

## AN 'AUSTRIAN' THEORY OF ORDER

by Raimondo Cubeddu

### 1. *The Menger-Hayek solution*

Applying the cardinal principle of Austrian Liberalism, *i.e.*, methodological individualism, a *Spontaneous Order* can be defined as the unexpected and unintended result of individual aims and of chance, in which, sometimes in situations of necessity but supported by experience, individuals have, sometimes mistakenly, selected rules of conduct that should have reduced the unintended, unexpected, and undesirable consequences of human actions<sup>1</sup>. In such an order – which is thus *one* provisional result that no one in particular wanted and whose future is open to unexplored possibilities – knowledge and time play a primary role<sup>2</sup>.

In reality, and *unfortunately*, such a type of order does not exist and has never existed, because the political regimes of which we have experience have *mainly* been formed through acts of oppression and through collective and political choices.

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<sup>1</sup> The question posed above is whether it is good and appropriate to entrust the process of selection to politicians.

<sup>2</sup> The 'tyranny of space' has prevented me from giving an account of the important literature on the topics discussed here, on which, however, see W.N., BUTOS, ed. by, (2010), *The Social Science of Hayek's The Sensory Order*, Bingley, UK, Emerald, 2010 and F. DI IORIO, *Cognitive Autonomy and Methodological Individualism: The Interpretative Foundation of Social Life*, Chicago, Springer, 2015.

From this point of view, the adherents of methodological individualism are opposed to those who, denying that the market is a 'process of discovery and of production of knowledge', would like to subject it to differently formed or derived rules. They recognise catallaxy as an instrument to achieve ends but think that these ends must be established by others and, without denying that catallaxy can produce knowledge, they are very critical of its value, mainly because, being constantly changing, that knowledge is not deemed capable of directing human action towards what is deemed 'good for nature'.

Although it is true that the essential points about the formation of complex-spontaneous orders had already been outlined by Mandeville<sup>3</sup>, Menger's importance lay in showing how the value that the individual attributes to goods is not only connected to their utility and scarcity. Equally important is the situation in which he or she comes into contact with a 'good', to which, in relation to time, the present moment, and his knowledge, the individual attributes a measurable importance in order to satisfy needs and solve problems that may be momentary or permanent. This constitutes the premise for understanding how, from an individual situation embedded in a context (knowledge, time, needs, and human nature), one moves on to a more complex situation: a society, or 'civil association'. Put differently, of interest are the ways in which the transition occurs from a subjective attribution of value to prices. Prices, by incorporating knowledge, constitute guiding models to be inspired by in order to achieve goals, providing the possibility of predicting their cost. This is the *Theory of subjective values* on which the Austrian general theory of human action is based.

The problem of the origin of order and social institutions was tackled by Menger in *Untersuchungen über die Methode der Socialwissenschaften*. Its aims (arising out of "perhaps the most noteworthy problem of the social sciences"<sup>4</sup>) was to understand why the most important normative systems (language, religion, law, money,

<sup>3</sup> See F.A. HAYEK, *Dr. Bernard Mandeville*, 1966, now in *New Studies in Philosophy, Politics, Economics, and the History of Ideas*, London, Routledge, 1978; and R. CUBEDDU, *La natura della politica*, Siena, Cantagalli, 2016, pp. 173-92.

<sup>4</sup> C. MENGER, *Untersuchungen über die Methode der Socialwissenschaften, und der politischen Oekonomie insbesondere*, Leipzig, Duncker & Humblot, 1883, pp. 161ff; Engl. trans. *Investigations into the Method of the Social Sciences with Special Reference to Economics* (1963), ed. New York, New York University Press, 1985, p. 146.

market, competition, etc.) predated the State. The notion that the origin of many of the social institutions that “serve the common welfare [...] without being regularly the result of an intention of society directed towards advancing this welfare”, was reiterated by Menger on other occasions, specifying always that “a similar statement holds true for the *origin of the State*”, and thus contesting the thesis according to which “all States originally came into being *by an agreement directed towards establishing them* or by the conscious activity of individual rulers or groups of rulers directed towards this aim” which were rather “the result of efforts serving individual interests”<sup>5</sup>.

What could be understood as ‘institutions’, or even as ‘common goods’ or ‘public goods’ (language, law, money, etc.) are understood by Menger as “unintentionally created social structures [*unreflectirte Ergebniss sozialer Entwicklung*]”<sup>6</sup>: spontaneous normative systems, orders, or institutions of a ‘cultural’ and not a ‘natural’ character. This means that there are normative systems that have arisen as the unplanned outcomes of intentional individual actions (the most important ones, in fact), which are efficacious without any need for coercion.

It is no coincidence that Menger adopts the expression ‘common good’ only with regard to those social institutions “which serve the common welfare [*Gemeinwohl*] and are extremely significant for its development [and which] come into being without a common will [*Gemeinwillen*] directed towards establishing them”<sup>7</sup>. These tend to foster cooperative exchanges, reduce uncertainty, and economise time, and are justified only insofar as they succeed in doing so.

Menger and Hayek did not claim that *all* institutions came into being in this way but rather thought that some other organisations, such as the *enterprise*, could be the product of a specific will or an individual contract. It can therefore be said that a Great Society is composed as much of ‘spontaneous’ institutions as of ‘pragmatic’ institutions and that it is therefore a ‘*nomocratic order*’ composed of a myriad of *nomocratic* institutions and *teleocratic* organisations or ‘*enterprises*’. Society, born out of an exchange of *claims and powers*<sup>8</sup>, therefore rests

<sup>5</sup> C. MENGER, *Untersuchungen*, cit., pp. 178-81; Engl. trans. pp. 155-57.

<sup>6</sup> C. MENGER, *Untersuchungen*, cit., pp. 164; Engl. trans. p. 147.

