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**When Liberty Presupposes Order:
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When Liberty Presupposes Order: F. A. Hayek's Learning Ordoliberalism

Stefan Kolev¹

Abstract

This paper contextualizes the early political economy of Austrian economist and social philosopher F. A. Hayek in the intellectual milieu of German ordoliberalism. It argues that the particular urgency during the 1930s and 1940s to preserve and stabilize the disintegrating orders of economy and society was a crucial driver behind the numerous parallelisms between Hayek and the ordoliberals. Their political economies are reconstructed by emphasizing the notion of the framework as an economic constitution of general and stable rules, with the overarching goal to render the orders in the postwar world more robust. In a nutshell, the central configuration is that liberty can thrive sustainably only after such a framework has been established. Hayek's "learning ordoliberalism" emerged during the socialist calculation debates when knowledge became the center of his oeuvre, so that he aimed at identifying rules which could enhance the use of knowledge in society and thus societal learning. Hayek's search was similar to that of the ordoliberals in substance and in rhetoric, and culminated in the competitive order as the *chiffre* for a well-ordered market economy. These parallelisms surfaced during the 1930s and became most explicit in *The Road to Serfdom* and at the founding meeting of the Mont Pèlerin Society in 1947. In the years after *The Constitution of Liberty*, a shift of Hayek's focus is identified: from a theory of designing frameworks at a point of time towards a theory of their evolution across time. Overall, Hayek of the 1930s and 1940s is interpreted as a continental liberal thinking in interdependent societal orders, while the ordoliberals are depicted as a constitutive building block of the international neoliberal archipelago.

Keywords neoliberalism, ordoliberalism, Freiburg School, F. A. Hayek, Walter Eucken, Wilhelm Röpke

JEL classification A11 · B25 · B31 · B41 · H11 · P16

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“Thank you very much for sending me your magnificent paper, which I read immediately, enjoyed greatly and applaud vividly. Can we perhaps hope to constitute the beginning of a period of new insight, or will our fate remain the one of Cassandra?”
F. A. Hayek to Walter Eucken, October 18, 1932

“A difference between us exists at most in the question of [...] how far the interventions in the property of one person are unavoidable for protecting someone else’s property. If one wants to make liberalism understandable, it seems to me that a casuistic elaboration here is very important – precisely in order to make clear that the position of the new liberalism is not the position of laissez-faire.”
F. A. Hayek to Ludwig von Mises, March 10, 1933

1. Introduction

In blitz-scarred London during the immediate postwar years, LSE economists were doing things which may have appeared mysterious to some. In 1948, Lionel Robbins included in his Principles lecture a book by a German economist who had remained in Germany during the war, even though the book was still only available in the German original: Walter Eucken’s *The Foundations of Economics* (Howson 2011, 682-683). In 1947, F. A. Hayek made a similar endorsement, albeit more publicly. In a letter to the editor of the British weekly *Time and Tide* (Hayek 1947), he reminded his fellow liberals that instead of pleading for laissez-faire, they should convince the public how the “‘competitive order’ is the rational alternative to a ‘planned economy’”. Furthermore, he emphasized that “the preservation and effectiveness of competition depends on the legal and institutional framework provided by the State” with competition as an “ordering principle”. None of these propositions could have surprised a reader of *The Road to Serfdom*. And yet, in his bestseller Hayek had deliberately abstained from citing inspirations by “important German and Italian works of a similar character which, in consideration for their authors, it would be unwise at present to mention by name” (Hayek 1944/2007, 240). In the letter to *Time and Tide*, he corrected for this earlier omission. Despite the brevity of the format in which he mentioned one name only, he praised “Professor Eucken” for being “one of the first who in recent times has effectively drawn attention to the importance of the problem” of the “economic constitution”, a term which Hayek emphasized to have borrowed from his German colleague. This reference requires further explanation for at least two reasons, especially when taking into account the closing sentence:

“But the conviction that a true competitive order is our only hope for the preservation of a free society has been reached independently by many economists in this country as well as in the United States, and the problems which the creation of such an order raises are actively studied in many centres.” (Hayek 1947, 511).

