

Hayek and the Institutional Turn in Political Economy

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Abstract: Throughout his career, F. A. Hayek made incisive contributions to the disciplines of technical economics, legal theory, psychology, political theory, and political economy. With such a range of scholarship, it may be difficult to know where to start with Hayek. Is it possible to tie these various strands of scholarship together? In this essay, we propose that a commonality can be located. Specifically, we focus on Hayek's works that touch on political economy and social theory—most notably *The Road to Serfdom* (1944) and *The Constitution of Liberty* (1960). We argue that Hayek's work in political economy can fruitfully be read through the lens of *epistemic institutionalism*—a term developed by Peter Boettke in his 2018 book on Hayek. Boettke (2018) posits that the common thread underlying all of Hayek's work was his emphasis on the institutional environment within which learning, knowledge generation, knowledge communication, and social cooperation are allowed to thrive. We show that this rendering is especially relevant for *The Constitution of Liberty* and that, upon the 65th anniversary of its publication, the book still has many insights to offer political economists as well as challenges for modern critics of liberalism that have yet to be met.

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I. INTRODUCTION

Academic legend has it that James Buchanan would ask students and colleagues a peculiar question. Effectively, Buchanan would challenge scholars to think about who they were writing for—readers a year from now, readers five years from now, or readers one hundred years from now. For many academics, the temptation to write for the adulation of their immediate peers is overwhelming. After all, it is only natural for us to respond to incentives and chase publication in top journals or with top academic presses. In most cases, this means going with the fashionable disciplinary methodologies and restricting ourselves to the types of questions those methodologies deem important. To Buchanan, this short-sightedness was lamentable. Instead of chasing popular trends, his counsel was to select the third option and write for generations yet-to-come.

Friedrich Hayek needed no such encouragement. His contributions to economics (Hayek 1937, 1945), political science (Hayek 1944), social theory (Hayek 1991), and legal scholarship (Hayek 1973) are legion. But special consideration should be afforded to his wide-ranging entry into political philosophy—*The Constitution of Liberty* (1960).¹ Bruce Caldwell notes in his editorial introduction to *CoL* that many Hayek

scholars think that the work is Hayek's most influential writing (Hayek 1960, p. xi). Though this special issue marks only the 65th anniversary of its publication, the book is surely one for the ages. We have little doubt it will remain a source of criticism, debate, and inspiration for decades to come.

At first glance, the previous list of Hayek's academic forays may give the impression of a scholar who moved from discipline to discipline. While certainly not an intellectual dilettante, this reading of Hayek yields the interpretation that he started off as an economist, but later became someone who was more interested in politics and political philosophy. A perceived discontinuity reveals itself: the early Hayek was a thinker who devoted his energies to macroeconomics (Hayek 1931, 1941) and the theory of the market order, especially as it related to the generation and communication of knowledge (Hayek 1937, 1945). Mid-career Hayek, by contrast, became fixated on the elucidation of liberal principles (Hayek 1945, 1960) and later law and evolutionary theory (Hayek 1981, 1988). This depiction of Hayek's work paints a picture of someone who had abandoned the field of economics and ceased to be one of its leading practitioners (Ebenstein 2003; Gamble 2013).²

This paper cautions against this view of Hayek. We argue the opposite—Hayek *always* remained an economist, though one who, through no fault of his own, was out of step with the “mainstream” economics of his time. At the risk of bluntness, Hayek was a leading figure in the move to create what can be described as a *genuine* institutional economics. He was not just an academic who was comfortable *within* the discipline—he was a thinker who advanced ideas which cut at the very core of economic theory, and when read in the right way, was foundational in a way that few others could be.

Contra the notion that Hayek's oeuvre can be divided among separate disciplines, we posit that his economics is the unifying theme of his career. Specifically, we advance an argument in line with Boettke's idea of *epistemic institutionalism* (Boettke 2017, 2018).³ The crux of our case is this: all of Hayek's scholarship can be read as consistently and persistently centering the role that the institutional environment plays in facilitating social learning as well as the generation, communication, and transmission of knowledge. The payoff for Hayek is that within the right institutional configuration, social cooperation and prosperity become possible. Key to this institutional configuration is the presence of property rights, prices, profit-and-loss accounting, and (most germane to this paper) the stability and predictability engendered by freedom under the law (commonly known as the *rule of law*, though confusions with this terminology do abound).

An emphasis on Hayek's institutional economics and the importance of knowledge and coordination is not novel by itself. As we have mentioned, our approach extends an extant branch of Hayek scholarship (epistemic institutionalism) and is complementary to other works on Hayek.⁴ However, our paper is unique in that it focuses this lens of analysis on *The Constitution of Liberty*. To our knowledge, we are the first researchers to specifically home in on this reading of the book. Thus, our contribution is suited for a volume celebrating *CoL* and advances the frontiers of Hayekian scholarship in its own right.

