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AUSTRIAN LIBERALISM AFTER FRIEDRICH A. HAYEK'S *LAW, LEGISLATION, AND LIBERTY*

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Foreword

The time has come to ask why the Austrian School, having dominated the intellectual scene of Classical Liberalism for the best part of the 20th century, failed to produce any work comparable to *Law, Legislation, and Liberty* after its complete publication in 1979 – at least as far as political philosophy is concerned. More than two decades have passed since the beginning of the new millennium, and extraordinary changes have taken place in every sphere of human life; one thus feels the lack of a work of political philosophy that, leaving the commemoration of its triumphs and disasters to the historians, asks whether the liberal tradition still has a meaning and a function in a world so different from the one known by its great exponents. This then prompts us to wonder whether the general theory of human action that the exponents of the Austrian School elaborated on the basis of the theory of subjective values retains its explanatory value in a constantly changing world.

Classical Liberalism has never claimed to create or direct this change. If anything, it has reworked it in the light of the essential requirement of defending and enhancing the role of individual freedom. In the last few centuries, the exponents of the Austrian School did this admirably, interpreting their own age and providing arguments both to counter the proposals of those who opposed individual freedom and to

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outline that freedom's advantages. They were thus excellent interpreters of the best aspirations of their era. Yet today that era no longer exists, and by trying to understand our own age with their conceptual tools we might risk appearing pathetically nostalgic for a vanished world, notwithstanding the fact that the importance of the theme of individual freedom remains unchanged: liberty remains an eternal human need, its advantages are still unquestionable, and it is threatened like never before by the possibilities that technological innovations offer for control over human life.

The question, therefore, is whether something convincing can still emerge from the application of the 'Austrian' conceptual schemes to contemporary reality, or whether these schemes should be abandoned because they are now obsolete. My answer is that the general theory of knowledge and human action formulated by the Austrian liberals still has validity if one starts from its theoretical premises rather than from the contingent and historical parts of their analyses and their concrete political proposals (though these are certainly not contemptible).

Prominent among these questions is the Mengerian one which, understanding economics as a science that, in a regime of scarcity, aims to reproduce in the future what is consumed in the present[1], focuses on the questions of frugality, thrift, and *time*. From this point of view, the Austrians should at least be credited with realising that the prevailing tendency was an increasing discrepancy between the time which individuals take to formulate and modify their expectations and the time which institutions take to create the regulatory frameworks within which they can be realised while minimising undesirable consequences for others.

For these considerations, one possible reiteration of these premises could still be of help in formulating a theory of liberalism consonant with the problems of the early 21st century, precisely because they concern that question of *scarcity* which constitutes the perennial character of the human condition. This is the century in which at least three of the premises that had characterised the problems of Classical

[1] It is obviously not possible to understand Menger as an ecologist in the modern sense of the word, but in his enthusiasm for saving and thriftiness and in his theory of the distinction of needs it is possible to detect elements of a contemporary sensibility, as well as an echo of Epicurean frugality.

Liberalism in the past - its relationship with religion, its relationship with democracy, and the relationship with scientific progress - need to be rethought. In the first case, this means dealing with the vacuum left by the substantial disappearance of religion in the West and the growing hostility to Liberalism displayed by the religion that remains[2]. In the second case, it means addressing the fact that freedom is incompatible with a belief that there are no limits to political decisions (which is the idea of democracy that has asserted itself in recent times, arriving alongside the idea that there are no obstacles to scientific research and the application of its results, and assertion of the futility of political choices as a means of confronting and regulating the impact of novelties). And finally, in the third case, we must confront the instability produced by unlimited scientific and technological change which, while presenting many positive aspects, annuls the value of experience and extends the possibilities of control over human life, thus producing a situation of instability and uncertainty characterised by the irresponsible despotism of the producers of novelties[3].

The time thus seems to have come to take seriously the question originally posed by Ronald Coase back in 1974. In *The Market for Goods and the Market for Ideas*[4], he wondered whether modern political thought, rather than focusing on the question of the production and distribution of goods, should not also embrace the undoubtedly delicate and thorny issue of the production and distribution of ideas – especially

[2] In addition to the decline in individual religious practice and the ever-increasing number of citizens declaring themselves atheists and non-believers, we should not underestimate the dispersion of Christians into political parties marked by very different if not conflicting values. Between 'conservative' and 'progressive' Christians, one can now see so many differences on doctrinal issues and fundamental policies as to lead one to wonder what it means, in political terms, to declare oneself a Christian. We are led to re-propose the age-old question not only of the adaptation of religious doctrines to a changing world but also of the alleged Christian origins of the modern age, so much so that it could lead one to conclude that the 'modern' age was a largely anti-Christian 'philosophical project' that is now coming to fruition in a whirlpool that drags both atheists and Christians into the unknown.

[3] On this subject I refer to R. Cubeddu, *Nuove tirannidi. Conseguenze inintenzionali della dipendenza della politica dalla scienza,* 2017, now in "Nuova storia contemporanea", no. 1, 2020.

[4] Now in R.H. Coase, *Essays on Economics and Economists*, Chicago, The University of Chicago Press, 1994, pp. 64-74.

in light of the unintended consequences of the spread of technological innovations. It had always been imagined that these had a positive relationship with the idea of freedom. It had been believed that, deprived of political, religious, and moral control, science and technology would *always* expand their horizons. All this was assumed – on the basis that control of science by politics, religion, and morality would be very un-liberal[5] – without paying attention to the fact that the unintended consequences of continuous scientific and technological change are just as devastating for freedom as those imposed by a political acceleration of social change. In fact, both end up producing *uncertainty*, as we shall see. In a situation of generalised uncertainty, freedom also ends up suffering and is in danger of perishing. It can thus be said, in short, that all too often even 'Austrian-liberalism', which had made the theory of unintended consequences its emblem, forgot that not everything that is new *is equally good*[6] and that even what is new and good can have consequences that are not only unintended but often undesirable.

What one must therefore ask is when and why this is the case.

For classical liberals, the time has thus come to take note of the fact that the world does not operate according to our wishes, nor does it operate according to our (Humean) reason. Despite the disadvantages illustrated by history, the idea of improving one's condition by exploitation and predation rather than by trading has its adherents and continues to exert its sinister appeal. Furthermore, it should be realized that religion, irrespective of whether its net contribution was positive, nevertheless contributed to long-term social stability by providing a stable framework to assess all possible types of change – one that, since its content was derived from revelation, was hardly modifiable by believers. In its absence, the moderation of individual and social expectations[7] (another thankless task already allocated to political philosophy by classical philosophers, while demagogues continue to

[5] Even if, in reality, the funding of certain topics and types of research by public bodies places constraints, sets targets and, by encouraging conformism, discourages free research.