<sup>7</sup> C. MENGER, *Untersuchungen*, cit., pp. 161ff.; Engl. trans. p. 146.

<sup>8</sup> See B. LEONI, *The Law as Claim of the Individuals*, 1964, now in B. LEONI, *Freedom*

on a delicate balance and should one intend to transform it into a teleocratic organisation by means of ‘formal constraints’ (laws) one would find oneself having to resolve, in a substantially coercive manner, so many and such problems of coordination of individual knowledge that, even if it were possible to resolve them, they could have a cost that would outweigh the advantages.

The idea that social institutions are the ‘*unreflectirte Ergebniss*’ of the naturally limited knowledge that individuals have of the “exact laws of nature”<sup>9</sup> – and thus that institutions are largely the unintended consequences of individual actions aiming to satisfy needs (and thus of the value that individuals attribute to goods at a certain time<sup>10</sup>) – does not entail the impossibility of expressing (on the basis of their known or foreseeable consequences in relation to experience) a ‘scientific’ evaluation either of the ways in which these needs are satisfied or of the social institutions themselves, whose purpose is to regulate the ways in which they are satisfied<sup>11</sup>. For Menger, therefore, the evaluation of expectations cannot be separated from the evaluation of results, and this must be done by taking as a starting point the knowledge of the ‘*exact laws of nature*’ and the unexpected and undesirable consequences connected to the degree of one’s knowledge of them.

In the *Untersuchungen* it is thus possible to find ‘certain rules’

*and the Law*, Expanded Third Edition, Foreword by A. Kemp, Indianapolis, Liberty Fund, 1991; but see also B. LEONI, *Il diritto come pretesa*, ed. by A. MASALA, Macerata, Liberilibri, 2004.

<sup>9</sup> On ‘exact laws’, see C. MENGER, *Untersuchungen*, cit., pp. 30ff., and R. CUBEDDU, *Il valore della differenza. Scritti su Carl Menger*, Livorno, Salomone Belforte, 2021.

<sup>10</sup> See C. MENGER, *Grundsätze der Volkswirtschaftslehre*, Wien, Wilhelm Braumüller 1871, pp. 33ff. 1-152. Engl. Trans. *Principles of Economics*, 1950; rep. Auburn, Ludwig von Mises Institute 2007, pp. 77ff. In C. MENGER, *Grundsätze der Volkswirtschaftslehre*, Hrsg. von K. Menger, Wien, Hölder-Pichler-Tempsky AG., 1923, pp. 16-17, “the qualification of ‘good’ in many cases depends on knowledge; therefore, error and ignorance can affect our relationship with things [...]. The more it progresses the degree of civilisation of a people, as much as it deepens its knowledge of human nature and its relationship with the outside world, the more it increases the number of its real goods and decreases, consequently, that of imaginary goods”.

<sup>11</sup> See C. MENGER, *Untersuchungen*, cit., p. 287; Engl. trans. p. 234: “But never, and this is the essential point in the matter under review, may science dispense with testing for their suitability those institutions which have come about ‘organically’. It must, when careful investigation so requires, change and better them according to the measure of scientific insight and the practical experience at hand. No era may renounce this ‘calling’”.

[*exacte naturgesetze*] and many of the themes of Hayek's problematics, starting with the 'compositive method' (or 'methodological individualism'<sup>12</sup>) and the theory of the origin and nature of social institutions, which would become the cornerstones of the Austrian philosophy of social science.

Taking account of the fact that, according to his autobiography<sup>13</sup>, the first formulation of Hayek's theory of knowledge (presenting clear though undeclared affinities with the theory of subjective values) dates back to the mid-1920s, an attempt will be made here to relate the 'problematic situation' underlying methodological individualism and the theory of spontaneous order to another work, *The Sensory Order*, which only expressly returned a few times in later Hayekian writings. The theme, more generally, is that of the relationship between time and knowledge in the philosophy of the social sciences, and in particular in the theory of the institutions, and the first problem is represented by the relationship of *The Sensory Order* with the methodological essays of the 1930s-1940s, and in particular with *Economics and Knowledge* and with *The Use of Knowledge in Society*<sup>14</sup> in which the same themes are addressed and are sometimes expressed in similar ways.

In those essays, Hayek argues that knowledge is equally individual and social and that it is dispersed or distributed in society in a random and asymmetrical manner. If one were to try to centralise it, therefore, as the theorists of *Collectivist Economic Planning* propose, not only would the cost be very high and the disadvantages might outweigh the advantages, but all this might not even be possible, because knowledge, like individual expectations, is not a 'given' but is constantly changing.

Here we have an anticipation of the argument made in *The Sensory*

<sup>12</sup> See F.A. HAYEK, *The Counter-revolution of Science: Studies on the Abuse of Reason*, Glencoe Free Press, 1952, p. 212n.

<sup>13</sup> See F.A. HAYEK, *Hayek on Hayek. An Autobiographical Dialogue*, ed. by, S. Kresge, & L. Wenar, London, Routledge, 1994.

<sup>14</sup> Both are now included in F.A. HAYEK, *Individualism and Economic Order*, London, Routledge & Kegan Paul, 1949; other important Hayekian methodological essays, including *Scientism and the Study of Society*, 1942-44, are now reprinted in F.A. HAYEK, *Studies on the Abuse and Decline of Reason: Text and Documents, The Collected Works of F.A. Hayek*, vol. XIII, Chicago, The University of Chicago Press, 2010. On the affinities between these essays and F.A. HAYEK, *The Sensory Order: An Inquiry into the Foundations of Theoretical Psychology*, London, Routledge, 1952, see R. CUBEDDU, *Preface* to the Italian translation of F.A. HAYEK, *The Sensory Order: L'ordine sensoriale*, Milan, Società Aperta-Mimesis, 2021

*Order*: it is not possible to concentrate (let alone in real time) all the individual knowledge dispersed throughout society in a single mind; no mind ('natural' or 'artificial') can comprehend and explain all minds<sup>15</sup>. But we also learn from *The Sensory Order* that the human mind is continually subjected to external stimuli ('sensory data') which it classifies differently depending on the knowledge possessed and the necessity or desire – always at a particular time – to satisfy needs and solve changing problems. The possibility of different classifications is more pronounced in the case of information concerning intangible goods (theories). It is thus possible, broadening the discourse, to define as 'institutions' those 'maps' and 'classifications' that have already functioned, and through which, for reasons of 'economy' one tries to give order to external stimuli that seem to repeat themselves<sup>16</sup>. This also means that "a stimulus whose occurrence in conjunction with other stimuli showed no regularities whatever could never be perceived by our senses" (8.39).