First, taking a German social scientist as the sole explicit reference in a public pronouncement so soon after the war was unlikely to make one’s argument more persuasive to a British audience, and – given the “many centres” studying the competitive order – less contaminated nationalities were also available to refer to. Second, in these very years Hayek was himself struggling with his own identity. His full name “Friedrich August von Hayek” with its sound of Germanic nobility was used *ad hominem* against him, especially by his critics in the aftermath of *The Road to Serfdom*. For example, Churchill’s “Gestapo speech” in June 1945 was attacked by Clement Attlee also with a reference to Churchill’s alleged advisor with this strange name (Hayek 1994, 106-107).

This paper provides the narrative about why Hayek’s reference to Eucken as his principal witness was a rather authentic move, and one which is ideally suited to pinpoint his scholarly identity as it evolved during the 1930s and 1940s. In these decades, he was a seminal figure in the generation which set out to renew liberalism and make it robust for the new challenges of the 20th century (Hayek 1951). His long life and tenures at London (1931–1950), Chicago (1950–1962) and Freiburg (1962–1969) made him to a hub who connected – scholarly, personally and institutionally – those “many centres” for which the notion of the legal and institutional framework of the competitive order constituted the core of their politico-economic research programs.

The main claim of the paper is that for understanding the specificities within the numerous decades of Hayek’s long life, a new demarcation line is required. Going beyond the “classical” division of Hayek I as the business cycle theorist vs. Hayek II as the social philosopher (e.g. Hutchison 1981, 210-219), I focus on the early decades within this Hayek II interpretation and explain the important deficiencies of this double division. Instead, I suggest a triple division: Hayek I remains the business cycle theorist, but Hayek II is portrayed as an ordoliberal political economist and Hayek III as an

evolutionary social philosopher. The ordoliberal Hayek was most clearly visible during the 1930s and 1940s, i.e. the time of *The Road to Serfdom* as well as the founding of the Mont Pèlerin Society, and extended over the 1950s to *The Constitution of Liberty* as the positive program complementing *The Road to Serfdom*. Hayek III became discernible during the 1960s and was most clearly visible during the 1970s in the course of his writing *Law, Legislation and Liberty*.

Two complementary formulations illustrate the transition from Hayek II to Hayek III. First, the ordoliberal Hayek II was more confident than Hayek III that the *framework of the competitive order is consciously designable and shapeable*, while Hayek III was more concerned about the “pretense of knowledge” regarding the cognitive limits to its designability and shapeability. Second, Hayek II’s competitive order entails a *primacy of order* about the question what comes first, order or liberty: This primacy postulates that first the crumbling frameworks of the 1930s and 1940s must be stabilized and renewed; only then can liberty emerge within them. Hayek III’s spontaneous order shifts the focus towards a *primacy of liberty* and the belief that liberty does not have to wait for the orders to be constituted, but has the potential to itself render adequate orders. In this reading, Hayek II is very much in line with Foucault’s famous diagnosis of postwar Germany as a “radically economic state” where the state could only emerge and be sustainably legitimate because it created orders which enabled economic liberty and thus economic prosperity (Foucault 1979/2008, 78-88).

Both comparative formulations of Hayek II vs. Hayek III resonate perfectly with central tenets of German ordoliberalism which also emerged during the 1930s and 1940s as one of the “many centres” in Hayek’s letter to *Time and Tide*.² Embedding him into the context of his generational peers Walter Eucken and Wilhelm Röpke is a perspective which has long been peripheral in the anglophone Hayek scholarship, and I hope this contextualization will make historians of economics more sensitive to this perspective of Hayek as a continental liberal (Dekker and Kolev 2021). This

² For earlier expositions by on the proximity of Hayek to ordoliberalism, see Streit and Wohlgemuth (2000), Watrin (2000), Renner (2002), Vanberg (2003) and Wohlgemuth (2013). Kolev (2010) contains some of the arguments of this paper in a much more condensed form.