[6] And this begs the question of how a rethinking of Classical Liberalism should approach the contemporary conservative tradition, especially that arising out of 'secular' and Oakeshottian thinking.

[7] To what extent liberal elites have, despite their secularism (and this writer is inclined to believe that the origin of liberalism was Epicurean and not Christian), taken advantage

present themselves as capable of satisfying all of them) now poses unprecedented problems. These problems are all too often addressed with increases in violence and political coercion, evading the question of how much variety any political regime can tolerate without unpredictably implementing violence and the transaction costs of its own functioning and that of individual exchanges.

And so, having enlightened the masses out of the 'terror of religion' at the very moment when the failure of the costly attempt to 'educate them in democracy' became apparent, the liberal-democracies no longer know how to contain those changes in public opinion that produce the pressing demand for political recognition and realisation of individual and social expectations (the genesis of which they are no longer even able to control). The theorists of the liberal-democracies believed that mass education could defeat the stupidity – exemplified by the growing number of voters who believe in the strangest of doctrines (scientific, economic, religious, political, etc.) – that, in the

of this situation is another matter. For now, we can limit ourselves to observing that, in the absence of stable and shared 'informal constraints' (such as religious ones), the moderation of expectations in markedly differentiated social realities (distinguished by income, language, religion, culture, etc.) in the face of changes that are often unpredictable in their consequences may require a more accentuated use of coercive instruments than the liberal elites of past decades could afford. This is a situation that, in my view, is not contemplated in D.C. North, J.J. Wallis, B.R. Weingast, *Violence and Social Order. A Conceptual Framework for Interpreting Recorded Human History,* Cambridge, Cambridge University Press, 2009, but which shows what the real connection between liberalism and Christianity was, despite their differences. This was a connection that began to crack when one of the two believed it could or should do without the other, but which nevertheless ensured a stability for decades that might also be lamented. And it is no coincidence that a shrewd political philosopher with little inclination towards Christianity and liberalism, such as Leo Strauss, saw in this antagonism the secret of the West's vitality, wondering what might have happened if one of the two contenders had gained the upper hand over the other or if one of the two had disappeared, see L. Strauss, *The Mutual Influence of Theology and Philosophy*, 1954, now in "The Independent Journal of Philosophy", III, 1979. But unlike Strauss, who thought that the 'political-theological problem' was perennial, today we are prompted to ask ourselves what might happen to that conflict-ridden but now non-violent vitality if this turns out not to be the case. And this also leads us to wonder whether the purpose outlined by North, Wallis, and Weingast on p. xii of the previously cited volume is still feasible: that is, "to explain how durable and predictable social institutions deal with an ever-changing, unpredictable, and novel world within a framework consistent with the dynamic forces of social change [with] no teleology built into the framework [but rather adopting] a dynamic explanation of social change".

wake of Marxism, they attributed to poverty. And so it is that the stupidity of the former has been compounded by the stupidity of the latter in a context made even more difficult by the fact that, whether from ideology or electoral calculation, the latter continue to maintain that if all expectations are not realised, it is not the fault of the fact that they are unrealisable, but the fault of the market, and in particular of neo-liberalism and its supposedly more powerful and mysterious inner circles. As a result, confidence in the benefits of cooperation has been undermined and confidence in spoliation and the advantages of 'ethically' based taxation and regulation has been resurrected.

In the Introduction to *Law, Legislation, and Liberty*, Friedrich A. von Hayek had peremptorily drawn attention to the fact that we must sadly take note that "the first attempt to secure individual liberty by constitutions has evidently failed"[8]. He thus suggested that it had become indispensable to pursue the defence of liberty through other means and to abandon the illusion that the Western State, in its contemporary configuration, could still serve this purpose[9]. This awareness of the need and urgency of coming to terms, even vaguely, with the entire liberal-constitutional tradition found expression in the third part of the work: *The Political Order of a Free People*. His intention was to set up a relationship between democracy and liberalism that would not force the latter to adapt to – in essence, be subjected to – an unlimited extension of State competences connected to the inveterate hope that political democracy would be able to reconcile individual freedom with collective choices and, thanks to science, to realise at least a large part of human expectations.

However, even if he sought to find a 'Good Politics' through a drastic separation and distinction between the function of political representation in controlling executive power and a non-trivial elaboration of general and abstract norms of conduct in an institutional

[8] See 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, p. 15. The Italian translation of this edition, edited and introduced by L. Infantino, *Diritto, legislazione e liberta*, Milano, Mimesis, 2022, also contains an *Afterword* by PG. Monateri in which the Hayekian use of the terms *Law*, *Right* and *Legislation* is explained.

[9] This became evident with A. De Jasay, *The State*, Indianapolis, Liberty Fund, 1998; on De Jasay see G. Brioni, *Antony De Jasay*, Torino, ibl Libri, 2022.

framework that is not yet completely in its dotage, perhaps even Hayek's solution is not sufficient. Not least because his speculative horizon did not contemplate the possibility that *politics* could be dispensed with; it limited itself to the search for a 'Good Politics' and did not contemplate its eclipse. He did not ask, as Michael Oakeshott puts it, why politics has always offered an "unpleasing spectacle" of itself[10]. However, the fact that this has been one of the least considered parts of Hayek's thought, and the fact that it was understood as a somewhat eccentric element of the overall work, clearly suggests that his invitation, in some respects pressing and even distressing, fell more or less on deaf ears[11]. The results have been outlined above.

But if the Hayekian cry of alarm does not yet seem to have produced any relevant response, the other parallel or perhaps competing project of the Rothbardian *libertarians* also seems to have run its course: the idea of living without the State and – even more ambitiously – to imagine a 'civil association'[12] in which the dynamics of decision-making were separated from those of coercion: in other words, the attempt to dissolve the link between politics and coercion, which have always been considered inseparable, and thus to avoid transforming political philosophy into a sort of justification for coercion. (This would be an ethical justification for liberals, or an 'efficientist' justification for those who would like to accelerate and rationalise the process of directing human activities towards ends that they consider good and therefore desirable).

We might add that Bruno Leoni's exploration of the significance and consequences for Classical Liberalism and Libertarianism of the fact that *power* is inseparable from social and political relations (because it is their foundation) has not yet received the attention and development it deserves[13].

[10] M. Oakeshott, *The Politics of Faith & the Politics of Scepticism*, ed. by T. Fuller, New Haven, Yale University Press,1996, p.19.