The theme of *The Sensory Order* is therefore the formation of an *individual order* and its transition to a *social, political, economic order*, taking into account the fact that "the responses to any given stimulus thus become at the higher levels more and more liable to be modified by the influence of impulses from other sources" (4.34). Order is therefore the *possible* outcome of both "a process of continuous reorganisation of the (supposedly constant) elements of the phenomenal world, a reorganisation which makes their arrangement correspond more perfectly with experience", and the fact that "the qualitative elements of which the phenomenal world is built up, and the whole order of the sensory qualities, are themselves subject to continuous change" (5.19).

<sup>15</sup> See F.A. HAYEK, *The Sensory Order*, cit.: "the human brain can never fully explain its own operations" (8.69).

<sup>16</sup> See F.A. HAYEK, *The Sensory Order*, cit.: "How will it be determined which of the various courses promising to produce a desirable result will in fact be selected?" (5.73): "the representation of the effort involved in the different courses of action will normally be charged with the representation of pain, or operate as something to be avoided, unless compensated for by the greater attraction of result. The interaction of all these forces in the end will bring it about that from the possible courses the 'path of least resistance' will be chosen; while all the unduly painful courses will be avoided which might produce the same result, as well as courses leading to alternative results but requiring greater effort" (5.74).

Institutions, like maps, thus ‘culturally’ transmit knowledge that cannot be transmitted ‘genetically’. When this happens, regularities are more easily recorded, and when, as a result of the process of emulation of best solutions, individuals classify the same ‘sensorial data’ in the same way (a *circumstance that is obviously possible though difficult*), those ‘common values’ that make the exchange of information and property rights easier and ‘cheaper’ increase. In other words, undesigned consequences and transaction costs will decrease. However, it should be noted that this is not about the discovery of the ‘naturalness’ of maps but about the diffusion and emulation of those ‘cultural’ classifications that are considered better.

Be that as it may, every classification, including those that later turn out to be wrong, generates new situations with which *even* those who had made them correctly must invariably come to terms. In other words, a false classification can thwart the expectations created on the basis of just information and an exact ‘situational analysis’. It might be added that a classification and a market order, being essentially ‘systems for coordinating individual actions’, can guarantee “a high degree of coincidence of expectations and an effective utilisation of the knowledge and skills of the several members only at the price of a constant disappointment of some expectations”<sup>17</sup>.

Attention to the *speed* with which prices transmit information and transform it into useful knowledge for assessing individual expectations, the possibilities and costs of the realisation of these expectations, and rules and institutions, should not, however, be limited to the world of exchange of ‘economic goods’, because it is a mode of knowledge production that, due to its timeliness, can be advantageously applied to all areas of human action under conditions of scarcity.

However, these advantages are limited by a difficulty noted by Hayek himself: namely the fact that

for a variety of reasons, the spontaneous process of growth may lead into an *impasse* from which it cannot extricate itself by its own forces or which it will at least not correct quickly enough [...] The fact that law that has evolved in

<sup>17</sup> F.A. HAYEK, *Law, Legislation, and Liberty*, 1973-79, now in *The Collected Works of F.A. Hayek*, vol. XIX, edited and with an *Introduction* by J. SHEARMUR, Chicago, The University of Chicago Press, 2021, II, p. 308

this way has certain desirable properties does not prove that it will always be good law or even that some of its rules may not be very bad. It therefore does not mean that we can altogether dispense with legislation. There are several other reasons for this. One is that the process of judicial development of law is of necessity gradual and may prove too slow to bring about the desirable rapid adaptation of the law to wholly new circumstances. Perhaps the most important, however, is that it is not only difficult but also undesirable for judicial decisions to reverse a development, which has already taken place and is then seen to have undesirable consequences or to be downright wrong<sup>18</sup>.

In short, what is meant to be argued is *a*) that the ways in which an order is formed as described by Hayek are most valid when it is understood both as an equally natural and cultural order that can be *discovered*, and when those ‘certain rules of conduct’ are recorded and those classifications and maps that favour timely responses are affirmed, and *b*) that Hayek placed too much faith in the capacities of politics and legislation to cope with ‘*impasses*’ and ‘new circumstances’. When this does not happen (essentially because politicians also have limited and fallible knowledge and because in no political regime do the qualities rewarded in the choice of politicians necessarily correspond to their ability to govern, and especially the emergence of new circumstances) the chances of an order being realised diminish further.

## 2. *The time of subjective expectations and the time of institutions*

In spite of its merits, the ‘Austrian solution’ – like much of political philosophy – has left on the margins two themes fundamental for the theoretical social sciences in general and for the theory of institutions in particular.

The first is that *individual time may not correspond to that of rules or institutions*, which can be summarised as the importance that time plays in the generation and development individual expectations and of institutions. These, even when they function optimally, generally have a time for the *production of knowledge, security, certainty* and the guarantee of *Property Rights* (their primary task) that does not

<sup>18</sup> F.A. HAYEK, *Law, Legislation, and Liberty*, cit., I, p. 117.

automatically correspond to that which individuals need or desire in order to know whether the ends – whose realisation does not depend *entirely* on themselves (a category that perhaps does not exist) – are really achievable, when, and at what cost.