Our essay proceeds as follows. First, we recount the importance that institutions play in the Mises-Hayek contribution to the socialist calculation debate. We highlight the importance of epistemic issues in Hayek's technical economics, and demonstrate how these fit within the theme of *epistemic institutionalism*. Second, we show how Hayek's epistemic institutionalism can be used to fruitfully interpret his arguments in political economy, especially in *The Constitution of Liberty*. Next, we make that case that Hayek's epistemic institutionalism is a useful input for other research programs in economics—especially public choice theory. In many ways, James Buchanan undertook an institutional turn of his own with his exhortation that economists should study exchange and the institutions within which exchange takes place (Buchanan 1964). However, differences remain in the extent of Hayek's institutional turn as compared to Buchanan's, meaning there is still much room for cross-pollination between market process and public choice paradigms. Fourth, we situate *The Constitution of Liberty* in current debates about the future of liberalism, especially considering the rise of what has been called “post-liberal” scholarship (Deneen 2018, 2023.) Notably, Hayek's epistemic liberalism is not confronted by liberalism's modern critics, which means

that they ignore some of his most important challenges. Finally, we offer some concluding remarks on the enterprise.

II. THE SOCIALIST CALCULATION DEBATE: INSTITUTIONAL REDUX

Hayek's association with Mises began in the early 1900s. While a student at the University of Vienna, Hayek had taken a class with Mises, but found himself dissatisfied with the latter's far too strident (for Hayek's taste) critiques of socialism. However, this changed with Mises' 1922 publication of his treatise *Socialism*. After this, Hayek became a regular attendee at Mises' private seminar. This relationship was augmented by the fact that Mises had hired Hayek as a government employee in an office dedicated to addressing the pre-war debts of nations post-WWI (Boettke 2018, pp. 17-18).

For our purposes, what is most important is the role Mises and Hayek played in the socialist calculation debate. Mises and Hayek—along with Lionel Robbins, who helped facilitate Hayek's eventual hiring at the London School of Economics—provided the core of a theoretical argument which established the impossibility of central planning under socialism. While their argument was never fully grasped by their socialist interlocutors,⁵ it is crucial to note that the line of attack used by Mises/Hayek/Robbins was remarkably consistent. As we endeavor to show, the epistemic nature of market institutions was always in the foreground of the Austrian response.

The origins of the socialist calculation debate began in 1920 with the publication of Mises' *Economic Calculation in the Socialist Commonwealth*. Succinctly, Mises presented the definitive case that rational economic calculation was rendered impossible by socialist systems. Because socialism called for the abolition of private ownership of the means of production, this meant the existence of markets for the means of production was no longer viable. Without the rivalrous competition engendered by such markets, no monetary prices for the means of production would emerge. Absent these monetary prices, socialist planners had no way to engage in rational economic calculation—that is, they had no way of sorting economically rational production processes from the set of technologically feasible ones (Mises 1920; Lavoie 1985; Boettke 1998).

Consider the following example. Imagine that both platinum and steel can be used to build bridges, and for the sake of argument grant that platinum is the superior material from an engineering standpoint. Does this mean it makes economic sense to build bridges from platinum? Clearly not—the answer to that question depends on the alternate uses of platinum. It is more likely that platinum has a higher-valued use than bridge building, and it would make more economic sense to allocate it towards those employments instead of bridge construction. The Misesian argument establishes that absent monetary prices predicated on private property rights and rivalrous markets, central planners will not be able to answer the question as to whether platinum was better used for other pursuits instead of bridges. Sorting the economically efficient possibilities from the technologically feasible ones becomes an impossibility.

To fully understand Mises' move, one must be aware of the intellectual context in which he was operating. When Mises was responding to the specter of central planning, he had in mind the line of argument which was most heavily influenced by Marx. The Marxian conception of central planning called for the complete collectivization of the means of production *and* the elimination of money prices. This explains Mises' emphasis on the importance for money prices—he was responding to a stylization which advocated for their complete removal (Lavoie 1985, p. 50).

However, one must not lose the essential thread of Mises' contention. He is not an equilibrium theorist, arguing that market prices play a simple *informational* role which is necessary for the equilibration of demand and supply factors. Instead, Mises is advancing a more subtle and sophisticated claim: the price system is invaluable because it plays a *coordinative* role which gradually brings the expectations and plans of market participants into alignment with each other. The argument is fundamentally an *institutional* one: foundational to Mises' theory is the recognition that prices require competitive markets, where competition is understood as a rivalrous and dynamic process in contrast with the antiseptic vision of perfect

competition advanced in neoclassical theory. Rivalrous competitive markets cannot exist without certain institutional prerequisites, with secure private property rights being first among these.

As intimated, Mises was not the only scholar to respond to the advocates of planning. After his initial essay, the argument put forth by the socialists began to shift. The next phase of the debate centered on the contributions of Oskar Lange and the market socialists. Having failed to apprehend Mises' argument, the market socialists contented that Mises had not established the impossibility of central planning. It is at this point when Hayek and Robbins entered the debate.

Initially, Hayek and Robbins were erroneously perceived to have given up ground from the original Misesian position. The market socialists read Hayek and Robbins as conceding the theoretical possibility of central planning, and instead focusing their efforts on the impracticality of economic management.⁶ In reality, it was the market socialists who advanced a different strand of argument, having abandoned the strictly Marxian variant of planning that Mises was responding to. The Lange-era socialists instead embedded their theory in neoclassical economic language. The thought was that modern advancements in economic theory would enable central planning boards to devise a more efficient use of resources compared to the competitive market solution. Effectively, economic theory gave experts the tools they needed to replace the outmoded machinations of the market.