[11] However, J. Shearmur, in the *Introduction to* F.A. Hayek, *Law, Legislation, and Liberty,* cit., rightly draws attention to the long-neglected issue and also investigates it in relation to the influence of Leoni's theses on Hayek; see also A. Masala, *Leoni, Hayek and "Il Politico",* in "Il Politico", n. 2, 2022.

[12] See M. Oakeshott, *On Human Conduct*, Oxford, Clarendon, 1975, pp. 108ff., and 273ff.

[13] In the *Introduction* to R. Cubeddu, *Scambio dei poteri e stato delle pretese. Scritti*

The challenge could be summarised as a search for a way of expunging collective choices (including, of course, non-voluntary taxation) from the search for the 'best' political association and replacing them entirely with *individual choices*, thus bringing to logical fruition Menger's intuition that the most important social institutions – including the State – were nothing more than one *possible* unintentional result of individual acts of exchange[14]. Underlying his social and economic philosophy is, in fact, a philosophical anthropology that holds that the persistent human condition is that of trying to *satisfy changing needs* (i.e. to improve one's condition by adapting to change) by choosing and exchanging, and that *exchange* is the most rational and efficient way to prolong the possibility of satisfying them. Needs, circumstances, and knowledge constantly metamorphose, though without suggesting any 'natural end' (understood in the Aristotelian manner) other than one's own self-preservation. Menger is obviously well aware that those needs can also be satisfied through acts of appropriation, but he believes that, in a situation of scarcity of goods and of environmental non-ergodicity, this deplorable practice, in the long run, negatively affects the possibility of satisfying those needs in the future, acting as a disincentive to the production of goods and thus producing conflict and uncertainty.

From this point of view, one could thus say that a civil association based on a system of exchange, which seeks to resolve social and political conflict by favouring more widespread production and availability of goods, is not 'natural' or the only one imaginable but the 'best': even more so because it possesses a tool, exchange, that weakens the tendency towards conflict. This perspective does not consider conflict to be unsolvable, but it does believe that it can be aggravated by political measures.

This *general theory of human action under conditions of scarcity* (scarcity of time and knowledge before that of goods, since the definition of *good* depends on the association of knowledge and time[15]) is obviously

su Bruno Leoni, Torino, IBL Libri, 2021, I tried to take stock of the importance of this reflection and the vistas it opens up.

[14] On these aspects of the problems explored by Menger I refer to R. CUBEDDU, *Il valore della differenza. Studi su Carl Menger*, Livorno, Salomone Belforte, 2021.

[15] Cf. C. MENGER, *Grundsätze der Volkswirtschaftslehre*, Vienna, Wilhelm Braumüller

not to be confused with the 'liberal' theory. The latter, in fact, mistaking as natural what is in reality a particular configuration of man in a historical and geographical environment in which benevolence is not conditioned by scarcity, is inclined to assume the same 'Rights' as something universal that pre-dates society, rather than as a possible expression or even random historical sedimentation of 'exchanges of claims' supported by individual utility functions that can be generalised on the basis of experience developed in specific contexts. This helps to explain the lack of sympathy that *Classical Liberals,* unlike *Libertarians*, foster for *Rights* understood as natural and innate[16]. Without challenging the idea that they consist only of rights to life,

1871, p. 1-152. Engl. Trans. *Principles of Economics*, 1950; rep. Auburn, Ludwig von Mises Istitute 2007, pp. 5-174: "Things that can be placed in a causal connection with the satisfaction of human needs we term useful things. If, however, we both recognise this causal connection, and have the power actually to direct the useful things to the satisfaction of our needs, we call them goods", p. 1, Engl. trans. p. 52). This definition is adopted precisely because it highlights a conception of the world in which *value is the result of an attribution and not of a recognition of the essence of a good*: it has important epistemological implications in general and therefore also for a theory of human action and for a related political philosophy. It is, put differently, the 'revolution' that the Austrian theory of value represents in the field of social sciences, social philosophy, and political philosophy. In my opinion, it also emerges out of the transfiguration implicitly made by F.A. Hayek in *The Sensory Order: An Inquiry into the Foundations of Theoretical Psychology*, London, Routledge, 1952, § 8.28: "Properties which our senses attribute to these events are not objective properties of these individual events, but merely attributes defining the classes to which our senses assign them"; for which I refer the reader to my *Preface* to the Italian translation: F.A. Hayek, *L'ordine sensoriale*, Milano, Società Aperta-Mimesis, 2021, pp. vii-xxvi.

[16] And it is certainly no coincidence – though the issue cannot be treated at length here – that in Classical Liberalism, and especially in its 'Austrian' and 'Leonian' versions, so-called natural or individual Rights have always been understood as the laborious affirmation and complex generalisation of a transformation of claims whose realisation has a predictable number of unintended consequences. Put differently – and it is no coincidence that the figure of John Locke returns overbearingly (but with different emphases) in the work of Murray N. Rothbard and Robert Nozick – Classical Liberalism up to Hayek and Leoni was in favour of *Common Law*, i.e., of a jurisprudential production of law, rather than of *Natural Rights*. One could also blame the return to *Natural Rights* for the criticism that M. N. Rothbard, offers in his review of B. Leoni, *Freedom and the Law,* of 1961, in "New Individualist Review", no. 4, 1964, pp. 163-166, and in *F.A. Hayek and The Concept of Coercion*, of 1980, now in *The Ethics of Liberty*, 1982, ed. with a new *Introduction* by H.-H. Hoppe, New York and London, New York University Press, 1998, pp. 219-29. This addresses, with different arguments, Leoni's and Hayek's evolutionary-jurisprudential conception of law. He accuses the latter in particular of failing to halt the expansion of State powers and thus

liberty and property[17], Classical Liberalism believes that, like law, these rights have a concrete historical genesis and that their diffusion