The second, closely related, is that, if this is true, research on ‘rational expectations’ is bound to tell us very little about the motivations for human action and the outcomes of their realisation. Mises was not wrong when, in *Human Action*, he argued that all human action is rational on the basis of the knowledge that an individual has, or has obtained, of the situation and the means to realise the expectation<sup>19</sup>. This knowledge is not rational in and of itself, but only in relation to an expectation or interpretation of the situation that could, however, be entirely wrong. Consequently, the idea that politics should deal with rational expectations (which at this point would mean identifying and defining them in relation to a purpose, or on the basis of an election result) in a world subject to sudden and unpredictable changes that can only partially be produced or governed by politics, turns out to be a chimera, an attempt to provide a rational basis for democratic political choices. Or, perhaps, it is simply a quest that might make sense if those changes did not call into question the acquisition of an experience that teaches that, *rebus sic stantibus*, or *ceteris paribus*, this expectation would be rational insofar as it has a high index of probability of being realised with a set of consequences that are largely predictable on its basis. This is not to say that a *posteriori* that action could be evaluated, but rather that, at this point, it would serve very little purpose. And, in any case, as in the case of the Hayekian definition of order, the possibility of making a prediction about the likelihood of values and ends being realised with a cost that is also predictable requires that the context in which human action takes place does not change faster than the time it takes for a correct human action, or rational expectation, to reach its end or to be realised.

Not to mention that in an environment characterised by frequent changes – the outcomes of which are difficult to foresee because, in a highly differentiated environment, they are also affected by the largely

<sup>19</sup> See L. von MISES, *Human Action. A Treatise of Economics*, 1949, ed. Ludwig von Mises Institute, Auburn, AL., 1998, pp. 18ff.

unpredictable interpretations (right or wrong as they may be) that the individuals involved may give of them when forming rational expectations – it is decidedly difficult if one could not count (though this would be the end of Liberalism) on political action to incentivise or disincentivise particular expectations. This action would, once again, would require *a priori* knowledge of the advantages, disadvantages and how they would be distributed in a complex, differentiated society in which policy could manage the change in knowledge that shapes the emergence and development of expectations. In other words, it would require a type of politician that we know does not exist (and not only thanks to Hayek) except in the minds of those who cultivate the expectation that politics can realise its expectations without negative consequences for others.

In this regard, it is also worth remembering that a complex society (or nomocratic order) is also a collection of individuals who share a more or less extensive set of values, but who differ in their ability to make use of useful information to improve their condition. Some are faster, others slower. A *complex society* is thus composed of individuals with different ages, knowledge, talents and ‘subjective expectations of time’. One can thus imagine it as an unstable flow ‘bombarded’ by ‘sensorial data’ that, in relation to their own characteristics, individuals can transform into opportunities. However, it is also important to note that (a) the ability to intercept information and transform it into opportunities does not depend on the cultural level of individuals, (b) that the more established that the patterns that have worked are, the less inclination there is to change them (which eventually undermines the original position), and that (c) one could also imagine that some individuals do not wish to change them because, due to their subjective expectation of time, the work required to do so would outweigh the benefits.

On the basis of this analysis, Austrians have argued that (in general) the process of generating and establishing spontaneous rules based on *catallaxy*<sup>20</sup> is faster and less onerous than their production and

<sup>20</sup> That is, an order “brought about by the mutual adjustment of many individual economies [...] [a] special kind of spontaneous order produced by the market through people acting within the rules of the law of property, tort and contract”. See F.A. HAYEK, *Law, Legislation, and Liberty*, cit., II, pp. 310ff.

imposition by politics (legislation). However, the belief that catallaxy can act as an accelerator for the attainment of ‘good society’ would be true if knowledge of both catallaxy and good society were ‘given’, innate, or universally acquirable in a time and at a cost simultaneously equal for all individuals involved in the process.

Although this is not the case, the advantage of catallaxy does not consist so much in the fact that the cost of acquiring knowledge is lower than that within a political system, but rather in the fact that the quality of the information provided by politics (which can be aimed at maximising the utility of politicians; *i.e.*: only politics can identify and produce public goods) is generally low and sometimes intentionally misleading. This is also because politicians do not aim to secure the ‘sovereignty of the consumer’ but that of politics.

Having said that, the real problem is not the time required for the formation of rules but the fact that no institution *can distribute ‘time’ equally among all its members*, and not only because there is no question that political decisions and collective choices (complex decision-making processes in which institutional constraints, power relations, and different levels of knowledge, individual, social and ‘general utility’ expectations come into play) are slower ‘producers of certainty’. At best, institutions can only facilitate the saving of time by individuals but not affect how it will be utilised.

Leaving aside the case of the transmission of revealed knowledge (which in any case poses problems of dissemination and interpretation similar to those outlined below), what is certain – and this has been the major contribution of the Austrian tradition to the theoretical social sciences – is that it is not possible to first centralise and then redistribute equally and efficiently both time and all knowledge (or part of it), which are distributed unevenly, randomly, and unstably in society. If only because, while it is being centralised through a process that is time-consuming, costly, and has significant margins of error, individuals produce new knowledge. The result of centralisation will thus no longer correspond to the information and knowledge that has been produced in the meantime, and that when these are redistributed, further inequalities will be produced.