Under Lange's vision, planning would only take place in the market for capital goods—markets for consumer goods and labor services would still be allowed to function as “normal.” For capital goods, though, prices would be set by a central planning board with the end goal being to equalize supply and demand. Plant managers would be instructed to do two things: produce to minimize average cost, and use the prices set by the planning board in their decisions. If the initial prices picked by the planning board were not the “correct” equilibrium prices, they would simply be adjusted through a process of trial-and-error until the correct vector of prices had been settled upon (Lavoie 1985, p. 130).

Hayek's response was to reiterate the purpose of market institutions and their epistemic properties—an example of what we have termed Hayek's epistemic institutionalism, *par excellence*. In a series of essays, (Hayek 1937, 1940, 1945) Hayek demonstrated that the market socialists erred in assuming that the conditions required for market equilibration already existed. If one were to assume that the requisite information, preferences, and knowledge of additional production techniques were given, then determining the optimal production of resources is a relatively simple mathematical exercise. However, Hayek is emphatic that the economic problem societies confront is *not* of this nature (Hayek 1945, p. 519). Instead, the knowledge which is necessary for “optimality” never can exist in one place. The real economic problem confronted by societies is to determine how dispersed and localized knowledge can best be made use of.

Hayek's conclusion is no surprise for any of his more seasoned readers. Hayek emphasizes that these questions of knowledge are the very reason why the price system—founded upon the institutions of property and the rigor of profit and loss—is of the utmost importance. Market institutions are the only way that this knowledge can be discovered, generated, and communicated. The real action for economists, as Hayek argues in his 1937 essay *Economics and Knowledge*, is to focus on improving our understanding of the ways in which knowledge is acquired and communicated (Hayek 1937, p. 33). Though he does not spell it out, Hayek's implication is clear: we are once again encouraged to bring institutions from the analytical background to the analytical foreground when we are doing economics. Institutions, instead of being assumed to exist and going unexamined, are given prominence and assume center stage in our studies.

III. THE EPISTEMIC TURN AND *THE CONSTITUTION OF LIBERTY*

Despite the force of their arguments, Mises and Hayek were not judged to have decisively refuted the case for central planning. While the reasons for this perception lay more with the economic mainstream's inability to grasp the centrality of institutions in the Austrian critique, the result was clear: economic planning remained a live research topic, and many economists expressed faith that eventually expert-led planning would be able to outperform market outcomes. This, combined with the emerging neo-Keynesian

consensus and the rise of economic formalism fueled by economists like Paul Samuelson and his 1948 textbook *Economics* left economists like Hayek somewhat outside the mainstream of economic trends (Boettke 2012, p. 53). These developments contributed to the assessment that the next phase of Hayek's career amounted to an abandonment of economics.

This view misses the mark. Even in what were believed to be his more “political” works like *The Road to Serfdom* and *The Constitution of Liberty*, the institutional roots of Hayek's economics are evident. *The Road to Serfdom*, for example, has often been interpreted as a polemic which only has relevance for the 1940s. These readings claim that Hayek's central thesis was that even a modicum of government intervention would place societies on an irreversible path to authoritarianism—that is, Hayek was positing the existence of a slippery slope towards totalitarianism for liberal democracies.

However, Hayek's case is more accurately viewed as an institutional one, with roots in Mises' initial formulation (Boettke and Candela 2017.) The point of *The Road to Serfdom* is that the attempts to surmount the Misesian argument require the weakening and even abolition of key liberal institutions like the rule of law. The internal contradictions within socialist planning present a situational logic in which the institutions of liberal democracy cannot hold. The resultant outcomes are ones that would horrify the well-intentioned advocates for socialist planning, and lead to a devastating concentration of power in the hands of autocrats. Effectively, there is an institutional incompatibility between the rules needed to sustain democracies and the powers required to engage in comprehensive economic planning. In the final analysis, pursuing central planning erodes liberalism, resulting in the latter's perversion and ultimate destruction. One is left with an outcome in which there is no democracy, and no economic coordination. Liberalism and market order must be taken together: they cannot be institutionally separated.

While *The Road to Serfdom* is properly read as an immanent critique of socialist logic, *The Constitution of Liberty* takes a bite at the institutional apple from another angle. Hayek's goal in *CoL* is to provide an updated restatement and defense of the liberal project for a modern day and age—as he writes in the very beginning of the book, “If old truths are to retain their hold on men's minds, they must be restated in the language and concepts of successive generations” (Hayek 1960, p. 47). Hayek was not ignorant of the political and economic fashions of his era: he recognized that liberal ideas had reached a nadir. If anything, the key features of the liberal tradition were seen as intellectual stumbling blocks, which prevented enlightened experts from rationally reconstructing our social orders (Hayek 1960, p. 86).

Of moment for our essay is the *way* in which Hayek situates his defense of liberalism and liberty. For Hayek, the argument for liberty is not rooted in terms of fundamental natural rights. Instead, Hayek takes the position that the liberal order can be justified on epistemic grounds. Functionally, Hayek views the advancement of civilization as being predicated on the existence and maintenance of institutions which allow the individual to benefit from knowledge it is impossible for them to fully grasp (Hayek 1960, p. 73).