defend individual liberty. However flawed Rothbard's political philosophy may be, he must still be given credit for having grasped the problem and for having tried to give an answer to what Hayek himself had denounced. The words are undoubtedly a bit heavy, but they hit the mark (and are quoted without comment): "the State is not, and can never be, justified as a defender of liberty"; "In order to 'limit' State coercion (i.e., to justify State action within such limits), Hayek asserts that coercion is either minimised or even does not exist if the violence-supported edicts are not personal and arbitrary, but are in the form of general, universal rules, knowable to all in advance (the 'rule of law')"; "The absurdity of relying on general, universal ('equally applicable'), predictable rules as a criterion, or as a defense, for individual liberty has rarely been more starkly revealed"; "Thus, we see that Hayek's *Constitution of Liberty* can in no sense provide the criteria or the groundwork for a system of individual liberty. In addition to the deeply flawed definitions of 'coercion', a fundamental flaw in Hayek's theory of individual rights [...] is that they do not stem from a moral theory or from 'some independent nongovernmental social arrangement', but instead flow from government itself. For Hayek, government – and its rule-of-law – creates rights, rather than ratifies or defends them. It is no wonder that, in the course of his book, Hayek comes to endorse a long list of government actions clearly invasive of the rights and liberties of individual citizens"; "This includes Bruno Leoni's fundamental criticism that given the existence (which Hayek accepts) of a legislature changing laws daily, no given law can be more than predictable or 'certain' at any given moment; there is no certainty over time". In conclusion, having reaffirmed that "Hayek's rule of law [is far] from being a satisfactory bulwark of individual liberty", Rothbard considers *Law, Legislation, and Liberty* as "a welcome retreat from Hayek's previous reliance on legislation and a turn towards the processes of judge-found common law; however, the analysis is greatly marred by a predominant emphasis on the purpose of law as 'fulfilling expectations', which still concentrates on social ends rather than on the justice of property rights. Relevant here is the discussion above of the 'title-transfer' theory vs. the expectations theory of contract" (pp. 226-29). In other words, Rothbard does not believe that Hayek's solution can make law, and therefore individual liberty, independent of those variations of public opinion that in democracy invoke the intervention of the State and legislation to realise individual expectations understood as rights. It is, however, a complex discourse that has the undoubted outcome of questioning the relationship between Classical Liberalism and Democracy that, also out of prudence, Hayek treats with circumspection and that only Leoni (from whom, unfortunately, we do not have a systematic work on political philosophy) deals with critically. These criticisms would be developed in even more acerbic tones by H.-H. Hoppe, in *Democracy - The God that Failed: The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick, N.J., Transaction Publishers, 2001.

[17] Certainly, F.A. Hayek, in *Law, Legislation, and Liberty,* I, cit., p. 138, writes that the "'life, liberty and estates' of every individual, is the only solution men have yet discovered to the problem of reconciling individual freedom with the absence of conflict. Law, liberty, and property are an inseparable trinity". However, neither he nor Leoni seem to be particularly fond of them and rarely recall them. Their explicit choice to opt for an evolutionary tradition of law reopens that latent rift that within the liberal tradition sees *natural rights* theorists and *common law* theorists take different sides.

(admittedly highly limited if history is any guide!) is due to a spontaneous but contingent emergence of the awareness that their observance has a limited, knowable, and foreseeable number of unintended consequences. Put differently, *rights are understood as an attempt to reduce uncertainty through the observance of conduct for which, from experience, plausible predictions of consequences can be made*. A further advantage, if one does not intend to deny those rights to every individual, is the fact that the market economy, unlike 'extractive' or planned economies, does not need an 'ethical justification' since it is founded on exchanges under conditions of mutual freedom.

'Political' coercion could thus be understood as the need to compensate for knowledge's gradual spread, for the slow emulation of good or desirable solutions to the problem of satisfying individual needs, of the coincidence of these with social needs, and of the ability of such solutions to continue to operate over time with positive results. Naturally, we are talking about the *possible* affirmation of certain 'sensory data' classifications by means of emulation (thus not through imposition) and the acquisition of an awareness of their *comparative superiority*, rejecting the belief that imposition has no cost; a belief that, perhaps in order to maintain a situation over time, considers the advantages of the rapidity offered by coercion to be greater than the disadvantages of its costs continuing over time.

In actual fact, this dynamic appears to be connected to an *ergodic situation* in which innovation does not significantly impact the maintenance of advantages and disadvantages over time. We would be talking, moreover, of a possibility that would become necessary when the speed of affirmation and sharing of 'good' maps occurs at different times due to the different abilities of individuals to recognise them, the time it takes to do so, or the usefulness attributed to recognising their goodness (and it is always a matter of evaluations linked to knowledge *that can also change, perhaps dramatically so, and not only implement itself*).

Hence, we are essentially talking of an example of that now widespread idea of political philosophy as a search for the quickest way to move from an opinion to a knowledge of things (in this case, of political things[18]), conceived of as a prelude to the possibility of

[18] One should, at this point, ask oneself how, after *The Sensory Order*, we can define

excluding, in an ergodic environment, certain individual and social choices because of the amount of foreseeable unintended consequences (on the basis of different individual experiences) in order to achieve social goals (e.g. social justice) that are deemed desirable.

This is based on the belief that the amount of coercion required to make collective choices in highly differentiated environments is greater than that required in less differentiated and more ergodic environments[19]. But while it is true that if events were ergodic even the stupidest individuals would have more time to grasp their nonetheless possible unintended consequences, what one would have to ask is whether and how such a goal (requiring a substantial reduction in individual freedom) could be achieved in a non-ergodic world.

Indeed, in non-ergodic contexts characterised by what Hayek defined as the frequent and sudden emergence of *new circumstances* as early as 1973, the difference in perception and, above all, in time in the classification of events (or 'sensory data') provokes inequalities and the increased use of coercion to achieve objectives tied to the very survival of society. And this leads one to wonder whether in such a situation the Hayekian definition of order – "*a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of proving correct*"[20] – is still useful for making predictions. Put differently, social cooperation and its advantages come to depend on the time it takes individuals to recognise the goodness of certain classifications for the maintenance over time of an order within which, in a situation recognised as non-ergodic, i.e. uncertain, they can maximise the possibility of satisfying known needs and unknown needs.

Undoubtedly, this can also be done through political decisions or

the object of *politics* and what areas it should be concerned with: that is, how to redefine *politics* in the event that (leaving aside the question of the relationship between time and circumstances) it is possible to arrive at rules/classifications through emulation and not coercion.

[19] See D.C. North, *Understanding the Process of Economic Change*, Princeton, Princeton University Press, 2005; on North see J. Marchetti, *Douglass C. North, T*orino, ibl Libri, 2022.

[20] F.A. Hayek, *Law, Legislation, and Liberty,* cit., I, p. 57.

collective choices that tend to stabilise individual behaviour and social procedures over time, the known benefits of which are at least greater than the conceivable consequences. The question 'at what cost?' remains, since in this case the evaluation of novelties would aim at the maintenance of a predictable system or the possibility of its non-traumatic evolution that still maintains the possibility, under different conditions, of improving one's condition, and thus to an ethical, economic, and political evaluation of novelties at times functional to the maintenance of positions of power.

The fact is that if all this requires a distribution of values that is only partially asymmetrical and very complementary, there can be no little reliance on the timeliness and correctness with which individuals reformulate their preferences when unforeseen conditions come about. From this perspective, it is natural that democratic electoral systems, instead of rewarding the representatives of those who think it is necessary to take up politics in order to try to reduce it, should reward the representatives of those who think they can reduce uncertainty by increasing the quantity and quality of politics, i.e. through rules that are believed to reduce those inequalities and uncertainties that are all too often themselves the product of politicians' limited knowledge. And we cannot rule out the possibility that such representatives, especially if they are in good faith, may be even more stupid than their voters.