The *best justification* for a market system and a cultural spontaneous order seems then to consist in the fact that, although it does not operate an *a priori* selection of individual expectations, nor

does it aim at moderating them, it limits collective choices and thus coercion. In other words, it maximises that individual availability of 'time' which is then the result of the greater efficiency of a *catallactic order*. It is of course possible to observe that greater efficiency requires greater availability of knowledge and that this too has a cost in terms of time, but the knowledge required will still be less than what would be needed to achieve universally and subjectively satisfactory social outcomes through collective choices. In which case, expectations would have to be *selected*, and then the choice *imposed* through the use of coercive instruments. This becomes very important *if* we consider that between the moment of the emergence of 'new circumstances' in a catallactic order and the moment when all participants can foresee the consequences those who manage them might be tempted to transform a momentary power into a lasting one; put differently, to halt *spontaneous and inclusive change* and direct it towards increasingly 'extractive' institutions.

The problem, therefore, is that the time in which expectations and individual claims (which may be subjective and even irrational) are generated, affirmed, and modified is shorter than the time it takes for regulatory systems (not only legal but also economic) and knowledge sedimentations (theories) to give an answer as to their realisability in a non-ergodic environment characterised by time use, diversified purposes and knowledge, knowledge acquisition costs, and 'transactional costs'.

*This is a circumstance that* – as has been said many times – *can occur in situations of accentuated emergence of novelty*. Actually, if one considers that the evaluation of the consequences of actions varies for the same individuals in relation to the knowledge and time at their disposal, even in ergodic conditions (*i.e.* of permanence and observance of rules that have proven to work) the situation does not change radically. In both cases, individuals would measure the advantages of observing the rules – albeit spontaneously affirmed through an evolutionary process of 'cultural spontaneous selection' of the best ones – against the advantages (always subjective) that they believe they can derive from them in the time they think they have at their disposal.

From which it can be deduced that social institutions, precisely because of their 'location at higher levels', are not subject to 'naturalistic' or finalistic evolutionary regularities. And this leads one

to wonder not only whether in societies increasingly characterised by asymmetries in the production and distribution of knowledge, it is *always* possible for a *market* or *catallactic order* to form<sup>21</sup> but also whether (as Hayek unfortunately thought) in certain circumstances politics can intervene in such processes by reducing asymmetries and favouring access to opportunities.

The question becomes even more cogent if one considers that while for Hayek “the formation of spontaneous orders is the result of their elements following certain rules in their responses to their immediate environment” and “the individual responses to particular circumstances will result in an overall order only if the individuals obey such rules as will produce an order”<sup>22</sup>, today, it can be seen that the continuous emergence of new circumstances in complex societies that cannot be defined as catallactic order may not produce immediate (or even timely) *adjustments*, and thus make the selection of behaviour through the imitation of successful habits, rules, and institutions problematic. This is a dynamic that is only producing *non-complementary* sets of individual expectations and individual and collective beliefs that are sometimes unrealistic and unrealisable. The failure to conform to certain rules of behaviour – which can ultimately summed up as the rule that in order to save time, one tends to repeat successful actions<sup>23</sup> – and the overlapping consequences of the emergence of various ‘new circumstances’ can thus preclude the possibility of learning from experience and forming an order without coercion.

<sup>21</sup> “The market is the only known method by which this can be achieved without an agreement on the relative importance of the different ultimate ends, and solely on the basis of a principle of reciprocity through which the opportunities of any person are likely to be greater than they would otherwise be”, F.A. HAYEK, *Law, Legislation, and Liberty*, cit., II, p. 316.

<sup>22</sup> F.A. HAYEK, *Law, Legislation, and Liberty*, cit., I, pp. 65ff.

<sup>23</sup> A thesis that was already outlined in F.A. HAYEK, *The Sensory Order*, cit.: “we are likely to respond in the same manner to different physical stimuli which produce the same sensation” (1.86) and which, on closer inspection, can be seen as the fundamental assumption of his entire theory of action: we learn and select through experience: “the apparatus by means of which we learn about the external world is itself the product of a kind of experience [...]”; we interpret any new event in the environment in the light of that experience” (8.1); “experience is not a function of mind or consciousness, but that mind and consciousness are rather products of experience” (8.5).

### 3. *Time, new circumstances, and affirmation of a spontaneous order*

The criticism of Leoni shows how Hayek was aware that in certain circumstances a timely legislative production of norms and rules was preferable to waiting for their jurisprudential ('spontaneous') production<sup>24</sup>. In this it is possible to see a conclusion to his thesis that *the emergence of an order is a possibility* that cannot always be 'spontaneous', but that, especially when a society has to cope with the continuous emergence of many novelties, requires constant intervention and a *cultural* selection of rules of just conduct.

Cautioning that the timeframe of order formation may not match up with individual expectations, Menger and Hayek establish, without developing it further, a relationship between the concept of 'cultural spontaneous evolution' and the concept of 'time expected' by individuals that is of great importance, even if this idea presents us with some problems.

The first of these is the identification, typical of Classical Liberalism, of the 'common good' with '*common rules*' which does not resolve the problem presented by the fact that, from the perspective of a consequent and rigorous *methodological individualism*, the same criticisms that Hayek makes of the conception of the *common good* understood as a '*good*' of the whole of society may also be valid for rules and norms. For just as it is impossible for such a 'common good' to exist, so it is impossible for there to be a 'common time' in which the application of 'good rules' produces 'good results' simultaneously for everyone. In fact, the benefits that individuals can obtain from observing the rules are different and related to the knowledge they possess and the time they believe they have at their disposal. Although abstractly universalizable, not all rules (even if understood as socially established procedures to be followed in order to save time and avoid 'unintended consequences') are therefore simultaneously good for all individuals.

In reality, both in the case of a system that proceeds 'politically' to regulate novelty and in the case of a system that provides for it 'spontaneously' the main problem is represented by the quantity and quality of novelty that one finds oneself having to manage. The social

<sup>24</sup> F.A. HAYEK, *Law, Legislation, and Liberty*, cit., I, p. 117.

consequences of the introduction, albeit accidental, of a novelty may in fact, in a situation of accentuated dispersion of knowledge, produce effects that have little to do with the novelty itself.