The takeaway for Hayek is this: the institutional configuration which allows mankind to best surmount these epistemic hurdles and lead to widespread social cooperation is what we know as liberalism. The title and subject of *CoL*'s second chapter—“The Creative Powers of a Free Civilization”—reveals Hayek's hand. A society which exists within a framework of abstract, general, and non-discriminatory rules comports with Hayek's definition of a free society. And it is *only* these types of societies which can support the existence of the spontaneous orders which allow us to enjoy prosperity that our ancestors could have never imagined. The case for liberalism does not rest on political philosophies—instead, it is epistemic in nature. And the source of its epistemic strength lies in the abstract and general rules we have just mentioned—Hayek's conception of “freedom under the law” or, as it is more commonly known, the rule of law. If anything defines liberalism for Hayek, it is the existence of this rule of law.

Key to understanding Hayek's conception of liberalism is his definition of “liberty” and how this relates to the rule of law. In the beginning of *CoL*, Hayek defines liberty as a situation where one is free from the arbitrary coercion of another (Hayek 1960, pp. 57-58). Effectively, one is considered “free” by Hayek's lights if they can make choices and execute their plans through their own volition, instead of being treated as a means towards another's ends. This idea of liberty is part and parcel with Hayek's conception

of the rule of law. The second part of *CoL* is dedicated exclusively to the history and the importance of the rule of law in liberal thought. The way that Hayek discusses the rule of law is instructive, and key to his entire enterprise. It is not an exaggeration to say that the predominance of the rule of law is the defining feature of Hayekian liberalism, and it is this idea that Hayek defends the most forcefully.

Hayek contrasts the rule of law with the organization of society through “specific and regular commands” (Hayek 1960, p. 217). Commands – the likes of which would be required in a centrally planned economic order—differ from the rule of law in that they require the one following the command to become a tool for whoever is issuing the command. Another way of putting it is that a society organized by command necessarily violates Hayek’s definition of liberty in that commands coerce individuals into obeying the whims of others. Widespread commands therefore become incompatible with a liberal regime.

Crucially, Hayek expresses the benefits of the rule of law versus commands in terms of the epistemic properties possessed by the former. An “ideal” command dictates what an individual must do, or in a more narrowly economic sense, what they must produce and for whom. This renders the subject of the command incapable of making use of their unique knowledge or acting in accord with their expectations for the future (Hayek 1960, p. 218). This knowledge need not be explicitly recognized by the one who holds it—by restricting someone’s liberty, a command also precludes them from acting upon or communicating the tacit and inarticulable knowledge they may possess. A society or an economic order based on centralized command quashes the use of localized and particular knowledge, making widespread coordination that much more difficult. This same centralizing impulse may be damaging to other engines of progress as well. Polanyi (1941, 1967) argues that the attempt to “plan” scientific advancement, or to make it subservient to the whims of the state, do irreversible damage to the scientific process itself. Instead, the ability to act as one wishes when channeled through a set of institutions which result in societal benefits—what Polanyi terms “public liberty” (Polanyi 1941, p. 438) is indispensable. The value of institutions, and the ability to have autonomy in broad spheres of one’s life, is not just relevant for economic coordination.

An order founded on the liberal rule of law, on the other hand, does not suffer from such drawbacks. Instead of requiring certain types of action, the rule of law as Hayek conceives it still enables an individual to make use of their knowledge—they are left with the latitude to act in the manner that they see fit. Thus, rules as contrasted to commands do not substitute the knowledge of the commander for the commanded. Liberalism therefore makes space for those living under it to make use of and communicate their epistemic insights.

The rule of law has a second advantage from an epistemic perspective. While the rule of law gives individuals wide scope to act upon their unique knowledge and expectations, it also gives a level of *predictability* to their actions. Laws, rightly conceived, help to align the expectations of individuals—that is, they give us some assurance about what the consequences of our actions will be and what can expect from others. Consider a general norm around the voluntary transfer of property, akin to David Hume’s emphasis on the importance of “transference by consent.” If I am secure in the expectation that my property will not be alienated from me absent my express agreement, I will feel that much more comfortable in engaging in productive activity. I have some level of awareness of what I can expect from others, which enables the advanced material production necessary to support our modern world. Finally, law—as contrasted with constructivist legislation—has the added advantage of containing knowledge that human beings may not intuitively grasp. It is eminently likely that the rules we followed developed the way they did for a reason: by following them, we experienced greater levels of success at the group level which allowed for our success relative to groups who followed different rules (Hayek 1991).