Menger, of course, was well aware of the fact and far from denying that in the development of social institutions coercion had and could have a role and function. This function becomes even more evident when one wishes to accelerate, through organisation, the achievement of certain goals deemed desirable, natural, rational, good, etc. One might also think that the amount of coercion is directly proportional to the speed one intends to impart to events and to the lack of knowledge or consensus around the goal to be achieved and the instruments appropriate to do so. However, by isolating the attempt to satisfy needs as the wellspring of every type of human action and institution, Menger laid the foundations for the elaboration of a general theory of human action that, if it wanted to maintain the character of a universal explanation of human action and its outcomes, obviously could not be restricted to the economic sphere alone, not least because this, in his mind, existed only as an 'exact type'.

I do not mean to claim that what will be expounded here

corresponds to the spirit, let alone the letter, of the 'real Menger'. Rather, it will be taken as the starting point for a challenge that consists in asking whether, since human history is the more or less unintentional outcome of acts of exchange that must be free in order to be fully satisfactory, there can exist a form of coexistence, which in traditional language we call 'political', that is not founded on and does not operate through collective choices that project forward in time the decision of a majority, its knowledge, and its temporal preferences and expectations; of what might also be defined as a conception of the world as something that tends towards ergodicity and therefore must control the emergence of new circumstances and errors. The difficult part is achieving it! And not only in a democracy.

A development of the 'neo-Mengerian' perspective outlined above leads us to imagine the possibility of a form of political regime in which the democratic decision simply does not exist because it is useless, as well as, less importantly, immoral; and because there is nothing to ensure that, over time, that decision is and will be beneficial to the political association and its very survival. What this in fact requires is a situation in which the choice of the electoral majority could also be interpreted by all as the best choice for prolonging the needs and ideals that inspired it. This implies the existence of a necessary, *and not coincidental*, link between winning elections and knowing how to govern well. Moreover, the 'neo-Mengerian' perspective would entail questioning the relationship between political philosophy and democracy that has been established in recent decades, but also, in an even more general sense, to assert not so much that man's natural condition is that of exchange[21], and

[21] It is insufficiently known that this constitutes Menger's criticism of Adam Smith: cf. C. Menger, *Grundsätze*, cit. pp. 153-72; Engl. trans. pp. 175-90. All the critical passages from Menger's works are available in C. Menger, *Scambio, Valore e Capitale. Scritti su Adam Smith*, edited by R. Cubeddu, Torino, ibl Libri, 2019. *Human nature*, for Menger, does not consist in constant exchanging but only when one considers it necessary to satisfy one's needs. This does not exclude the possibility that these can be satisfied without exchanging with other individuals or appropriating the goods of others. That of exchange is instead, and if anything, only the best way to satisfy needs since in the first case there would be no society and in the second the quantity of available goods would decrease. In any case, these would be ways that cannot be prolonged over the long term. This is an example, certainly not insignificant, of how much the 'Austrian' theory of human action has transformed not only Classical Liberalism's conception of man but also that of philosophy in general. And from which it clearly emerges that the person who does not exchange is not

that this is the only ethical social activity when or insofar as it is not coercive, but that in the short and long term (the human lifespan as we know is not predictable!), domination is inefficient. This means, and herein lies the problem, making the individual dimension of time (i.e. the individual timeframe for the satisfaction of needs) coincide with that of political association (duration and efficiency over a time longer than that of the individual); that is, to consider that the advantages that derive from an individual satisfaction of needs through acts of free exchange are, in all circumstances, superior to those that derive from their satisfaction through coercive or expropriatory means, even when faced with individuals who, lacking a temporal dimension of a duration for the satisfaction of needs, think it preferable, because it is faster, to satisfy their needs by stealing rather than by exchange. Can force be used in these circumstances? And what, in terms of incentivized behaviours and rules of coexistence, are the consequences for individuals of the fact that the primary purpose of institutions is to ensure a duration[22] longer than that of the individual: that which is also *the primary condition for them to produce certainty?*

What we want to investigate, in short, is whether, starting from a plausible interpretation of some of Menger's and Hayek's theses, it is possible to update their liberalism by noting that

1. the attempt to defend individual freedoms through constitutions has failed;
2. that the process of differentiation accentuated by the sudden and constant emergence of novelty in an already non-ergodic world poses a challenge to any kind of order;
3. that asymmetrical distributions of knowledge in society make any hypothesis of doing without collective choices (or what is called the 'State') difficult and require forms of sharing other than those based on identity values;
4. that the relationship between liberalism and democracy is a historical union, merely contingent;

a fool, but one who thinks he can satisfy his needs in a different way, heedless of the fact that in this way he may not ensure the reproduction of what is consumed over time.

[22] Let us leave aside all practical implications regarding the evaluation of individual and social behaviour that could be inferred from assuming stability and durability as the primary character and purpose of institutions understood as producers of certainty.

5. that knowledge and individual and social expectations change faster and more unpredictably than rules can be modified to prevent their realisation from generating or accentuating situations of uncertainty and inequality;
6. that, in addition to the fact that there are no efficientistic motivations, there can be no valid ethical justification for collective choices;
7. perhaps most importantly, that the end of the widespread belief in the Last Judgement has in any case deprived liberalism (even if one understands it, and rightly so, as a political philosophy and a 'secular' ideology), of a powerful, efficient, and 'cheap' tool for shaping and moderating individual expectations and for producing that sharing of values (then substantially Christian) that, in societies characterised by identity constraints, made possible both a limited use of violence and coercion through politics, and to a certain degree the sharing of collective choices (at least in particular spheres, albeit variable in relation to changing public opinion on the identification of 'common goods').

The aim, in other words, is not a reformulation, but rather to provide an 'Austro-liberal' response to problems that are largely different from those addressed by the exponents of the Austrian School in the previous century. Updating, but also going beyond their nonetheless valuable teachings, we ultimately want to ask: (*a)* whether it is possible to interpret the process of forming the classifications of 'sensory data' or 'conceptual maps' that Hayek discusses in *The Sensory Order* as a kind of 'collective choice' that takes place by emulation and not by imposition; (*b*) whether the timescales in which this can take place are (assuming equal circumstances) longer or shorter than those in which politics arrives at decisions; (*c)* whether we should once again discard the idea that an order in which free exchanges take the place of collective choices is possible.