In other words, even if human minds all functioned in the same way, in time  $x$  they might place 'sensory data' in different maps, and thus evaluate it differently. If the reaction to the stimulus will be different, then the time required for everyone (through communication, understanding, and imitation of the most efficient systems) to classify it in such a way as to reduce undesirable consequences will be longer. And some individuals, discovering earlier than others the most efficient classification, *i.e.* the one that produces fewer undesirable consequences, will end up having more time at their disposal to devote to something else and suffer fewer undesirable consequences. In other words, if the classification of the *sensory data* is different, they will be able to master the situation by working to receive the positive consequences, to avoid the negative ones, and perhaps to offload them onto others.

But what happens when, in a situation characterised by the emergence of novelty, individuals do not know how to classify that 'new sensory data' (information) they have not yet experienced? It happens that one reformulates, or tries to reformulate, previous maps trying to adapt them to the newness. The fact is that sometimes new ones (new 'institutions') have to be created after defining (perhaps even following a 'social discussion') previously unknown 'sensorial data' on the basis of individually and socially possessed knowledge.

The individual's level of knowledge, readiness and perceptiveness will allow this to be done at different times. Sometimes one will succeed and sometimes not. If one succeeds, one will save time in classifying phenomena should they recur. This may also allow one to establish logical relationships between different classes of phenomena and, by expanding individual or social knowledge, gain a competitive advantage over other slower individuals or groups (perhaps because their beliefs slow down or prevent them from grasping the implications and opportunities). In other words, one will be able to feed data into a system that allows one to make more or less reliable predictions, and thus to make predictions about the consequences that new knowledge might have on the entire knowledge system, thus reducing the number of unintended and undesirable consequences: that is, to benefit from the distribution of the consequences of innovation.

Only then *can* the solution deemed best be imitated by other agents.

But one would have to ask what role politics could play in this ‘spontaneous’ process of regenerating an order. And the fact – as has been shown – that on the basis of experience one might harbour serious doubts that in a ‘democratic’ regime characterised by collective choices politics could play a positive function not only adds further difficulties to the formation of the spontaneous process of regeneration of an order but also brutally poses the problem of its feasibility in such a regime and thus puts into question the compatibility between Classical Liberalism and Democracy; unless the solution put forward by Hayek in *The Political Order of a Free People* also works in a world characterised by a continuous emergence of novelty, and providing that in that constitutional model politics completely loses the ability to intervene in social processes and renounces being a normative source capable of coercively altering the costs, incentives, and choices of individuals. In this case it is true that, by altering the fundamental principle of *rule of law*, politics would turn into a producer of uncertainty, but without solving the problem of the timeliness of ‘spontaneous’ rule formation in an ergodic world characterised by a continuous emergence of novelty. This means asking whether that fruitful interaction between spontaneous production and the legislative production of rules and law theorised by so many liberal thinkers, including in the particular case Menger<sup>25</sup> and Hayek, does not drastically reduce the areas in which one can intervene through collective choices. This is a perspective that would, however, introduce rigidities into the political system that are not compatible with the need to deal with the unpredictable consequences of the emergence of novelties in a non-ergodic world.

In any case, if they prove to work (*i.e.* if individuals or groups realise that they make it possible to explain more phenomena, save time, and make reliable predictions) the new maps thus generated could be understood as ‘new institutions’ that take over from the previous ones, initially generating new and different transactional costs, but then decreasing the ‘transition costs’ only in the case of their generalised use. In fact, in the case of the coexistence of different maps, transactional costs would not decrease even if *free rider* opportunities

<sup>25</sup> See C. MENGER, *Untersuchungen*, cit., Appendix VIII.

were to increase. *This gives rise to undesired, unintended and unexpected situations.*

Put differently, the ability to quickly establish connections may be more profitable than the possession of extensive sectoral knowledge, and the greater the flow of new knowledge, the less important the starting conditions will be. Moreover, even if an individual were able to create a new map from which everyone could benefit, their solution would necessarily have to confront a situation generated by possible classifications that are not universally advantageous, but previous and established ones that could slow down imitation or even hinder it.

From this point of view, since one aspect of the innovation process is the constant change of individual and social expectations (which means that its success in satisfying needs will give rise to new expectations and new needs), the worst situation is that of a complex society in which the various institutions propose conflicting ways of evaluating novelty and opportunities. This, by generating uncertainty among individuals and conflicts that cannot always be resolved in a shared manner (especially if they concern ethical issues, gender, etc.) through collective choices, would also slow down, or make impossible, the formation of any order; not just a 'spontaneous' one.

The risk, in other words, is that the succession of innovations jeopardises that principle of *causal imputation* which, by linking effects to causes, allows the formation of knowledge that becomes experience and models to be imitated because it allows forecasts to be made of the positive and negative consequences that such imitation could have produced and without which it would be impossible to disentangle oneself in a sea of beliefs, opinions, and expectations, regarding which, moreover, it would be extremely difficult to formulate not only forecasts but also specific and detailed evaluations.

For these reasons it is appropriate to turn our attention to the question of 'subjective expectations of time' (both individual and social) and to the related question of the growing differentiation between 'individual time' (the 'time in which expectations are formed') and 'time of rules and institutions' (the time in which order is produced). In short, what is meant to be argued is that no reformulation of liberal political theory can fail to take note of the fact that the speed with which the first two tend to assert themselves and change is becoming increasingly greater than that which characterises the

formation of rules and the functioning of institutions, including the market. The problem is that when the relationship of reciprocal and timely adaptation between expectations and institutions breaks down because individual expectations change at a speed or with a frequency, that knowledge and institutions cannot follow there is a general increase in uncertainty which, by slowing down the process of spontaneous order formation, *causes* a greater demand for politics.

