviction that social institutions are the result of rational choice or contractual agreements between representative agents, between disembodied minds as it were. It thus lies at the root of the misguided approach to societal phenomena that has throttled the development of the social sciences. The debate between true and false individualism revolves then around the question whether social institutions should honor direct human participation. Alas, norms and contracts have won the day and demonstrate the dominance of false individualism. The social sciences have accordingly become concerned with determining properly rational (and thus supposedly scientific) behavior. This in turn encourages the belief that ethics of conduct is itself subject to control and evaluation by reason.

Interestingly, Hayek also rejects the view of those who hold that scientific rationality itself jeopardizes civilization. In his eyes it is not science per se that constitutes a threat but rather the presumption of knowledge when knowledge has not been genuinely attained. His starting point is the conviction that science has the task to underscore that whatever choice of value is made it will always involve sacrifice of some other value. He does not attack the Humean claim that states that one can not arrive at consensus about the validity of values from an understanding of causal connections between facts, but he argues against what he considers a distorted extension of this claim, the assertion that science has nothing to do with values. Such reasoning is in Hayek's view connected with the conviction that shared ends are a prerequisite for the existence of social order.

It is important to point out that the Austrians' theory of subjective value is first and foremost a theory of knowledge. As such it has repercussions for the whole array of the theoretical social sciences. Its foundation lies in a specific account of human action which in its turn invokes a theory of human knowledge. These themes were alluded to by Menger, but were first elaborated in the essays Hayek wrote between 1937 and 1945. The theoretical concerns motivating them are highly abstract. Hayek's project is to search for the simplest elements of reality which would enable one to capture its essential aspects. These elements are not

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<sup>3</sup> Constructivism is Hayek's name for what these days would be called cognitivism.

given in any natural, naïve realist sense. They are regularities and invariances which are difficult to discern. Nevertheless, when properly framed they are there to be described, according to him.

Menger's ontological theory of subjectivism provides a genetic account of individual and societal knowing at different stages of unfolding. His 'Copernican Revolution' traces the exchanges in the market back to the individuals' subjective valuations of different economic goods. Scales of value, he finds, are just as subjective as final ends; they vary from person to person, change over time and do not form the object of judgement. Individual action springs from a rational 'calculation' derived from the way all these factors come together at the moment of choice. The task of theoretical science is then that of explicating the subjective intentional relation established between ends and means.

Menger's vision is carried forward in Hayek's essay 'Economics and Knowledge', where he brings out the unique status of knowledge in human action. Hayek sketches an account of a society built from and sustained by a large variety of practical, local knowledges which can neither be centrally controlled nor mediated. Consequently, his critique of various types of collectivist planning relies not so much on political, ideological or financial arguments as on arguments concerning the social-material character of knowledge.

Knowledge, far from being primarily analytical and inhering in a code, is embodied, embedded and distributed unevenly among different artifacts and persons. It is only partially available, indeed most of the time barely sensed or marked. If the spontaneous order of the market had been the work of human planning, it would, Hayek observes, deserve praise as the super achievement of human cognition. He emphasizes that spontaneous order is not merely a feature of economic life, but characterizes social life in general.

The implication of his theory of knowledge for the social sciences is that they should concentrate on finding the most effective way to integrate diverse sources and kinds of knowledge. Research should specify a generalized framework that enables the best coordination of the knowledges scattered among the members of society. This means following the dynamic process by which human knowledge is produced, communicated and exchanged and can give rise to novel and unpredictable results. This eminently practical concern can obviously not be answered solely by mapping rational knowledge and building expert systems to store it. What would be required is a two-pronged effort to circumscribe on the one hand, the complex of disordered interpersonal interactions, while tracing on the other the resultant orderliness which envelopes a large spectrum of activities on the macro-level. Such an analysis would, Hayek hoped, shed light on how these two aspects are jointly instituted and demonstrate that society cannot be considered the outcome of human will power and inventiveness alone.

Important implications derive from the above considerations: Once it has been established that the foundation of civil coexistence do not lie in a community of moral values, but in scarcity understood as finitude and embodied rationality, then society no longer retains the oppressiveness previously attributed to it. State and politics alike can now be justified solely as a complex of constraints which will contribute to the achievement of the greatest number of general social advantages culled from the irreducible tension between limited resources present at hand and unlimited desires ready to hand.

State and politics are thus the effects of human finitude, not its overcoming. Moreover, their strength and the tasks they are entrusted with must be limited to signaling the circumstances where the diversity and materiality of knowledge, the variety and incompatibility of different values foil development of a spontaneous solution.