For this reason, one could start with a commentary on Appendix VIII of the *Untersuchungen* in which Menger departs from the Aristotelian theory of *man as a political animal* and, in some ways, develops it in an original manner. Although not fully convincing, his perspective nevertheless has the merit or interest of questioning the thesis on which Western political anthropology was founded and is based.

Here, with regard to the emergence of the main social institutions

(which are already encountered "in epochs of history where we cannot properly speak of a purposeful activity of the community as such directed at establishing them" and which to a "high degree serve the welfare of society" and its development and which are predominantly "the unintended result of social development"[23]), Menger, quoting what Aristotle writes in *Politics* ("Now if those simple unions of homes and locality are natural, then the community of citizens is also something natural [...] From this it is evident that the society of citizens, the state in its first and simple form, is to be accounted one of the works of nature, and man is a creature naturally destined and adapted to lead the life of a citizen ζῷον *πολιτικόν*"[24]) clearly also puts distance between himself and the view expressed in *Politics* that "every community is established with a view to some good; for everyone always acts in order to obtain that which they think good. But, if all communities aim at some good, the state or political community, which is the highest of all, and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good"[25]. Moreover, perhaps 'unintentionally', Menger also shows how for Aristotle the transition from the individual to the political community is 'natural', whereas he considers the process of the formation of social institutions to be 'organic-irreflexive': it *can* occur, but not necessarily. From this point of view, and although he never recalls them, his interpretation of their emergence is, if anything, akin to that of Epicurus, and in particular that of Lucretius[26]. And this is true above all if one takes into account with what it all begins: namely, *language* and *law*.

And yet, as much as he writes that Aristotle is not here speaking of man as antecedent to society, it must also be said that, by not contesting the thesis that the State is the 'natural product' of human instincts, Menger

[23] See 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, pp. 146-47.

[24] See C. Menger, *Untersuchungen,* cit., p. 268; Engl. trans. p. 221.

[25] Aristotle, *The Politics*, ed. by S. Everson, Cambridge, Cambridge University Press, 1988, I, 1 1252a.

[26] As expounded in *De rerum natura*, IV, 832ff. (on the origin of language), and V, 953-1457 (on the origin of society). For a more in-depth analysis see R. Cubeddu, *Il valore della differenza*, cit.

does not even question the thesis that man is essentially a 'political animal': a particular type of living organism that tends to solve its problems predominantly through collective decisions and choices. Put differently, Menger does not come to the conclusion that the exchange system he theorised as predating the State, in addition to the main political institutions, can also 'produce' choices other than those based on the political decision of a 'sovereign'. Or rather, perhaps he intuits this, but by not going down the road of generalising this mode of decision-making, he does not turn it into an alternative philosophical-political model to the Aristotelian one. In this way, by limiting himself to interpreting the Aristotelian quotation, he does not, in essence, reject it on the grounds that, before being a 'political animal', man is an animal that chooses and (in the ways we have seen) exchanges, and that, consequently, political or collective decision-making is only one of the modes of choice or exchange. Perhaps, depending on the historical moment one is passing through, it is the most important one, the one that most assures the survival of society and the State in times of emergency and the one that has imposed itself for its timeliness. But because of its consequences on the very principle of freedom of choice and exchange (as well as on the 'right to be different'), it cannot be considered the only one.

Consequently, just as *exchange is not the only possibility for satisfying needs but only the best*, so the 'primacy of politics' is not connected to its being 'natural', since exchange is more natural and is prior to politics, but only to the fact that in certain circumstances (but not always) it succeeds in producing a decision faster than other methods. There is thus an empirical or historical justification, but not a 'natural' or necessary one. Politics could be dispensed with or replaced by modes of decision-making that, in addition to being morally defensible in that they do not require coercion, have fewer unintended consequences. Put briefly, politics is not the inescapable condition of human life, but rather a mode whose merits and flaws must be assessed on a case-by-case basis.

And yet, if one were to consider the later exponents of the Austrian School from this point of view, one would come to a paradoxical result. In fact, and despite their anti-Aristotelianism[27], none of them considers the possibility of being able to completely dispense with

[27] See R. Cubeddu, *Il valore della differenza*, cit.

(because of their disadvantages) political choices, a perspective that, with much circumspection, only begins to show itself with Leoni. The Austrians, in essence, do not seem to perceive that, taking their own theories on exchange and the emergence of institutions as a starting point, it is possible to question the Aristotelian thesis of man as a political animal and the consequences of this assumption on the whole of Western political philosophy; so much so that they set themselves up as its canon.

In short, the problem that the political philosophy of the Classical Liberalism of the 21st century should pose is to clarify whether, in order to make reliable predictions regarding the realisability and relative costs of one's expectations, an individual – in a non-ergodic context characterised by the frequent emergence of novelties with outcomes that are only partially predictable because they are linked both to the way they might be perceived by other individuals endowed, like him, with limited and fallible knowledge and different values, and to regulations that place formal constraints on him that slowly adapt to changing circumstances – may have the appropriate tools to move from opinion to knowledge. In other words, whether, in such a situation (and leaving aside the problem of the morality of coercion and the changing nature of his knowledge and thus of his expectations), that individual can still benefit from the State and what its task is. Or whether other solutions should not be sought instead.

1. *The need for order*

One should therefore distinguish a *Spontaneous Order* from a *State*[28], i.e. a (much more capacious) organisation in which, albeit in a kind of unstable equilibrium, individual choices are substantially subordinated to political or collective ones. This subordination helps to explain the failure of democratic theory's claim to be a solution to the contrast between private and public interest[29]

[28] "Each one of the modern European States" – as beautifully expressed in the opening lines of M. Oakeshott, *On Human Conduct*, cit, p. 185 – "was the outcome of human choices, but none was the product of a design".

[29] Thucydides showed how a coinciding of individual and collective interest could only be the result of chance and fragile good fortune, of inconstant and occasional

which, as repeatedly stated, can "fatally lead to tyranny"[30].

We can summarise by saying that in a *Spontaneous Order* there is a prevalence of individual choices and in a *State* of collective choices. In both cases, however, those choices have unintended, unexpected, and undesirable consequences, even if State theorists think of it as an instrument to reduce them, thus justifying the use of coercive instruments.

Hence, if every human action has consequences, the problem that must be posed is to explain how an *order* is born and how it is affirmed (a term that will be used here in the Hayekian sense above) and to develop criteria for evaluating the various types of orders.

Today, in societies characterised by frequent innovations, by emulative processes with unpredictable timing and outcomes, and in which the 'subjective expectation of time' plays an important role in assessing the very experience of what has worked, the main limitation of this tradition is that it *nevertheless* presupposes 'certain rules'[31]. Indeed, in situations of frequent innovative changes experience seems to play a limited function in order to be able to make reliable predictions both about how innovations will distribute themselves in society and how society's consequent configuration will affect both the

circumstances: Pericles, was the first to provide an explanation of human action in terms of 'methodological individualism' and in terms of the contrast between individual and collective interest in terms of 'situational analysis': see, for example, Nicias's letters to the Athenians.