From what has been attempted to show, one could draw the conclusion that the ‘Austrian’ is not a political thought based on a theory of ‘economic action’ but (as is shown in what is, in my opinion, the greatest and most innovative philosophical work of the 20th century: *The Sensory Order*) a general theory of human action based on a specific and original theory of knowledge, a theory of human knowledge from which it is possible to derive a theory of the best political order (a political philosophy) that aims not at the discovery of the naturalness and finality of associative life, but rather at the search for and definition of the comparatively best one. This theory that does not disavow the existence of so-called *evil* and does not interpret it as an erroneous knowledge of the nature of things but as a ‘miscalculation’ of how to improve one’s condition and how to maintain it over time by individuals endowed with time and knowledge that is inevitably scarce and subject to unpredictable change.

It is a theory of knowledge easily transformed into a general theory of the world and human action which begins to emerge in Menger’s words – “value is thus nothing inherent in goods, no property of them, nor an independent thing existing by itself. It is a judgment economising men make about the importance of the goods at their disposal or the maintenance of their lives and well-being. Hence value does not exist outside the consciousness of men”<sup>26</sup> – and which finds full expression in a statement from Hayek: “properties which our senses attribute to [...] events are not objective properties of these individual events, but merely attributes defining the classes to which our senses assign them”<sup>27</sup>.

<sup>26</sup> C. MENGER, *Grundsätze*, cit., p. 86; Engl. trans., cit., pp. 120-21.

<sup>27</sup> F.A. HAYEK, in *The Sensory Order*, cit., § 8.28. Hayek, however, does not establish, as he does elsewhere, a continuity, at least in this respect, between his own theory of knowledge and that of Menger.

But if this is true, what is its relevance for a philosophy of politics?<sup>28</sup> The most relevant consequence is perhaps that we must resign ourselves to institutions (social, political, economic, religious, etc.) that are always imperfect due to the fact that their ability to make reliable predictions about the outcomes of individual actions and social interactions is based on a partial and therefore imperfect knowledge of individual intentions and expectations and on the fact that these may not only be undeclared (or only partially declared) but may also change in relation to changes in the knowledge possessed or the passage of time. The results that institutions will be able to guarantee on the basis of their knowledge may thus differ from those that individuals actually expect by submitting to rules in order to realise their expectations.

This implies: (a) that the capacity of institutions to ‘produce certainty’ by making use of their ability to predict the intentional and unintentional outcomes of human actions even by resorting to various types of power, coercion, or ‘legitimate’ forms of violence is and will always be limited or improvable; (b) that even the most tenacious efforts to imagine institutions that can simultaneously guarantee individual freedoms (whose scopes and limits are related to the variation of individual knowledge) and halt the expansion of governmental power will have limited results (c) that there are no definitive arguments for believing that the goodness of the results that can be obtained can induce individuals (who, it should be remembered, always possess imperfect and unstable knowledge) to prefer bargaining and exchange to coercion, robbery, fraud, and violence in order to try to satisfy their needs now and in the long term, and this also applies to relations between states. Consequently, even in a world in which everyone adopted the solution of resolving their needs through free exchange, the results of such exchanges could not be free from unintended

<sup>28</sup> In my opinion, it remains something of a mystery why in his later works Hayek made so little use of material derived from *The Sensory Order* in order to elaborate a theory of human action and institutions and apply it to politics (as, for example, North does). From this point of view, as Rothbard noted, his idea of founding a liberal political theory on the elaboration of ‘universal and abstract norms’ (which are suddenly affected to a significant degree by Kantian influences) seems inadequate. One might add that, since *The Sensory Order* is a work that indirectly questions the theory of knowledge in *Kritik der reinen Vernunft* (in which Kant is never mentioned, incidentally), one could also make the same criticism of Hayek which is often levelled at Kant, *i.e.*, of having elaborated a theory of politics distinct from his own theory of knowledge.

consequences: from an uncertainty that, depending on its perceived gradation, leads to a demand for policy.

If we were to add that we are faced with a reformulation of the problem of how the transition from individual to shared classifications can reduce uncertainty and unintended consequences, we would immediately find ourselves faced with a solution to the classic problem of the transition from opinion to knowledge that Hayek proposes in order to reduce timeframes. This assumes considerable importance today given the pressing need to adapt it to the ever-faster pace of a non-ergodic world. What we must then ask ourselves is whether politics still has a meaning and a function in this world and, what is more, we must allocate rights and provide criteria for evaluating what it can concretely do after it has lost the ability to design the world. Politics finds itself, as if all this were not enough, having to manage the extreme mutability of human expectations on its own, having as its only tool that of playing on the human desire to prolong in time a constant and indefinable improvement of its condition.

What a theory of Classical Liberalism appropriate to the times could not avoid asking is therefore

- 1) what the relationship is between a society characterised by fragile ‘informal constraints’ (and persistent and growing asymmetries in the production, distribution, and utilisation of knowledge), the emergence of novelty, and the formation of a spontaneous order;
- 2) what the real possibilities and capacities of the social sciences and politics are to intervene in these processes; and what to do if it turns out that, with the unintended consequences yet to be studied, they can only slow them down, if that;
- 3) Whether it is still possible to consider catallaxy as the best instrument, in a society characterised by an asymmetrical distribution of knowledge, to foster the rapid adjustment of individual expectations to the emergence of new circumstances;
- 4) Whether, since it is not obvious that human dynamics lead ‘naturally’ or ‘spontaneously’ to ‘good’ situations, it is possible to ‘correct’ the outcomes of the random dissemination of knowledge, and in what way this might be done.