The Constitution of Liberty is an enormous intellectual undertaking, and any summary we give in this paper will not give the book the justice it is due. Yet, we are hopeful that we have highlighted what is at the core of Hayek’s liberalism: the acceptance and application of the rule of law, by which Hayek means general and abstract laws which apply equally to all who live under them. In Hayek’s liberalism, there is no space for laws that exhibit either discrimination or dominion, but the reason for his opposition to these laws is unique. When viewed through the lens of epistemic institutionalism Hayek’s arguments in *CoL* are given

a newfound clarity and brought back into conversation with his earlier work in “technical” economics. At the risk of belaboring the point, for Hayek, the rule of law is indispensable because it prevents some individuals from running roughshod over the knowledge and subjective expectations of others. It ensures that individuals have the room required to act upon their unique knowledge, and when combined with other institutions like well-defined property rights and the discipline of profit and loss, it allows for this knowledge to be continually generated, renewed, and communicated in a form that is usable by all individuals (Hayek 1960, pp. 224-225).

IV. THE INSTITUTIONAL TURN IN POLITICAL ECONOMY, VIRGINIA STYLE

At this point it may be worth taking stock of our argument. In the previous sections, we have maintained that Hayek’s intellectual path of travel can best be described as institutional in nature. Hayek always remained an economist, but one who clearly articulated the importance of institutions in leading to plan coordination, economic cooperation, and prosperity. In his professional relationships, he can be viewed as a thinker who had to constantly remind the greater discipline that a society’s institutional infrastructure cannot be taken for granted.

Hayek’s position was, sadly, an exceptional one given the prevailing methodological trends in the mainstream. However, later political economists would take institutional turns of their own, reminding their contemporaries that the rules of the game could not just be “assumed” to exist. Few economists exemplify this better than James Buchanan, who made his own institutional turn through his work in public choice and constitutional economics. To Buchanan, economists should not just be content with studying how individuals make choices within a given set of constraints. Instead, the constitutional project he advocated for implored researchers to think about how the very constraints we live under were developed and chosen. Effectively, the venture Buchanan embarked upon in *The Calculus of Consent* was to take the standard behavioral assumptions economists worked from and use them to show the logic of the constitutional order (Buchanan and Tullock 1962). Skillfully used, the economic way of thinking could re-center the importance of institutions in political economy.

It is tempting to view the Austrian and Virginia critiques of the government as being advanced along two different lines. As noted, Mises and Hayek were content to grant the assumption of benevolence on the part of socialist planners. The power of their argument hinged on their demonstration that even individuals with the *very best* of intentions would fail when it came to economic planning, simply because the epistemic burdens were insurmountable. Public choice economists, by contrast, could be seen as pushing on the assumption of benevolence. In the standard formulation, the assumption of behavioral symmetry is what makes public choice unique: we assume, for analytical purposes, that the individual in the marketplace and the individual in the voting booth are one and the same.

This strain of public choice theory is easy to identify—when defending their “economic” approach to rules in *The Calculus of Consent*, Buchanan and Tullock explicitly make note of the fact that it is impossible to deny the role self-interest plays in human affairs (Buchanan and Tullock 1962, p. 27). In market contexts, this self-interest is institutionally mediated in such a way as to result in social benefits. When contrasting profit-seeking with rent-seeking, for example, Buchanan notes that the impulse to maximize one’s utility is the same in either context (Buchanan 1980/1999). The difficulty is that in the political realm, institutions are much less likely to be designed in a way to temper or even harness the rapaciousness of self-interest. This is one plausible reason for making use of the self-interest assumption when thinking about constitutional rules: in line with Hume’s admonition, if you consider all men to be knaves, you may be effective in designing a set of rules which can constrain that knavishness.

To be clear, this perspective is an important one for political economy. Before public choice, the benevolence of political actors was rarely brought into question. The emphasis on institutions—especially the *incentives* they provide to government agents—was welcome indeed. But from a social scientific perspective, it is important to note the way in which institutions are being treated here. In this formulation of

public choice, institutional analysis is subsumed within the neoclassical paradigm: to the extent we focus on institutions, it is so we can minimize the negative social outcomes that result from the utility-maximizing choices of rational individuals.

To give an example, contrast the treatment of *generality* in Hayek and Buchanan. In *The Constitution of Liberty*, general rules of conduct are justified in terms of their epistemic properties. “Knowledge” enters Hayek’s defense of these rules in three ways. First, the existence of commonly accepted *general* rules allows individuals to know what sorts of behavior they can expect from other individuals. Second, the rules themselves—as products of an evolutionary process—*embody* knowledge that we may not be able to articulate.⁷ Third, and perhaps most importantly, general rules leave significant scope for the individual to make use of their localized, and at times inarticulable, knowledge. One can think of general rules (the rule of law) as *knowledge preserving* institutions: largely, they give individuals the necessary space where they can make the fullest use possible of their knowledge, and through market institutions, translate that knowledge into a form others can benefit from (Hayek 1960, pp. 224-225).

Buchanan recognizes the importance of generality as well. Alongside Roger Congleton, Buchanan develops a book-length treatment on the importance of general rules in *Politics by Principle, Not Interest* (Buchanan and Congleton, 1998/2003). Buchanan’s worry is that in democracy, two pathologies manifest themselves: majoritarian instability and widespread rent-seeking. In a democratic context where the winners can obtain “discriminatory” policies which benefit their ingroups and impose costs on outgroups, these two pathologies will be at their worst. Collective decision-making will be result in unstable democratic cycling, where different groups invest resources into vying to capture the state apparatus to obtain such discriminatory policies. On the other hand, groups will also engage in tremendous amounts of rent-seeking, not just to obtain benefits, but to defend themselves from predation when they are not in the majority (Buchanan and Congleton 1998, p. 86).