In short, Hayek rejected the belief that the task of political philosophy was to give shape to social and state order on the basis of a knowledge superior to those of the individuals in it, as well as the conception of the state as an instrument explicitly built to champion every individual and social demand without paying any heed to their compatibility and generalizability. This would result in turning this political

life either into an interminable decision making process or, in order to guarantee property and trade as the best remedies against scarcity, it would endow a state with the sole authority of redistributing goods on the basis of non economic considerations; neither resolve the problems of scarcity or compatibility.

## METHODOLOGICAL INDIVIDUALISM

I turn to discuss Hayek's response to methodological individualism. Methodological individualism is individuality conceived as an ideal type synonymous with autonomy, rational choice and self-interest. Like many influential abstractions it has taken on a life of its own and been given meanings often at odds with each other. One major source of confusion has been the tendency to conflate methodological individualism with political individualism. Menger's critique of the utilitarianism espoused by Neo Kantian liberals and Hayek's criticism of the constructivist mentality (i.e. cognitivism) which characterize false individualism make clear that the Austrians did not understand it as a variant of political individualism of a rationalist pedigree, but rather as a genuine alternative. In the Austrian perspective, political individualism is based on a conception of the individual as an asocial agent who deliberately designs and implements social institutions. By contrast, their take is inspired by the conception of social individuality, and they treat any institution as the involuntary outcome of humans in action coping with problems through the use of limited and fallible knowledge.

Methodological individualism stops being a pivotal abstraction in the hands of the Austrian school. It becomes only a part of the methodology with which to answer Menger's main question: How can it be that institutions which serve the human welfare and are extremely significant for its development come into being without being planned? Once the nature of institutions becomes the main focus of inquiry in the social sciences, methodological individualism cannot be the criterion that differentiates or distinguishes economic science from the other social sciences.

The Austrians adopt the evolutionary perspective first and foremost as a critique of teleology. They take to task all philosophies which seek to find purpose in history. Nevertheless their search for evolving general laws leaves unanswered the ontological status of any principle that enables people to minimize planning and the need for consent.

Their problematic is twofold. On the one hand, they thematize the fact that not everything various people desire is accomplished, and on the other it makes one aware that to act in order to achieve the good and to follow ethical norms does not suffice to produce the desired consequences.

If there were no general laws, then order would be the rare product of pure chance. However, if these general laws are understood as tacit affordances guiding diverse activities, not as normative injunctions prescribing their course, then they do bear on human action, even if indirectly. Becoming attuned to them can engender civility. Alas, the practical issue of standing under such laws is not resolved by recognizing their influence. A philosophical social science that tries to describe these laws and have them understood by the practitioners must deal with two concrete conundrums. First, it has to investigate whether it is possible for a social science to claim universal knowledge, and second, were this to prove impossible, it has to show how to resolve the diverse human problems and assess their solutions.

By dealing with the manner in which subjective needs unintentionally generate objective order the Austrians furnish insight into the laws which frame the ethical conduct between individuals and hence influence subjective values. They embrace the differences amongst individuals and try to show how the greatest possible social advantage could be drawn even from circumstances of inequity and conflict! Theirs can be truly deemed an unflinching look into the basic problems of the human condition as expressed in

political philosophy. Their tough minded reflections address not only the difficulties that have come up since the downfall of eschatological accounts of history, but also the quandary with applying the epistemological concerns of natural science to social science.

Differences between Menger, von Mises and Hayek notwithstanding, their ideal for the best political order is a society that enables all its members to achieve subjective values or ends. By their lights the best political order is characterized by the ability to satisfy individual needs better than other economic arrangements, and democracy is to be understood as a system that does not evaluate individual ends nor relegate the power to resolve conflict to the majority or to an elite. This explains their claim that capitalism proper, ie., subjectivist economics, is the only possible form of democracy. Their conception of society, even though mitigated by considerations regarding the division of labor and the function of collaboration, with collaboration viewed as the most efficient path to overcoming natural differences and unequal distribution of natural resources, still retains an instrumental and utilitarian flavor to it. Von Mises, in particular, believes that satisfaction of individual needs can come about through the system of market cooperation. This cooperation he deems superior because it manages to enlist every individual desire into social utility.

In contradistinction to von Mises's thinly disguised utilitarian liberalism, Hayek calls for a theory founded on the uniqueness of specific cultural institutions. He insists on the possibility of understanding them onto/genetically as the resultant of many forces working synergetically over long periods of time. Then the main task consists in explaining how institutions function in practice being the unintended outcome of past actions by disparate individuals. Given his evolutionary perspective it becomes important for Hayek to distinguish analytically between actual adaptive factors and speculative ones. But Hayek does not give credence to the fact that even factors which are speculative and not actualized can influence the development and tenor of social institutions. Since both speculative and scientific concepts are parts of the social imaginary, they are equally efficacious. This helps to understand how the corruption of order comes about. For though concerted effort may be made to avoid and not repeat errors, nevertheless, more often than not an order reverts to them. They are the parts of the imaginary Hayek has in mind when he talks of fatal conceits driving social movements like collectivism and totalitarianism.