perspective entails several benefits. First, it offers a distinct reading of Hayek's political economy, especially the role of government and the notion of interventions. Second, his refocusing from equilibrium to order during the 1930s and 1940s can be better understood by depicting a similar transformation which his generational peers lived through (Blümle and Goldschmidt 2006). Third, Hayek's emancipation from his 1920s mentor Ludwig von Mises and his insistence on laissez-faire gains from a view of how the ordoliberals developed their "laissez-faire within rules" and devised the *Ordnungspolitik* chiffre for "good" interventionism vis-à-vis Mises (Kolev 2018). Fourth, juxtaposing Hayek to the ordoliberals adds value to the history of ordoliberalism itself, especially by showing how it was not a "German oddity" (Dold and Krieger 2020; Horn 2021). The "varieties of ordoliberalism" which this narrative distills emerged within an implicit division of labor, and Hayek contributed his own variety which I call "*learning ordoliberalism*". This resonates well with his identification of knowledge as the topos of his œuvre during the 1930s socialist calculation debates, and the search for frameworks which enable individuals to *learn to coordinate* their plans amid the division of knowledge. Hayek II's explicit and recurrent distancing from laissez-faire is interpreted as a *knowledge-focused* "laissez-faire within rules" research program, along with the *power-focused* "laissez-faire within rules" of Eucken and *stability-focused* "laissez-faire within rules" of Röpke.

Section 2 outlines the core elements of the ordoliberal research program, while Section 3 sketches the biographical nexus of Hayek to Eucken and Röpke. Both sections enable the reader to penetrate and evaluate the main message of the paper in Section 4: Hayek's learning ordoliberalism and its search for a framework which is conducive to the use of existing, and the creation of new, knowledge. Sections 4.1 to 4.3 describe the emergence and evolution of this ordoliberal Hayek II. Section 4.4 outlines two descriptions of the symptoms in the transition of Hayek II to Hayek III, while Section 4.5 contains two diagnostic explanations for this transition, i.e. from a theory of designing frameworks at a point of time towards a theory of their evolution across time.

2. *Freiburg School, Ordoliberalism and Neoliberalism*

2.1 *The Ordoliberal Hubs: Freiburg, Geneva and Cologne*

The university town of Freiburg, located in Germany's South-West and far away from Berlin, constituted one of the major incubators of 20th century neoliberalism, along with Vienna, London, Chicago and Geneva (Burgin 2012; Slobodian 2018). Neoliberalism is understood here as the self-description of those scholars who, in the “multiple centres” mentioned in Hayek's letter to *Time and Tide*, during the 1930s and 1940s focused on correcting the deficiencies of 19th century liberalism. And the ordoliberals constituted the German-language variety of neoliberalism, or, as Hayek called it in 1951 in a Swiss publication depicting the evolution of the diverse groups on both sides of the Channel and the Atlantic, of the “new liberal movement” (Hayek 1951, 337).

What later became known as the Freiburg School came into existence around 1933 as a result of the cooperation between the economist Walter Eucken and the lawyers Franz Böhm and Hans Großmann-Doerth (Vanberg 2002; Goldschmidt and Wohlgemuth 2008a). The group soon grew by attracting young liberal-minded scholars and became famous as a stronghold of theoretical economics and of liberalism. Amid the demise of the Historical School and in the shadow of National Socialist totalitarianism, the Freiburg combination of theoretical economics and liberalism was far from opportune. Along with the Freiburg School, Eucken was also seminal for founding the Freiburg Circles: A set of intellectual resistance groups, they emerged after 1938 and included a broad range of scholars and practitioners who secretly debated the options for economy and society after National Socialism (Rieter and Schmolz 1993; Goldschmidt 2005). In the immediate postwar years, members of the Freiburg School were formative for the intellectual climate around Ludwig Erhard. His liberalization reforms of 1948 ignited the “economic miracle” (which, in their eyes was, was none) that shaped the early decades of the Federal Republic.