Suffice to say, such an arrangement generates enormous costs. Buchanan’s answer to this morass is the acceptance of what he terms a generality norm—essentially, a rule or norm which prohibits the implementation of discriminatory policies or programs. Effectively, a norm of generality requires that programs apply to and impact all individuals equally. In a very real sense, what Buchanan is advocating for is an extension of the rule of law into politics. While this is slightly different from the way the rule of law is deployed in *CoL*, the argument remains in favor of broad, general, rules. For Buchanan, generality eliminates what he refers to as the off-diagonals in his game theoretic construction, and significantly reduces the harms that come from cycling and rent-seeking (Buchanan and Congleton 1998, p. 51).

What is noteworthy here are the different ways in which the idea of generality is used. To reiterate, both scholars see the importance of generality, but for different reasons. To Hayek, the benefit of rules that exhibit generality is the epistemic properties they exhibit—*epistemic institutionalism* is at the core of the argument. But for Buchanan and Congleton, the focus is squarely on incentives. A norm of generality reduces the incentive to invest in wasteful rent-seeking and ameliorates the costs generated by unstable majoritarian cycling, with control of the state careening back and forth to serve one group at the expense of the others. The institutional turn introduced by public choice reasoning is illuminating, but not because it emphasizes matters of knowledge and coordination. To put it somewhat crudely, it is incentives all the way down.

We do not want to be overly harsh on Buchanan’s flavor of public choice. If anything, Buchanan fought against a version of public choice that was simply a more rigorous application of neo-classical thinking. Instead, Buchanan was interested in how individuals could use institutional craftsmanship to engender widespread cooperation (Boettke 2018, p. 241). However, it was not Buchanan who would fully carry out this institutional turn. The work of Elinor and Vincent Ostrom, which sought to uncover the learning functions of different sets of rules, were most in line with Hayek’s brand of institutionalism. By considering the different performance properties of institutions in terms of their usage of knowledge and potential for learning/error correction, the Ostroms came closer than anyone to Hayek’s paradigm of *epistemic institutionalism* (E. Ostrom 1968, 1990; V. Ostrom 1993).

Hayek's emphasis on knowledge and institutions has also found an audience outside of political economy. In political philosophy, Elizabeth Anderson has explicitly used Hayekian themes in her work on institutional epistemology (Anderson 2024) and the epistemic properties of democracies (Anderson 2006). The late Gerald Gaus made Hayek a lynchpin of his examinations of liberalism and its ability to grapple with complexity and diversity, especially as it pertains Hayek's writings on the "Open Society" and what was required to maintain it (Gaus 2016, 2022). Further efforts to apply concepts from Hayek's epistemic institutionalism may further both research programs, and present unique opportunities for Hayekian scholars to contribute to them fruitfully.⁸

For the political economist, it is very useful to treat Austrian and Virginia perspectives as two sides of the same coin. Both treat institutions as their analytical focus, but the way they view institutions can differ dramatically. A variety of constitutional economics that evaluates the rules of collective choice by Hayekian lights represents a significant leap forward in our understanding of the rules level of analysis. Marrying Hayek's *epistemic institutionalism* with the traditional remit of public choice economics is an exceptionally promising research area. We remain convinced that immense progress can be made through cross-pollination of the existing programs, as Hayek's insights aid in our study of topics within the traditional remit of public choice adjacent theorists.

V. NEW CHALLENGES FROM NEW DIRECTIONS

It is our hope that this essay has helped forward the case that reading *The Constitution of Liberty* is more than an exercise in intellectual archaeology. Considering *CoL* in the context of Hayek's larger project can help us better understand the different strands of Hayek's argument, as well as augment the work being undertaken by parallel research programs, such as the Virginia and Bloomington Schools. However, the final point we want to touch on is that the Hayekian defense of liberalism is still as important today as it was in the 1960s. While liberalism's specific discontents have changed, the force of Hayek's arguments have not diminished. To the extent that liberalism's detractors do not engage with Hayek on his own terms, they court the same errors as the market socialists. Dispensing with liberal institutions can rob us of the epistemic bounty they provide us with, even if institutions like property rights remain intact to some degree.

While a perfect mapping is impossible, it would not be unfair to characterize Hayek's interlocutors as emerging from the political and economic left. Progressive ideologies of the day placed extraordinary faith in the ability of human reason to not only rationalize the unstable anarchy of capitalist production, but also to reconstruct the seemingly *irrational* practices and beliefs of human morality (Hayek 1952, 1988). In *The Constitution of Liberty*, Hayek ties the decline of the rule of law in the West to this impulse. He notes that many of liberalism's opponents contend that the rule of law is incompatible with planning in that the older conception of the rule of law prevents modern experts from doing what must be done to result in economic and social progress (Hayek 1960, pp. 358-359). Old institutional safeguards were obliterated to make space for a muscular administrative state to exercise strict discretion. From Hayek's perspective, the difficulties with this transformation should be apparent: by ascribing the state broad powers in the economic realm, the knowledge of experts is allowed to trample upon and replace forms of localized and dispersed knowledge. The decline of the rule of law is an institutional degradation which in the long-run will rob societies of their creative powers which generate prosperity and can only exist within liberal rules.