Out of a whole list of dangerous faults Hayek singles out constructivism as the most pernicious and hence most grievous one since it treats the human mind as if it were detached from nature and society. In stark contrast Hayek regards the human mind as part of an ongoing process, carried forward and reflected in a responsive and evolving rationality. For constructivism, order is always a product of human plans guided by analytical reasoning.

Hayek explores in greater depth the origin of the constructivist conception of order with its anthropocentric, mentalistic bias. Hence his concern to find a suitable term to name the alternative, spontaneously formed order. He comes up with a distinction between *taxis*, the arrangement of human production for the achievement of specific ends, and *cosmos*, an order which exists or forms itself independent of any human will. Although originally cosmic order is not much used in this sense tending instead to be understood in the sense of 'order of nature', the term seems fit to designate any spontaneous social order. The key difference between a spontaneous order or cosmos and an organization or taxis thereby consists in the fact that a cosmos lacks purpose not having been deliberately made by people. By contrast, every taxis presupposes a particular end or goal and people forming such an organization must serve its purpose. Consequently, if in a cosmos the knowledge and goals guiding action are those of the individuals themselves, in a taxis the reasons and purposes for organizing will determine the resulting order. Taxis thus appears as a plan for the attainment of particular hierarchically ordered ends. Hayek derives from this that cosmos is the result of the regularities of the behavior of the elements which it comprises, while taxis is determined by agency which stands outside the order.

## NORMS AND SOCIAL KNOWLEDGE

Given the above Hayek faces the following problem: to grasp the nature of moral and behavioral norms that underpin the proper functioning of a society, and to make sure that compliance with such norms does not turn into dull conformity but makes possible individual initiative, innovation and novelty. Clearly a system of this kind will need to exhibit considerable flexibility in the principles on which it relies. Such flexibility would be a *sine qua non* not only for the phase of the gradual evolution of the principles themselves, but also for modifications and improvements that provide the opportunity for selection of the appropriate ones.

Hayek also hypothesizes the existence of a cultural knowledge which he believes was endowed with higher value than that possessed by a single person alone. Yet he is not inclined to think that such knowledge was above reproach or that personal knowledge played no role in public cultural affairs. Rather once again, his proposal was more along the lines of calling attention to the limits of human knowledge, be it individual or group based. This does not make him an ideological defender of blind chance in evolution, but, not unlike Hume, compels him to take a skeptical look at reason itself.

This suggests that the propensity to evolutionism does not derive from any conviction that there exists a biologically good human nature. For this would lead to the view that once human nature is liberated from the mistakes of history and rationality everything would immediately turn out for the best. Hayek, on the contrary, thinks that societal evolution better be approached as a sociotechnical process, as something concerning mainly the institutions which afford optimal coordination between individual aspirations and societal order. Thus social evolution is a tangled web of traditions and norms of behavior constantly reconfiguring as it addresses itself to novel problems that could not have been foreseen either by tradition or reason.

From a more strictly political vantage point the evolutionist approach to social institutions also forms the reason for Hayek's resistance to the traditional explanation of political order predicated on the distinction between those who command and those who obey. His adherence to evolution enables him to explain order in terms of a mutual adjustment of the spontaneous activities of individuals provided there is a known delimitation of the sphere of control. Order thus appears as the result of individual acts guided by successful foresight and by effective utilization of personal knowledge where such knowledge is linked to the anticipation of the behavior of other members of a society. Consequently, order does not have the aim of realizing collective ends (such as the common good) but rather has very general aims without any specification or requirement as to who shall be able to draw the greatest advantage from it. It is in the wake of these reflections that Hayek proposes to replace the term economics by the term *catallactics*. *Catallactics* is defined as, "the order brought about by the mutual adjustment of many individual economies in a market; the special kind of spontaneous order produced by the market through people acting within the rules of the law of property, tort and contract."<sup>4</sup>

According to my reading, one of Hayek's most valuable contributions has been what others previously reckoned to be a serious flaw in his approach, namely, that he does not rely on a consensual ranking of ends. This move makes individual freedom and all it values possible! *Catallactics* allows the conciliation of disparate knowledges and aims regardless of whether they are agreed upon or not, and it thereby shows itself to be superior to any taxis or planned organization. Within the general parameters it lets people follow their interests, whether egotistical or altruistic, and succeed while furthering the aims of others most of whom they will never know.