Wilhelm Röpke and his close associate Alexander Rüstow were seminal both as scholars and as public intellectuals who popularized ordoliberalism in Germany and beyond. Both left Germany in 1933 without being either socialists or Jews, thus abandoning the option of becoming “half-exiles”

like Eucken and his school (Johnson 1989, 40). In 1937, Röpke moved from Istanbul to Geneva where he remained for the rest of his life. He and Rüstow were among the first to use the term “neoliberal” in the late 1930s, among others at the Colloque Walter Lippmann (Reinhoudt and Audier 2018; Horn, Kolev, Levy and Peart 2019), and thus explicitly declared their ambition to renovate liberalism vis-à-vis its 19th century legacy. After Eucken’s death, Röpke became a major academic advisor to Chancellor Adenauer and especially to Ludwig Erhard as a minister of the economy. Alfred Müller-Armack, the “odd man out” in German neoliberalism (Sally 1998, 122), played a similar academic and political role. He coined the term “Social Market Economy” in 1946/1947 (Goldschmidt and Wohlgemuth 2008b) and later became a high official in Erhard’s ministry, founding a Cologne strand of ordoliberalism which lasted well into the 1980s and had a particularly long-lasting impact on economic policy in the Federal Republic. Together with Röpke and Rüstow, Müller-Armack contributed to what has been called sociological or communitarian ordoliberalism (Renner 2002, 223-256; Zweynert 2013, 116-122). From the three, Röpke will represent the views of sociological ordoliberalism in this paper.

The Freiburg School and the sociological ordoliberals in Geneva and Cologne complemented each other and jointly constituted what can be called an “ordoliberal archipelago”. In 1950, the year of Eucken’s passing during a lecture series at LSE (Eucken 1951), the term “ordoliberalism” was coined by Tübingen economist Hero Moeller who harnessed the name of the *ORDO Jahrbuch für die Ordnung von Wirtschaft und Gesellschaft* which Eucken and Böhm had initiated in 1948. Curiously, already the originator of the term included in its definition not only Eucken, his school and Röpke, but – crucial for this paper – also “F. A. von Hayek” (Moeller 1950, 224).

2.2 The Neoliberal Quest to Halt Orders from Falling Apart

Before zooming on the specificities of the ordoliberal research program, a crucial communality in the lifeworld of the ordoliberals and the other neoliberals in London, Chicago and Vienna needs to be outlined. During the 1930s and 1940s, all these political economists lived through an age

which can be best described as a *cumulative implosion of orders*. Internationally, the global economy which had already suffered blows of disintegration during the Great War and the 1920s, took additional serious damage by the new wave of protectionism during the Great Depression. This disintegration went well beyond trade relations: Monetary nationalism, motivated by hopes to counteract the Depression through gaining some expansionary discretion, led to an increasing abandoning and the subsequent irrelevance of the gold standard. Nationally, the shattering of the economic order during the Great Depression sent out devastating signals to the other societal orders, and in many countries the political order took irreparable damage. The primacy of stabilizing what could still be saved motivated not only the neoliberals, but also several fellow travelers, most notably J. M. Keynes and Walter Lippmann.

This lifeworld of orders falling apart invoked a sense of intellectual and civic urgency which was felt in two ways. First, the key object of inquiry shifted *from (dis-)equilibrium to (dis-)order*, as it becomes visible if one looks on the publications of any of the neoliberals in the early vis-à-vis the late 1930s (Blümle and Goldschmidt 2006). Second, the *positive analysis* of various types of order commonly seen as the key object of inquiry for social scientists was complemented with a *normative defense* of those specific orders which could best prevent the collapse, and which could enable a humane life in a new, less fragile framework (Dekker 2016). These transformations generated a constellation which, especially in the late 1930s, appears as a transatlantic archipelago of scholars who were “thinking in orders”. Their research programs can be subsumed under the abovementioned motto “laissez-faire within rules”, even though the nature of these rules and stabilizers certainly varied.