The collapse of communism and the fall of the Soviet Union dealt Hayek's opposition a decisive blow. While the intelligentsia of Hayek's era may have failed to recognize that they had never successfully defeated his arguments, the visible failure of economic planning and centralization made clear that Hayek's reckoning had been prescient all along. This has not stymied the opponents of liberalism, though. What is noteworthy from today's standpoint is that many of the most prominent anti-liberals have emerged from the economic and political right instead of the left.

The conservative-populist reaction against liberalism is best articulated in the writings of figures like Patrick Deneen, Chad C. Pecknold, and Gladden Pappin. Collectively, they have adopted the moniker of

“post-liberal”,⁹ in that they are concerned with envisioning the foundations of a post-liberal society which will emerge in the wreckage of the current liberal order. Specifically, their position is that liberalism can be said to have failed because it has succeeded on its own terms. The post-liberal critique is that liberalism has effectively eroded the foundations which were necessary for its establishment and development. The natural arc of liberal economics and politics is effectively for both spheres to collapse as they result in the disintegration of older forms of social and economic organization.

Take the critiques of liberal or libertarian economics made in Deneen (2018). Deneen posits that the logic of free-market capitalism is inexorable (Deneen 2018, p. 14). The result is the hollowing out of entire regions and local economic subcultures that must give way to the vagaries of impersonal and globalized markets (Deneen 2018, p. 30). At the same time, advanced economic production along liberal lines entails the depletion and destruction of the earth’s natural treasures, such as topsoil, potable water, and vibrant oceanic zones (Deneen 2018, p. 39). The hallmarks of a liberal economy are unabated and wasteful consumption, tragic short-termism, and the alienation of the individual as we turn towards depersonalized and homogenous global markets to satisfy our ever-growing need for consumption, which is in turn spurred on by liberal anti-culture (Deneen 2018, p. 194). The only solution is a refashioning of our economic relationships to foster “the common good.”

Surprisingly, Hayek is an exceedingly minor figure in Deneen’s characterization of liberalism. Between two books, *Why Liberalism Failed* (2018) and *Regime Change* (2023), Hayek only appears on one page, and only to support the contention that liberal societies will be characterized by economic inequality (Deneen 2018, p. 139). Compared to political philosophers like John Locke and liberal polymaths like John Stuart Mill, Hayek is given short shrift. Unsurprisingly, this means that Hayekian ideas concerning knowledge and plan coordination go unacknowledged.

This missed opportunity is most apparent in the latter of Deneen’s books, *Regime Change*. In this book, Deneen purports to sketch the contours of what a post-liberal society would look like. Key to this is an economic plan designed to better promote “the common good”, but to a Hayekian, it reads like a standard list of economic interventions. Effectively, a post-liberal economic order will require a strong state to exert anti-trust powers to curb the existence of monopoly. In addition to this, a post-liberal government would need to engage in muscular industrial policies to re-establish American manufacturing, and at times, domestic manufacturing in certain crucial sectors “should simply be mandated” (Deneen 2023). Markets cannot be relied upon to provide things like food, energy, or raw materials during times of crisis, and for national security reasons, they must be subverted by state dictates.

Nor do the boundaries of social engineering end in the economic realm. Post-liberal governance requires giving the state significant powers to enforce what is termed a “moral media” —essentially, the promotion of legislation designed to foster “public morality” and denounce/outlaw programming that is deleterious to the common good, such as things which promote libertinism and religious mockery. Governments must also be given powerful license to promote pro-family and pro-marriage lifestyles. Through the judicious use of tax relief and other financial incentives, polities would be able to privilege marriage and family formation, like what is taking place in nations like Hungary. While the benefits of larger populations are well-established from an economic perspective (Simon 1981/1996), these admonitions amount to encouragements for states to privilege certain types of living.

Our aim is not to deny that these policies may have certain salutary effects, though the track record of industrial policy is decidedly a grim picture. Rather, what these actions require is an erosion of *general* rules in favor of explicit policy ends or outcomes. Industrial policy which mandates the domestic production of specific goods, for example, commits the very same error Hayek warns about in *CoL* where he compares the rule of law with specific commands. Packaged within the slate of post-liberal reforms is the conceit that we possess the knowledge to organize economic relations to bring about a desired end—the “common good”.

Unacknowledged in all of this are the epistemic costs such planning would require. It remains unclear whether these chosen means would be the most effective to achieve the desired ends, and the potential tradeoff in terms of a reduced *epistemic* order is not confronted. The claim we are making is not that the reduced *efficiency* from industrial planning would be the main difficulty—the post-liberals are abundantly clear that efficiency is not the criterion they are concerned with. Instead, our submission is that any post-liberal regime organized along these lines can expect to encounter the same travails the Marxian and market socialists confronted. The elimination of liberal institutions has downstream consequences in terms of plan coordination at any level, as the institutions needed to address the epistemic requirements are curtailed. While a post-liberal economics may not result in a total collapse of the economic order, it does make the maintenance of such an order much more difficult.