In other words, while the Classical Liberals believed that the increase in individual freedom and knowledge would reduce the need and necessity for politics, we have instead ended up in a situation of uncertainty

(produced by frequent and profound innovations, the uncontrollability of differentiation processes and the impossibility of controlling the dissemination of information and more or less realistic or 'rational' beliefs and expectations) in which the demand for politics increases even though it is characterised as a continuous and futile attempt to satisfy unstable and uncontrollably changing individual and social expectations. This situation *ends up generating further uncertainty, in which the catallactic system risks no longer serving as a model of orientation.*

The question is therefore what can happen in the transition from the 'age of discovery' to the 'age of innovation' in which theoretical social sciences and political institutions (which had somehow equipped themselves to handle 'discovery processes') are still unprepared to handle 'innovation processes' and their more or less unintended and unwanted consequences without reference to evaluative models and past experience. This also raises the question of whether it is possible to use the criteria of the age of *discovery* in the *age of innovation*.

The problem that historical reality once again poses might seem to be reduced to a purely theoretical question concerning whether non-coercive institutions can compete with those that are so in terms of producing certainty in time to ensure the survival of an order.

In reality, the issue is more complex.

Indeed, while it must be acknowledged that, however desirable and even 'better' it may be, the possibility of a non-coercive order remains an open question, on the other hand, it must be acknowledged 1) that Classical Liberalism's attempt to guarantee individual liberty (by entrusting its safeguarding to a monopolist of coercion and legislative production: the State) and to contain the expansion of political power has (also due to an inexact analysis of the causes), evidently failed, and 2) that the *State*, justified essentially as the instrument to promptly produce those 'public goods' (and essentially security) that it was believed could not be produced by the market with the same timeliness (due to its slowness in making decisions and enforcing them without provoking social and legal conflicts) is proving to be an inadequate instrument, if not an obstacle, to manage emergency situations. Put differently, one must also take note of the fact that the process of bureaucratisation and differentiation is progressively thwarting the supposed capacity of the state and politics to deal with new circumstances and emergency situations.

To the failure of Classical Liberalism we must therefore add that of the interventionist *State* (against which it fought, showing its flaws and foreseeing its epilogue) understood as an instrument to favour optimal allocations of rights and to guarantee security. In fact, it has become evident that, no longer being a ‘producer of knowledge and innovation’, and therefore unable to influence the shaping of individual and social expectations, the State’s ability to overcome *impasses* and produce not only goods that ensure that individual and social needs are met in a lasting manner, but also certainty, is dubious to say the least. This means that, at most, it can exercise the function of slowing down adjustment to an increasingly less ergodic world.

Faced with such a circumstance, in addition to asking ourselves how all this ends up increasing the ‘demand for politics’, we should note that it would be yet another very unsatisfactory illusion to think that only Classical Liberalism is inadequate. Be that as it may, the creation of an order that can do without politics (which, in turn, cannot do without coercion) remains the great and unresolved question of that search for the best regime: that order which, following Aristotle’s lead, we continue to call ‘political’, thereby evading the question of the possibility of non-political orders. That is to say, the question of how efficient they are (understood as their potential to allow everyone to make acceptable forecasts in light of realisability in time of their expectations) in satisfying timely needs (such as, obviously, that of security) without the potential to affect the genesis, formation, and transformation of those needs.

Hayek thought that a coexistence between Liberalism understood in his own way (without forgetting that he was one of its main theorists) and democracy was still possible once it had been accepted that politics also had *limits*. But the world of the political philosophy of Hayek was in fact a world in which a ‘political’ regulation (but based on universal and abstract principles) of the emergence of new circumstances and the way they would be distributed still seemed possible. This was regulation aimed at keeping alive a *nomocratic* order endowed with the characteristics attributed to the order. It was, of course, that order which, not wrongly, Hayek considered the best. But is it also the conditions in which we find ourselves living today?

What I think, in the end, is that starting from the great and typical ‘Austrian’ themes such as exchange, institutions, catallaxy, and, above

all, time, a perhaps unorthodox but fruitful development of liberal political philosophy is possible. Its necessary premise consists in asking why such a legacy and such insights have not yet been developed as they deserve (perhaps even in a critical dimension) and why the easiest solution seems to have been chosen instead: rather than trying to understand the origin of power in the hope of being able to better reduce and control it, we have simply sought ethical justifications for it and continued to labour under the delusion that politics can change the condition of uncertainty by solving the human problem through coercion. With which, I must admit, we are back to square one.

**Riassunto** - Secondo il Liberalismo 'austriaco', un *ordine* potrebbe essere definito come il risultato inintenzionale di scelte individuali con le quali, talora in situazioni impreviste ma sorretti dall'esperienza, degli individui sono riusciti a selezionare regole di condotta atte a ridurre le conseguenze inintenzionali, inattese ed indesiderabili delle azioni umane. In tale ordine – che è quindi *uno 'stato' provvisorio* che nessuno in particolare ha voluto e il cui futuro è aperto a possibilità inesplorate – la conoscenza e il tempo svolgono un ruolo primario. Tuttavia, non soltanto un tale tipo di ordine non è mai esistito (perché i regimi politici di cui si ha esperienza si sono formati *soprattutto* tramite atti di sopraffazione, di potere e tramite scelte collettive e politiche), ma oggi ha anche

scarse possibilità di realizzarsi. Infatti, in situazioni caratterizzate dal continuo emergere di nuove circostanze e innovazioni scientifiche, tecnologiche e morali, il tempo in cui si formano, si modificano e si diffondono le aspettative individuali e sociali tende sempre più a divergere da quello che le istituzioni impiegano per fare scelte politiche che favoriscano o che mantengano una dimensione di ordine inteso come prevedibilità degli esiti dei comportamenti e delle scelte in un mondo non ergodico.

Ciò nonostante a partire dai temi 'austriaci' quali la teoria dello scambio, delle istituzioni, la catallassi e soprattutto il tempo, l'autore ritiene sia ancora possibile una magari non ortodossa ma feconda elaborazione di una teoria liberale dell'*ordine*.