2.3 The Ordoliberal Quest for Combining Order and Liberty

The cumulative implosion of orders hit Germany in the most severe way by transforming its political order into the most terrible totalitarian regime on the Continent, one that would soon bring the entire civilization to the brink of extinction. From the landscape of neoliberalisms outlined above, the sense of intellectual and civic urgency was felt most painfully by the

ordoliberals. A case in point for the existential dimension of this urgency was the detention of Eucken's colleagues Constantin von Dietze and Adolf Lampe by the Gestapo in 1944 due to their participation in the Freiburg Circles which were entangled with the assassination attempt against Hitler on July 20, 1944 (Goldschmidt 2005). The drafts for an economy and society after the defeat of National Socialism almost cost Dietze and Lampe their lives. Out of the "many centres" studying the competitive order which Hayek referred to in his letter to *Time and Tide*, the particularly bleak context in which the ordoliberals had to persevere may explain what can be called an obsession with order: Identifying an order which can prevent 1933 from happening again, and openly pleading for such an order which enables a life in freedom and justice, became the trademark of ordoliberalism – even though several of these positive and normative positions were also shared by those "many economists" whom Hayek portrayed in *Time and Tide* to have "reached independently" very similar conclusions.

This section is of instrumental value for understanding Hayek's "learning ordoliberalism" and reconstructs the five key elements³ shared by the ordoliberalisms of Eucken and Röpke, including a disentangling of the related, but distinct terms "economic order", "economic constitution" and "economic system". All five elements focus on the notion and properties of the framework: 1) separability of order and process, 2) generality of rules in the economic constitution, 3) *Ordnungspolitik* as "good" interventionism, 4) comparative order as the normative topos of an efficient and humane economic order, and 5) society as a set of interdependent orders.

The first building block is the separability of the notions "economic order" and "economic process". Economic order, in its positive sense, depicts the variety of forms within which individuals economize. Eucken understands "forms" as possible market forms combined with types of monetary systems. The economic order with its forms surrounds and encompasses the economic process, constituting the crucial notion of a *framework* around the economic process. The

³ For primary source references and more details on these five key elements, see Kolev (2015) and Kolev (2017).

framework can be depicted as the “rules of the game” the individuals are free to play within, i.e. to conduct their “moves of the game” while respecting the rules. This is the meaning of “economic order” (*Wirtschaftsordnung*) as the observable order in economic reality. In addition, Eucken constructs an apparatus based on Edmund Husserl’s phenomenology which should enable the identify the “true” order which hides behind the phenomena, an order which Eucken calls “order of the economy” (*Ordnung der Wirtschaft*). In the first of his two major books, *The Foundations of Economics* (Eucken 1940/1950), he is preoccupied with analyzing economic reality, whereas in the second, posthumous book, *Principles of Economic Policy* (Eucken 1952), he conducts a search for the political economy which narrows the gap to the “efficient and humane” order of the economy. Röpke is not as explicit in his pronouncements on methodological questions, but he accepts Eucken’s analysis regarding the separability of order vs. process. He also agrees with Eucken that the “rules of the game” can and must be shaped consciously, i.e. they do come about automatically by a process of evolution in the quality which the ordoliberals call “good” rules of the game. Instead, the scholar serves as one of the filters to the evolutionary process, a filter which has the capacity to evaluate economic history with its evolutionary database of earlier rules and the different results which they entailed when they were prevalent.

Second, the rules of the game have one central property which is well understood when emphasizing that they should add up to the *economic constitution* of the economic order. The economic constitution is synonymous to the “rules of the game” or the framework and consists of the *formal* institutions in the sense of the legal framework, whereas the economic order also contains the *informal* institutions in the sense of the cultural framework. The economic constitution explicitly emphasizes the centrality of *constitutionalism* for ordoliberal political economy, and how a constitutionalization of the economic order is fundamental for the Freiburg School. In line with constitutionalism, the ordoliberal rules in the economic constitution are above all: *general*. Crucial here is the contrast between the general rules applicable to all vs. the privileges which serve special interests. During the nascent phase of ordoliberalism, Eucken laid out in his manifesto-like paper

“Structural Transformations of the State and the Crisis of Capitalism” (Eucken 1932/2017) that a state which operates via distributing privileges can increasingly transform into an attractive target to be captured by special interest groups which lobby for ever more privileges. In other words, the state should aim to be an impartial judge who is non-corruptible by the players in the game of economy and society, and the generality of the rules is the most promising mechanism to prevent such a corruption from happening. The better the economic constitution, i.e. the more individuals experience the constitutionalized order as “efficient and humane” and thus legitimate, the lower the pressure to the state to intervene via distributing privileges.