The importance of *catallactics* for keeping a great society together does not imply that all forms of civilization must, in the last instance, be reducible to economic ends. On the contrary, Hayek denies the

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<sup>4</sup> page 90n in *New Studies in Philosophy, Politics, Economics and the History of Ideas* by F. von Hayek. Routledge 1978

existence of ends that need to be economic, interpreting them instead as tactics for the allocation of means for competing purposes which are never primarily pecuniary. Given that, the function of economic activity would consist in the evaluation of such ends and decisions and on selecting the ones for which certain means are to be used. In this perspective, the merits of the catallactic approach reside in its success in reconciling the pursuit of different ends by way of a process providing advantages to all interested participants. And precisely because it denies the existence of a hierarchy of needs á la Maslow and hence any ranking in satisfying them, this apparently anarchic process has the advantage to function without a prior agreement on the relative merits of the different ultimate ends.

Hayek, to repeat, rejects the idea that a rational politics requires shared ends, since this would transform politics into a taxis having the achievement of specific ends as its goal. His catallactic model no longer gives primacy to politics, because it no longer assumes that politics delivers the necessary decision about which needs to satisfy and in what order. Admittedly, Hayek did not explicitly state this conclusion. But it is easy to imagine that the compression of the political sphere as indicated would lead to rethinking the approach and concerns of political science as well.

Hayek's aim was to encourage a plurality of values, expressing diverse group or individual aspirations and to discern the appropriate conditions for an order that nurtures them. His catallactics implies that it is no longer necessary, or advisable to set up a hierarchy of purposes and organize social life in view of such ranking since this would in fact lead to authoritarianism.

Confronted with the fast changes stemming from innovations in business and technology, Hayek asserts that the task of politics cannot be that of the distribution of resources according to moral or political criteria, but must instead be sought in the assessment of advantages and shortcomings inherent in change. A social system should thus not cherish the fond dream of development free from conflict and without transaction or opportunity costs, but instead put effort and hope on becoming a social order governed by principles that strive to improve as much as possible anyone's chances in it. The most desirable kind of society would then become one in which the development of its members is determined by their own Eigendynamik, even though the initial starting point is set by chance.

This novel situation broached by Hayek forces us to rethink our attitude to social theorizing and points to the need to set up links between the various systems (law, economics, politics) which take into account that, if there exists no hierarchy of ends, none of these functionally differentiated systems may assume a hegemonic position. This is indeed a provocative stance which can be interpreted either as a shrewd way of defending the status quo, which has been the dominant understanding of Hayek, or if following my reading, as a call to face up to and work to ameliorate the strains experienced through living in a radically contingent world!

Central planning is the Austrians' prime example because it misapprehends the human condition as blatantly as it overestimates the power of rationality. So Hayek focuses on the nature of knowledge, since the central planners' constructivist attitude does not honor its embedded/embodied character and origin. In short, it does not recognize the tight coupling of knowledge to subjective values! This indifference motivated the Austrians' relentless critique of Soviet economic planning. Advocates of central planning based their proposals on the existence of a single scale of values consistently followed. As a result they mistakenly thought they had solved the problem with calculating utility, that they would be able, in Hayek's terms, to combine the individual utility scale into an objective scale of ends valid for society as a whole. They also failed to acknowledge the subjective differences in the valuation and valorization of goods, and how they engender incommensurable standards. The Austrians found additional flaws in central planning's adherence to dated issues in classical political economy like the labor theory of value. The problem with economic planning and more generally with normative social science is then its total lack of concern with, what Hayek called, the division of knowledge. Integration could be deliberately achieved only if somebody possessed the combined expertise of all those disparate knowledge workers, obviously a condition impossible to fulfill.

If one's chief concern is to ensure that a society is able to promptly identify the most appropriate responses to constantly varying situations, then what is called for is not centrally controlled formal knowledge but dynamic local knowledge, where the successful response to a change in a specific setting can be turned into experience potentially relevant to other similar situations. The exposure of the political implications of the failure to recognize the insuperable limits of human knowledge was a constant element in Hayek's thought. It is certainly no coincidence that his Nobel talk was called "The Pretense of Knowledge". The critique he voiced in it applies with equal force to much of today's politics which follows a Neoclassical model!

In Hayek's view the opposition between market and planning was different from and more relevant than simply a debate concerning the most efficient manner of accumulating and allocating wealth. It was an expression of the struggle between what he called nomocratic and teleocratic regimes (see below) understood as two fundamentally divergent approaches to politics. We should credit Hayek with the insight that this struggle was based on an antagonistic relation between private property and the powers of the state initially introduced by Locke.

As one reason for this antagonism, Hayek pointed to the category mistake of applying the rationalist conception of individual and collective action onto the economic sphere. To understand his critique one must bear in mind that he presupposes the best regime to be largely the involuntary result of actions through which individuals seek to satisfy subjective desires. Then it follows that the relation between individual interests and the interests of the collectivity must be such as to prevent either of the two from prevailing over the other. A parity, in short! In other words, if personal individual interests prevail over those of the collectivity, the outcome is usually political unrest, and hence the end of political civility. If instead the interest of the collective is given priority over individual interests, the result is often an authoritarian regime. Such a regime appears particularly ad hoc since it relies, supposedly, on perfect knowledge of the situation and absolute certainty of the goal.