The end outcome may be one in which the generalized prosperity of the liberal order becomes that much harder to sustain. While the post-liberals contend that the idea of liberal “prosperity” is a mockery for certain subsets of the population, the epistemic challenge goes unmet. To establish the soundness of their economic agenda, they must demonstrate that the post-liberal juice is worth the epistemic squeeze. This means engaging with Hayek along the lines he developed in *The Constitution of Liberty*, but as of yet, no attempt has been made to address these concerns.

V. CONCLUSION

It would not be wrong to state that thinkers like Mises and Hayek appeared out of sync with the economics profession throughout their careers. To our mind, this is *not* because economic science moved beyond the Austrian approach. Rather, “mainstream” economists relegated the “mainline” observation that the conditions for social cooperation could not simply be assumed to exist to the background of their studies. While this does not mean Mises and Hayek stopped working in economics, it does mean that economists of every disposition have struggled to apprehend their fundamental insights. As we like to say, Mises was a sophisticated thinker of the 19th century, while Hayek was a sophisticated thinker for the 21st century. The intellectual fashions of the 20th century, such as excessive formalism and misplaced faith in the rationalistic designs of experts, meant that the Austrian emphasis on institutions, knowledge, and coordination, went unacknowledged and underappreciated.

This makes the treatment of Hayek’s work in social philosophy something of an irony. In failing to grapple with Hayek’s institutional focus, it became far too easy for his colleagues to read his works in this area as political treatises and products of their time – that is, only relevant in the context of socialism in the 20th century. It is no coincidence that *The Road to Serfdom* and *The Constitution of Liberty* received a much warmer reception from politicians like Margaret Thatcher and Ronald Reagan than they did from political economists—but both groups were ultimately missing Hayek’s point. While Hayek was primarily responding to criticism from advocates of socialism and state intervention, this does not mean that his criticisms lost their bite with the collapse of the Soviet Union and economic planning.

We hope to have shown that *The Constitution of Liberty* is as much a book for the 21st century as Hayek is a thinker for that same century. While today’s critics of liberalism may look different from those of Hayek’s time, their failure to engage him on his institutional terms speaks to the fact that these fundamental insights have yet to be internalized. To the extent that liberalism’s opponents do not grasp its epistemic properties, they may run the same risks as the advocates for economic planning did: their efforts, no matter how well-intentioned, may have implications that they would never desire. While they may imagine a dramatic refashioning of society, they continue to miss the central Hayekian contention: civilization necessitates an institutional structure which enables us to make use of knowledge we cannot otherwise possess.

The maintenance of this institutional structure is not an easy task. It may be the case that a new re-statement of liberal principles is required—even though providing one may be beyond our specific abilities. However, the entirety of Hayek’s work still has wisdom to impart to those who are curious students of

society and lifelong learners, and this is especially true of *The Constitution of Liberty*. Upon its 65th anniversary of publication, it remains as fecund a work as ever, with the potential to augment and reinforce other research programs in political economy. At the very least, it remains a vital aid to seeing the consequences which stem from the abandonment of liberal rules. The maintenance of Hayek’s “Great Society” and the prosperity we enjoy today is dependent on these insights being preserved.¹⁰

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NOTES

- 1 For convention, we shall occasionally abbreviate *The Constitution of Liberty* as *CoL*. We appreciate readers' understanding our use of this informal shorthand.
- 2 A more subtle version of this argument can be found in Caldwell (1988.) While Caldwell rightly emphasizes the historical context of Hayek's career, the thrust of the article is that Hayek moved away from the study of technical economics (Caldwell 1988, p. 515). This transformation can be seen in his writing of *The Road to Serfdom*, after which he returned to economics in *The Use of Knowledge in Society* (Ibid., pp. 535-536).
- 3 Epistemic institutionalism refers to Hayek's focus on the ways different institutions generate and communicate knowledge, as well as how institutions coordinate the expectations and plans of disparate individuals.
- 4 In a particularly influential paper, Karen Vaughn argues that the ideas in *Economics and Knowledge* (Hayek 1937) are implicit in Hayek's more philosophical writings, and thus are necessary for a full understanding of them (Vaughn 1999).
- 5 The definitive reconstruction of this is provided by Lavoie (1985), which we draw heavily from in this section.
- 6 In the Hayek/Robbins formulation, the ends of the socialists were impossible to achieve under the constraint of scarcity without economic calculation. This is the flavor of "impossibility" they sought to advance (Boettke and Leeson 2005).
- 7 Observations of this nature were not original to Hayek. Here, he was preceded most notably by Edmund Burke (1790/1992), who had a profound influence on Hayek's own thought.
- 8 We are thankful to the editor for bringing these literatures to our attention. Though our summaries of them are not exhaustive, interested readers will find much value in these works.
- 9 The name "post-liberal" is one that has been voluntarily adopted by all three authors. An especially popular repository of post-liberal writings is the Substack maintained by the three, which has fittingly been named "Post-liberal Order."
- 10 The support of the Mercatus Center at George Mason University is acknowledged. Trey Dykeman, Nathan Goodman, and Samrudha Surana provided helpful feedback. Primrose King provided useful conversations. The usual caveat applies.