Third, both Eucken and Röpke draw in their morphologies of *economic systems* a two-fold subdivision between the centrally administered economy (or command economy) and the market economy (or exchange economy). The economics of the interventionist “middle ways”, of the market socialist as well as of the Keynesian varieties, are assessed by Eucken and Röpke as unstable and entangled in contradictions, so that eventually they must collapse into centrally administered economies – very much in line with Mises’ critique of interventionism and the interventionist spiral. Unlike Mises, however, the ordoliberals outline types of “good” interventions. The *key legal property* of these interventions, central in the perspective of Eucken and Böhm, was laid out above via the generality of the rules through which the state intervenes. The *key economic property*, central in the perspective of Röpke, is market-conformability. Market-conformable interventions, for example a tariff, do not destroy the equilibrating property of the price mechanism and can thus be “digested” by it as they lead to a new equilibrium. This approach to “good” interventions is captured in the difficult-to-translate notion of *Ordnungspolitik* which, somewhat imperfectly, can be called ordering policy or, more broadly, rules-based policy. Intervening through establishing the economic constitution via *Ordnungspolitik* is not an illiberal compromise – instead, it is understood by the ordoliberals as systemically necessary for an order not to transition towards inefficient and inhumane forms, and eventually to collapse. Presenting elaborate, increasingly concrete systems of “good” interventionism became the overarching goal of the generation at the core of this paper, and that

is true on both sides of the Channel and the Atlantic, very much in the sense of the “varieties of ordoliberalism” as understood in the narrative of this paper.

Fourth, the normative search of an efficient and humane order leads Eucken and Röpke to their own “third ways”, which they strictly distinguish from interventionist “middle-ways”. Eucken and Röpke see their “third ways” as distinct from the “middle ways” because they do not mix elements of the centrally administered economy and the market economy, but only contain certain forms of the market economy. Eucken finds his solution in a specific type of a market economy which he calls *competitive order* – a notion which, as mentioned in Hayek’s letter to *Time and Tide*, became the *chiffre* shared from Chicago to London and Freiburg. To establish a competitive order, the state has to institutionalize a set of principles, which result in a framework that ensures the “disempowerment” (*Entmachtung*) of the economy. Power stems from concentration on markets, from the state or from other societal relations, and all these forms are all seen as enemies of both the efficient and the humane nature of order. For Eucken, it is crucial to underscore that these are not *any* principles conformable with the *formal* rule of law; instead, specific *substantive* principles, constitutive and regulative, are required from the legal order for a competitive order to emerge and persist. For example, specific forms of liability are necessary, so that limited liability should become the exception rather than the rule. Röpke takes a different angle when analyzing the social effects of competition and assesses competition not an autonomous mechanism, but rather a process which itself depends on the availability of moral and sociological pillars, in other words on informal institutions. These moral and sociological pillars are the foundations of societal cohesion which prevent the playing field from collapsing, as it did 1917 in Russia or 1933 in Germany. For Röpke, the pillars – especially the cohesion of the small community endangered by the ever-expanding logic of modern society as particularly visible in the competitive market society – can be damaged by competition as the dominant driver of interpersonal relations, so that their statics must be vigilantly monitored. Eucken writes extensively on such issues in *Die Tatwelt*, the journal dedicated to the philosophy of his father Rudolf Eucken, but his self-understanding as a political economist

does not include them. In this sense Röpke's program goes beyond Eucken's *economic* ordering policy: Röpke outlines a *societal* ordering policy as indispensable to prevent the market economy from damaging its moral and sociological foundations, as captured in Figure 1. In this reading the topoi for Eucken are *power and disempowerment*, for Röpke *stability and stabilization*.