## DEMOCRACY

In Hayek's voluminous writings one finds a rendition of the history of political philosophy as one driven by oppositions. On the one side stands the individualism of the nomocratic conception in which the law establishes the means, but not the ends of individual action. On the other side stands the collectivism of the teleocratic conception whose outcome is exemplified by totalitarian regimes, i.e., political organizations that pursue a common good held to be evident to reason and scientifically attainable.

The existence of an infinite variety of needs and means to satisfy them provides Hayek with the argument to refute the idea that society should or could be structured around a shared aim. The existence of a wide variety of needs also founds the relation between capitalism and democracy. Democracy is justified as the political expression of a moral imperative according to which individuals have the opportunity to decide for themselves. It is in effect made possible through its connection with a competitive market system predicated on free disposal over private property. The fate of democracy subsequently appears linked to its ability to contain the expansion of government functions which try to curtail ownership. One cannot point to the possessive subjects of the market as the main factor that could put its existence in jeopardy. Democracy is undermined when handing over to government powers that overwhelm the individuals' engaged in market interactions. In such eventuality democracy would lose its character as a general method and resolution procedure, and become instead a regime in which the need to take legal action produces an excessive amount of government regulations and administrative measures. The upshot: a society which discriminates between social groups according to their political leverage leading quickly to social disruption and political mayhem.

This will precipitate loss of the great merit of the liberal tradition, namely reducing the range of subjects on which agreement would be called for.

These considerations leave Hayek in no doubt that control over economic activity leads to control over the means to attain individual ends. His concern is that theories which argue we are justified in our economic pursuits because economic planning goes hand in hand with the democratic system, open the door to control in all areas of our life, unless we are able to set our goals on our own.<sup>5</sup> For as long as we let our aims be subject to democratic approval, we find ourselves pursuing preset goals which we retroactively claim as our own.

Hayek concludes that just as it would be impossible to conceive of a totalitarian system not possessing control over economic activity, it would be equally illusory to hope that a democratic system could coexist with a planned economy<sup>6</sup>. For in this case economic power and political power would tend to coincide, creating a dependency scarcely distinguishable from subjugation. This in its turn would have the effect of transforming power into a goal in itself, into an end justifying the adoption of any means whatsoever in order to be attained. Indeed, according to the customary way of thinking in the liberal tradition, which has always been averse to any concentration of powers, transformation of power from political concept into an economic one means necessarily substituting a power from which there is no escape for a power which can be controlled.

If modern technoscience were able to reconcile unlimited subjective desires with depletable materials and then distribute the spoils equitably, this would solve the problem of scarcity and the related issue of the alternative uses of resources in one stroke. Then, there would be no necessity to choose at all. Without the need for choice the fundamental *raison d'être* of politics would be swept away. The inability of the planned society to fulfill this condition transforms the planner inadvertently into a tyrant who is driven to violence in order to impose upon the others what s/he believes to be the authentic good to be attained.

## THE LAW

Between the publication of the essays “The Constitution of Liberty” and “Legislation and Liberty” Hayek realized that the traditional doctrine of liberal constitutionalism was no longer capable of safeguarding the rule of law against the domineering notion of popular sovereignty, a notion akin to the secularization of divine omnipotence. Faced with the phenomenon of legislative hypertrophy and the shortcomings of bureaucratic interventionism, Hayek sets himself the task of combating the influence of the constructivist mentality in the juridical sciences in order to leverage the distinction between the rule of law and the rules of organization. Hayek thereby opposes several widespread tendencies in contemporary social philosophy. Specifically, he is against democratic theory which holds that the law depends on decision making by legislators, against interventionism produced by social-democratic economic policies, and averse to the normative prescriptive rule of law as it had developed under the influence of Kelsen’s juridical philosophy.

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<sup>5</sup>However Hayek’s concern itself becomes problematic if we question the economic itself turning into an *end* instead of a means. But this problem would be subject of another essay.

<sup>6</sup>Paradoxically, as ‘The Free Market’ model is becoming dominant and left unquestioned, it’s beginning to behave like a planned economy in Hayek’s sense!

Hayek struggles on the other hand with the threat that subjectivism would become transformed into a relativism that inhibits the formation of an order. But he is also anxious to avoid the pitfall of allowing the quest for the best regime to turn into the making of an organization by a majority. As he sees it, the tendency toward legislative regulation of every form of associative life is none other than the result of democratic interventionism, a version of constructivism. Directing his thoughts toward new constitutional forms, Hayek is determined to squash each tendency that treats social reality as infinitely moldable by abstract reason and by majority decisions which recognize no limit to their sphere of authority.