[30] J. Petitot, Liberty *and Liberalism*, in "Biblioteca della libertà", no. 205, 2012 online, p. 4.

[31] F.A. Hayek, in *The Sensory Order*, cit, argues that the classifications of sensory data serve to "describe the regularities in the world"; that "the task of science is thus to try and approach ever more closely towards a reproduction of this objective order [of the events which we experience in their phenomenal order] - a task which it can perform only by replacing the sensory order of events by a new and different classification" (8.28); and that "by saying that there 'exists' an 'objective' world different from the phenomenal world we are merely stating that it is possible to construct an order or classification of events which is different from that which our senses show us and which enables us to give a more consistent account of the behaviour of the different events in that world [...] it means that our knowledge of the phenomenal world raises problems which can be answered only by altering the picture which our senses give us of that world, i.e., by altering our classification of the elements of which it consists. That this is possible and necessary is, in fact, a postulate which underlies all our efforts to arrive at a scientific explanation of the world" (8.29). On the 'process of reclassification' see also (8.15).

formation of individual and social expectations and the model of order used to make predictions.

Therefore, since it is not *always* possible to learn from experience, and since it is not appropriate to delegate to politics the management of the emergence of novelties and the distribution of their consequences, a new answer must be given to the question of what is today "the main task of the theoretical social sciences", which Karl R. Popper, noting that "the characteristic problems of the social sciences arise only out of our wish to know the *unintended consequences*, and more especially the *unwanted consequences* which may arise if we [in a certain social situation] do certain things"[32] had identified as "*[tracing] the unintended social repercussions of intentional human* actions"[33].

The focus on unintended consequences is due to the fact that, having limited and fallible knowledge (especially with regard to the time available to realise one's goals), human beings must '*economise' time.* This can be summarised by saying that every human being – like every organism – is constantly preoccupied with the task of solving problems. These problems arise from its own assessments of its condition and of its environment, a condition which the organism seeks to improve'[34]. This, however, proving that even everything that is 'good' and 'natural' to man has unintended consequences, has two important outcomes. The first is that the time it may take an individual to acquire the knowledge necessary to achieve a goal *may* turn out to be greater than relying on chance. The second is that experience shows that the cost of organisation to achieve a goal, especially when managed by politics, is unpredictable and may outweigh the benefits to be gained.

Put differently, the attempt to facilitate the attainment of individual aims, not through Property Rights, but through the enactment by politics of laws, rules, and norms to be enforced by means of coercive instruments, crosses over with the emergence of *new circumstances* (including the changing knowledge and goals of those involved in decision-making) that induce the continual enactment of new laws and

[32] K.R. Popper, *Conjectures and Refutations,* 1963, ed. London, Routledge, 1976, pp. 125-26.

[33] K.R. Popper, *Conjectures and Refutations,* cit., p. 342.

[34] K.R. Popper, *In Search of a Better World: Lectures and Essays from Thirty Years*, 1994, ed. London, Routledge 2000, p. vii.

rules. The result (as already shown by Bernard de Mandeville and Charles-Louis de Montesquieu[35]) is that the cost in terms of time to know them all (and leaving aside the possibility and consequences of misinterpretations) *may be* greater than the damage one could receive if there were none [laws].

From here we have the opportunity of elaborating upon the other purpose of some of the exponents of the Spontaneous Order tradition (who were, however, individualists, rather than anarchists): to subordinate collective choices (assuming one cannot do without them) to individual choices, just as happens in a competitive market.

This aim could also – and perhaps should – be seen as a *new interpretation* of the aim of philosophy *tout court*: to reduce the time taken to move from opinion to knowledge without using coercion. Consequently, the link between classical philosophy and the individualistic tradition does not consist so much in the latter being the good part of modernity, but rather in providing a contribution to the solution of that perennial problem without relying on the long and unpredictable timeframes of history: *Historicism*. This does not involve some divinity but rather valorises precisely that which the classics distrusted: *catallaxy*.

From this perspective, one could observe that *if* the (antagonistic) link between religion and politics is constituted by the fact that both aspire to solve the problem of human happiness by eliminating fear and uncertainty, the solution of *Spontaneous Order* theorists is to make property rights and the market the instrument to make the coexistence of individualities possible (nomocratic order). In other words, although every action has undesirable consequences, one can exploit the knowledge generated by exchanges under conditions of freedom not

[35] See B. Mandeville, de, *An Enquiry into the Origin of Honour and the Usefulness of Christianity in War*, London, John Brotherton, 1732, p. 16: "All Human Creatures have a restless Desire of mending their Condition [...] thus Men make Laws to obviate every Inconveniency they meet with; and as Times discover to them the Insufficiency of those Laws, they make others with an Intent to enforce, mend, explain or repeal the former; till the Body of Laws grows to such an enormous Bulk, that to understand it is a tedious prolix Study, and the Numbers that follow and belong to the Practise of it, come to be a Grievance almost as great as could be fear'd from Injustice and Oppression". L. de Montesquieu, Œuvres *Complètes*, sous la direction de R. Caillois, Paris, Gallimard, 1949, I, p. 1460, pensée 1914 (725, I).

to produce happiness politically, but to reduce uncertainty and to realize spaces of individual freedom understood as 'freedom to be different'[36]. To achieve this end, those theorists think that freedom and contract (individual or social constraints freely assumed in order to minimise undesirable consequences; *but unfortunately not the unexpected ones*) are better, cheaper, and more effective tools than political obligation, coercion, and fear of eternal punishment.

For this set of reasons, in conditions characterised by a certain homogeneity and ergodicity, by trust in the market and by *Rule of Law*, catallaxy (also because it does not require coercion) is configured as the best of the '*inclusive institutions'* since it succeeds better than the others in ensuring individual freedom, competition, rapidity in the transmission of information and knowledge, social mobility, and innovation. However, those conditions may change due to the appearance of '*black swans'* in the form or exceptions to the regularities experienced or a different mentality inclined towards regulation rather than unplanned growth. Put differently, the mentality which solves the problem of scarce resources versus unlimited ends by moderating the ends on the basis of political, religious, ethical, and environmental arguments, and also using these to evaluate the ways in which goods are produced, distributed, and consumed. Black swans can thus prompt improvements in the system, but also undermine it by increasing internal conflict.