He is convinced that the struggle to affirm the true and authentic meaning of democracy, counter to expectations, has not proved to be adequate protection against tyranny and oppression. Knowing how cruelly people have behaved in the past in the name of democratic ideals<sup>7</sup> it pays to reassess these especially when used as a justification which purportedly entitles any majority to rid itself of a government it does not like. Yet, having questioned the role of democracy in politics, Hayek goes on to assert that despite its many shortcomings it is worth adhering to. More on this below!

From this questioning emerges one of Hayek's main achievements: He fully grasped that the reconstruction of liberalism would have to start principally from a reexamination of the entire Western political tradition. He called for a reconsideration of the relationship between economic freedom and political freedom to ensure that analysis would no longer be based on the intellectual tradition constituting the milieu in which the liberalism of classical political economy spawned its labor theory of value. Instead it should be grounded in the findings of subjectivist economics.

His reflections on law also have a bearing on the issue of the utilization and social distribution of knowledge and skills. He invoked both knowledge and capacities to map out the distinction between coercion and power. Arguing that power is required for the maintenance of the social order and consequently for elaboration of the difference between law, coercion and order, Hayek severs his links with the liberalism of Milton and Burke<sup>8</sup> who "represented power as the archdevil".<sup>9</sup> His starting point is the liberal theory of law as inaugurated by Savigny. Following his lead Hayek asserts, that "the rule whereby the indivisible border is fixed within which the being and activity of social individuals obtains a secure and free sphere, is the law."<sup>10</sup> Far from resigning himself to the idea of foresaking the conception of the law as the foundation of freedom, Hayek explicitly set out to show how this would work.

The main aim of Hayek's effort is to demonstrate how the law as the spontaneous evolution of conduct had been replaced by a very different conception of it as posited axioms from which the accomplishment of specific ends is deduced. According to his diagnosis a confusion has arisen between obeying abstract rules or laws versus following specific procedural instructions. It involves substituting the law abstracted from all particular circumstances and referring only to conditions that may occur anywhere and at any time, with commands implemented algorithm-like toward the achievement of specific ends. He thinks that conflating these two forms is one striking and disturbing characteristic of the modern age.

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<sup>7</sup> Americans and Western Europeans are particularly guilty of using 'democratic' rhetoric to justify all sorts of interventions.

<sup>8</sup> Whom he otherwise admires and whose diagnosis, like Keynes, he tries to carry further.

<sup>9</sup> Page 134 in *The Constitution of Liberty*, by F. von Hayek

Routledge, 1978 edition

<sup>10</sup> *Ibid*, page 148

Faced with this situation, Hayek feels it was preferable to have a state in which laws, not representative agents govern, so that power remains limited to the instantiation of general and abstract ruling principles while authority is understood as the power of enforcing the law. The legislator's task would not be to "set up a particular order but merely to create conditions in which an orderly arrangement can establish and renew itself."<sup>11</sup>

The rule of law, Hayek contends, works like a pivot that helps to distinguish between measures that are and measures that are not compatible with a non deterministic and pluralistic system. Seen thus, the problem no longer lies with the extent of state intervention in the economic sphere, but rather in the manner of performing that intervention. For while certain activities undertaken by the state are likely to enhance the smooth functioning of the market, some would be barely compatible with it, and yet others would hamper it. On this basis Hayek goes on to argue in favor of the validity of a maxim which I state thus: a free society demands that the government have the monopoly of coercion but that in all other respects it operate on the same terms as everybody else.

In Hayek's rendition the law as a complex of abstract rules of conduct independent of any particular goal, must be applicable to an unspecified number of further instances. This enables the formation of an order where the individuals can make feasible plans. Yet this process could flounder and in this event it would be in need of continual and rapid correction. The adjustments required can not always be drawn from case law, especially when wholly new circumstances have come into play, since legislation could be too slow to bring about the requisite adaptation. Hence the need to treat custom law as a constant and gradual perfecting of the general rules of conduct. Hence also the need to refrain from rejecting legislation and thereby entrusting the formation of laws to a Darwinian rather than Lamarckian type evolution overlooking the difference both universal and non universal rules make for sociocultural development.

The function of the law cannot be made synonymous with the protection of individual expectations and personal interests, but instead should be providing guarantees in the use of certain means. In this connection, Hayek ascribes great importance to unforeseen changes in knowledge, suggesting that they were likely to have a twofold effect: Not only would they induce the emergence of new ends which make it harder to fulfill prior expectations, but additionally they may add to the inflexibility that is commonly encountered whenever new situations arise, thus threatening to precipitate breakdown of the whole order.

From such considerations Hayek concludes that indeed the law does not serve any single purpose but the countless diverse aims of different individuals. The law is not an instrument for the achievement of ends but a general condition for the successful pursuit of most purposes. A relation between ends and rules cannot be instituted since the realm of action occupies a different plane from that of the rulings structuring it. Without a distinction between universal principles of just conduct and guidelines for control there always be a blurring of demarcation among a government's different duties. One of the features of the modern age, Hayek feels, was that it disregarded the borders between enforcing general principles and the planning/controlling of a process to provide for all, not just for members of organizations. Hayek is keen to show that only situations which have been subject to control can be called just or unjust; the character or tenor of a spontaneous order cannot be just or unjust. A deliberate organization, despite its good intentions, aiming to attain the good, come what may, will be unquestionably unjust. Consequently, one can speak of social or distributive justice only from within the perspective of taxis or deliberate organization, but definitely not when it comes to an order. Inasmuch as it considers its members solely as its means no taxis can claim to be just, disclaimers to the contrary notwithstanding.

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<sup>11</sup> Ibid pages 160-1

If people end up confusing the efficacy of law with strong government, learning to distinguish between them becomes a pressing political problem. Such a separation is precisely what Hayek sets out to establish on the basis of his criterion of the generalizability of rules, which rests on a conception of the norms of justice as general constraints amenable to refutation. The background ideas informing his stance are Kant's philosophy of law and Popper's conception of the laws of nature as limits. The affinity here resides, according to Hayek, in the common conviction that we can only endeavor to approach truth or justice by persistently eliminating the false or unjust, but can never be sure that we have actually achieved truth or justice. Hayek is anxious to expose the political consequences of conflating interpersonal recognition established and maintained solely through embodied interaction with a formal acknowledgement, and to point to the transition in the conception of legal coercion from a disposition that ensures observance of abstract general principles of just conduct into a machine for realizing particular ends.

### RETHINKING DEMOCRACY AFTER HAYEK

As pillars of the social order the general principles of conduct are not dependent on any one person's decision and will often not be altered by any direct act of intentionality. Accordingly, in rejecting both the interpretation of law as almighty and its interpretation as the deliberate construct of any human mind, Hayek opens up an evolutionary perspective that has little in common with rationalist theories of law or with legal positivism. He exposes the deceptive appeal of the belief that there exists no alternatives to the relativist foundation of democracy. If the law were to be employed as a controlling mechanism with the prerogatives of sovereign power, it (as Weber shows in the case of bureaucracy) would ultimately obstruct the potentially beneficial role of a scientific investigation of society. All it manages to accomplish in such a case is the transfer of political and social antagonism into oppressive juridical form.

A democracy that lacks any restraints will not reflect the will of majority and can be exploited for the gratification of the will of the separate interest groups which may add up to a numerical majority. This Hayek sees as democracy's congenital defect. Interestingly, unlike many reformers of democratic theory, even those critical of its degeneration into a bureaucratic regime, he believes that it can be corrected by going back to a method drawn out of the Burkean liberal tradition and market constitutionalism. The tragedy of democracy consists in his mind in the fact that it has entrusted one single assembly with the power of controlling the government and of establishing the law. The resulting structure effectively empowers the government to bypass the law.

Democracy today takes on a different meaning from the original one. In its initial form it means no more than that ultimate power should be in the hands of the majority of the people or their representatives. But it says nothing about the extent of that power! From the view that the opinion of the majority should prevail does not follow that their will on specific matters should be unlimited. Consequently, since democracy and limited government have become irreconcilable conceptions, it becomes necessary to find a new form to express the quest for bounded democracy, if I may so call it. The objective should be to leave supreme authority to the opinion of the *demos* but to prevent the naked power of the majority, its *kratos*, from doing rule-less violence to social individuals.

The time has come to restore the term democracy to its original sense: that of a method for making political decisions and for the peaceful change over of leaders, as well as for the establishment of general norms by majority, but not of what is right in particular cases. Hayek asks us to view modifications of the rules and their consistency or compatibility with the rest of the system from the angle of their effectiveness in forming a coherent overarching order for actions. Here the issue requires a point of view different from the currently dominant rational choice or game theoretic one.

The standard approach tends to see democracy as a cooperative system which allows the achievement of all subjective ends within the framework of the state. It leads to a devaluation of the political sphere (the agora of old), especially in its function as a place for decisions about the compatibility of subjective values with general abstract principles. In a society characterized by finitude and limited resources the upshot may well be a tug of war between particular ends and hence degeneration of its infrastructure. Awareness of these risks leads Hayek to reject the view that democracy could be founded on an assumption of relativism of values, or that it could be made to rest on a conception of society and the state that drew its legitimation from the mere promise of satisfying conflicting demands.

The recurrent crisis of democratic theory, the brand like recognition of the name notwithstanding, only confirms Hayek's thesis according to which the main difference amongst political approaches is based on how they construe the relation between what he calls spontaneous order or *nomos* and deliberate organization or *taxis*. And this comparison provides evidence that democracy is a method, not an alternative system to liberalism and socialism! Such an interpretation of democracy renders the typical liberal call for social justice problematic from the standpoint of a subjectivist economics.