The issue of the emergence of ideas that can jeopardize the existence of a *Great and Complex Society* – that is, of 'inclusive institutions' substantially based on *property rights* – is an issue of great importance that has been left aside also because, as mentioned, it is connected to two of the cornerstones of liberal-individualist culture: freedom of thought and the principle of tolerance. Coase, as we have seen, summarised the issue by writing that Western political culture is to a large extent characterised by the belief that the state can (and, for some of its exponents, *should*) take care of the distribution of goods and be indifferent to that of ideas. Hayek himself was fully aware of this, so much so that he wrote, recalling Edward Gibbon, that "moral and religious beliefs can destroy a civilisation", and that "the prevailing

[36] See F.A. Hayek, *The Fatal Conceit*, London-New York, Routledge, 1988, p. 79.

belief in 'social justice' [a quasi-religious superstition; the pretext of coercing other men] is at present probably the gravest threat to most other values of a free civilisation"[37].

By spreading the 'fatal conceit' of a solution of the economic problem by political means, and by setting ethical standards, religion and politics in fact place constraints on the market because they claim to manage innovation and growth in a way that does not challenge their rents of position[38]. They place constraints on the growth of knowledge (which they do not actually produce) because those standards are generally redistributive: which, beyond the ethical and political justifications given, actually maximises the function of politicians in the 'extractive allocation' of resources, reduces individual incentives, and discourages innovation. Growth is thus seen as something that reduces the ability of politicians to justify themselves as distributors of scarce goods or, maintaining the thesis that the market is inadequate to the task, at least with the urgency that may sometimes be required, as producers of public goods[39]. The basic idea of the 'interventionists' (even when motivated only by ethical-distributive motivations) does not take into account the fact that, as Coase writes, by configuring itself as a normative source capable of coercively altering the costs, incentives, and choices of individuals, the State turns into a source of uncertainty since it alters the principle on which the rule of law is based[40]. Interventionism thus seems

[37] See F.A. Hayek, *Law, Legislation, and Liberty,* cit, II, p. 265. On Hayek's critique of social justice see A. Mingardi, *Contro la tribù. Hayek, la giustizia sociale e I sentieri di* montagna, Venice, Marsilio, 2020.

[38] If money is materialised time, by appropriating the money of individuals with reference to different excuses, politics in essence takes time away from them.

[39] In F.A. Hayek, *Law, Legislation, and Liberty,* cit, II, pp. 6-7 old ed., Hayek speaks of collective goods as "those services which can be rendered only to all the members of various groups" but specifies that although "the existence of an apparatus capable of providing for such collective needs is clearly in the general interest, this does not mean that it is in the interest of society as a whole that all collective interests should be satisfied". He, in short, identifies them with institutions and with those negative, abstract and universal rules, which, however, not being universally 'given', cannot be taken as a criterion of reference to express a judgement on the capacity of rules to satisfy subjective expectations, and distinguishes them from those goods that the majority considers to be of 'collective interest' for society as a whole, thus highlighting how most of the time there is a tendency to define as of general interest simply that which the majority considers as such.

[40] See R.H. Coase, N. Wang, *How China Became Capitalist*, New York, Palgrave Macmillan, 2012, p. 194.

to consist in the belief that only through politics is it possible to reconcile both growth and innovation (i.e., increases in knowledge that can be subject to considerable variations) with the maintenance of a system of ideas that should guide growth towards an alleged *telos* (teleocracy). In this perspective, it is possible to understand *The Road to Serfdom* as a study on the diffusion of ideas about the advantages, if not the necessity, of the transition from a society characterised by 'inclusive institutions' to one characterised by 'extractive institutions'[41]. The fact that his thesis was debased by the criticism of those who had an interest in concealing the affinity of his ideas with those of communist and national-socialist totalitarianism, stunted the dissemination of the Austrian theory of social sciences[42], and suggests we should pay attention to what determines the success of certain ideas and theories.

By entrusting the reduction of scarcity to knowledge, the market, innovation, and emulation, the merit of the individualistic solution is thus that it requires less coercion than *any* policy of allocating scarce resources. But investigating the conditions under which catallaxy thrives also involves asking how much *difference* a system can tolerate in order to function at its best: that is, *whether* there is a distribution of time and knowledge that can favour it. Indeed, if homogeneity is sterile, excessive diversity causes high transactional costs and paralysing conflicts that, by producing uncertainty, reduce incentives to improve one's situation.

[41] See D. Agemoglu, J.A. Robinson, *Why Nations Fall*, London, Profile Books, 2012, who, on p. 216, write that "without a centralised State to provide order and enforce rules and property rights, inclusive institutions could not emerge".

[42] On the originality and fruitfulness of Hayekian theories on complex orders see D.C. North, *Understanding the Process of Economic Change*, Princeton, Princeton University Press, 2005, p. 32. On Hayekian influence on 20th century economic and political theory, in addition to the classic biographies of B. Caldwell, *Hayek's Challenge. An Intellectual Biography of F.A. Hayek,* Chicago-London, The University of Chicago Press, Chicago-London 2004, and A. Ebenstein, *Friedrich Hayek. A Biography,* New York, Palgrave-St. Martin Press, 2001, see at least, J. Shearmur, *Hayek and After*, London-New York, Routledge, 1996; N. Wapshott, *Keynes - Hayek: The clash that defined modern economics*, New York-London, W.W. Norton & Company, 2012 and A. Mingardi, *Contro la tribù*, cit.; the volume by Y. Wasserman, *The Marginal Revolutionaries: How Austrian Economists Fought the War of Ideas,* New Haven, Yale University Press, 2019, presents caricatures and exaggerations that limit its usefulness.

Riassunto - Il proposito del saggio è quello di trovare una risposta al fatto che, pur avendo dominato la scena intellettuale del Liberalismo classico per buona parte del '900, la Scuola Austriaca, dopo la trilogia di Friedrich A. von Hayek, *Law, Legislation, and Liberty*, del 1973-79, non abbia prodotto niente di ugualmente sistematico ed innovativo. Per lo meno dal punto di vista della filosofia politica. A distanza di oltre due decenni dall'inizio del nuovo millennio, e nonostante gli straordinari cambiamenti avvenuti in ogni ambito della vita umana, si avverte così la mancanza di un'opera di filosofia politica che per lo meno si chieda (lasciando agli storici la rievocazione dei suoi fasti e dei suoi fallimenti) se la tradizione liberale abbia ancora un senso e una funzione in un mondo così diverso da quello conosciuto dai suoi grandi esponenti. E questo induce ovviamente a chiedersi se la general *teoria generale dell'azione umana* che gli esponenti della Austrian School elaborarono sulla base della *teoria dei valori soggettivi* conservi il proprio valore esplicativo in un mondo in costante cambiamento.