For Hayek interventionism in the name of social justice has no *raison d'être* for it is predicated on the still little understood relation of democracy and economy. Subjectivist economics problematizes the very idea of an economic democracy. Interventionism on behalf of such incongruous ideal leads to a crisis of legitimacy also affecting political power and originating precisely from the inability to meet all personal demands including economic ones.<sup>12</sup> As a consequence it becomes the road to a new kind of serfdom! Hayek's criticism of the premises of interventionism defended by traditional democratic theory casts a shadow on the relation obtaining between democracy and social justice.

If democracy is the only political system capable of addressing the problem of social justice as its defenders claim, this should make it subject to evaluation from the point of view of its observable results. Such an evaluation is bound to raise questions whether democracy is the best regime and cast doubt on its influence on economic performance. Pointing to their uneasy coexistence, Hayek proceeds to analyze the call for social justice that leads him to reformulate the relationship between political philosophy and justice. He provocatively asks whether the task of political philosophy should even be the development of policy recommendations for a just social order. He wonders whether a model of social justice would even make sense within a framework of *catallactics*. Shocking as it sounds to professional and lay ears alike, might it not be better to consider the notion as an atavism that had a role in a system which was meant to achieve a certain goal, but is irrelevant in a society functioning as a spontaneous order? His query makes it pressing to debate whether it is more appropriate to live in a teleocratic or in a nomocratic society?<sup>13</sup>

What is often overlooked by those who consider Hayek's analyses reactionary if not offensive<sup>14</sup> is that the more personal the objectives, the more difficult it becomes in a democracy, to reach agreement about them or to deal with their side effects and unwanted consequences. Then individuals that only aim at attaining their own ends must be excluded from the ranks of those entrusted with deciding among rival ends.

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<sup>12</sup> Nevertheless, fulfilling economic demands remains a big problem for Hayek *and* for those he criticizes. They both hold to erroneous views of money and the nature of monetary prices, two economic problems *sui generis*! Alas, I won't be discussing them in this paper. For a conceptually novel and profoundly practical approach to monetary economics, I refer the interested reader to the works of A. Cencini (in English) and B. Schmitt (in French).

<sup>13</sup> Nomocratic, Greek for law-like powers; Teleocratic, Greek for goal directed power

<sup>14</sup> Machiavelli and Spinoza have suffered similar fate in the hands of modern Anglo-American scholarship which find their arguments for power and potency equally incomprehensible.

There must never be a conflation or confusion between common good and concrete goals. The former must be recognized as uncontested openness unaffected by the means utilizable in the pursuit of individual ends. The latter (i.e., concrete goals) are determined by the opportunities available in the task at hand. Given that, freedom can never be a goal in itself. Hence Hayek's defence of the classical liberal solution over the democratic solution.

The classical liberal solution takes the common good to be the ethos of conduct which leaves the content of actions and also the subjects who can draw benefit from them underdetermined and allows thereby a variety of purposes. General welfare is to be identified, as Hayek puts it, with "the abstract order of the whole which does not aim to the achievement of known results but is preserved as a means for assisting in the pursuit of a great variety of individual purposes."<sup>15</sup>

After arguing that the connective tissue of a society resides not so much in an impossible commonality of aims, but rather in the general and evolving principles regulating and enabling individual actions, Hayek offers an account of society capable of preventing social conflict from reaching a level of virulence that would make the emergence of order impossible. He rejects any political organization which attempts to achieve a particular end mainly through legislative means. Any system which imposes a hierarchy of binding ends on its members and fails to recognize the multiplicity of individual goals and relatively autonomous actors can according to him not even be defined as a free society.

Political philosophy after Hayek will evaluate new laws from the point of view of their compatibility with or complementarity to already enacted laws. They should provide the affordances for creative tension as well as collaboration. It follows that the factors that contribute crucially to the viability of such a societal configuration lie in the interstices of the laws, not in the laws themselves. This makes it harder to introduce principles from other settings which could inform the specific problematic situation in a more satisfactory manner. However, it does not follow that abstract principles cannot or should not be modified toward a dynamic order in which change is welcome.

In summary then, Hayek's social philosophy though difficult and often at odds with the prevailing trends is a valiant attempt to address the human condition in all its paradoxicality. The psychoanalysis of Freud, his compatriot and contemporary, has challenged not just the field of psychology but people's own self understanding. The same is the case, *mutatis mutandis*, with Hayek's catallactics which attempts to rethink the nature of social science, not just of economics. His is a search for principles, to paraphrase Deleuze, that are general without being abstract, real without being actual. My essay has tried to explain Hayek's motivation for looking for such principles. In the current global society in flux, if not in crisis, his concerns and ideas become more pertinent and pressing than ever.

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