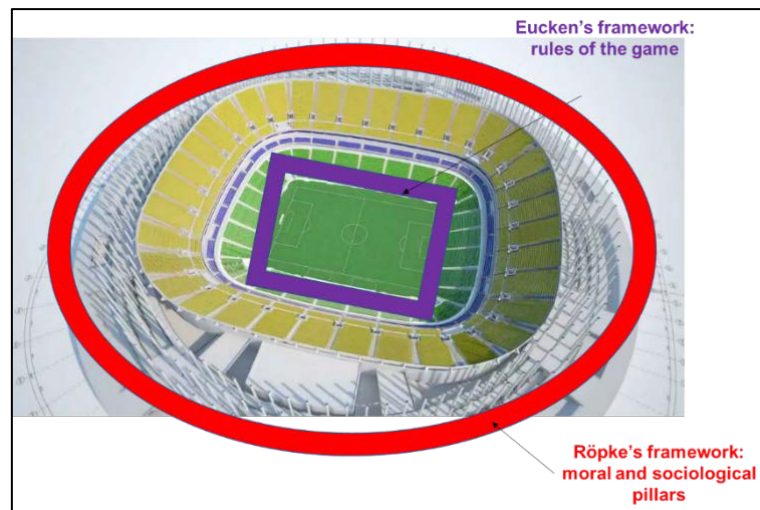


Figure 1: Ordoliberal notions of the framework

Fifth and final, Eucken and Röpke both endorse the centrality of the *interdependence of orders* for understanding how the economy is embedded in society. This proposition depicts the economic order not as an isolated entity, but as a part of the system of differentiated societal orders. Society contains the economic order, the legal order, the order of the state, the order of science, the order of religion etc. During the emergence of the modernity, each order differentiated itself from the premodern community, each of these orders has its own logic and fulfills its own purpose, so at any point of time the individual has to coexist in several of these orders and deal with the tensions from their different logics. As captured by the bi-directional arrows in Figure 2, each order thrives endogenously, but its dynamics can send exogenous impulses to the other orders, as for example happened in Germany during the early 1930s when the collapse of the economic order shattered the democratic order of the state, leading to a total transformation of all other societal orders during National Socialist totalitarianism.

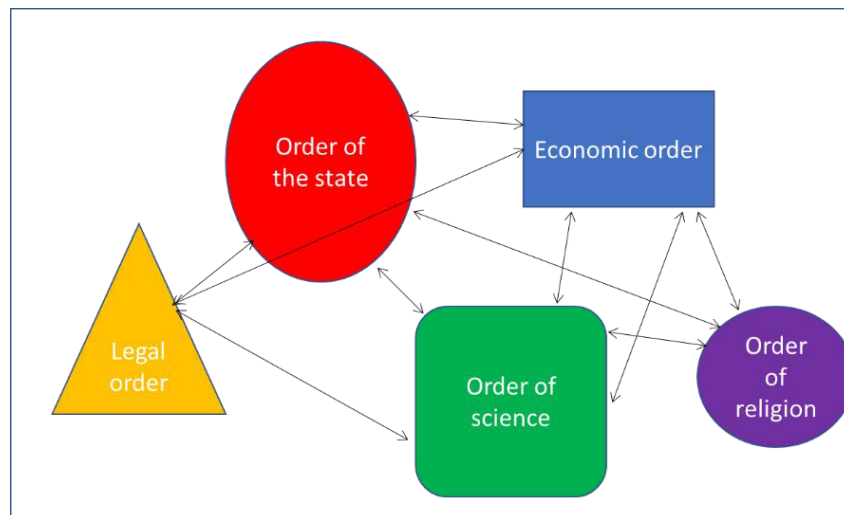


Figure 2: Society as a set of interdependent societal orders

3. Hayek and the Biographical Nexus to the Ordoliberalists

3.1 Interface Eucken-Hayek

This section provides a brief overview of the biographical interrelationships between Hayek, Eucken and Röpke during the 1930s and 1940s.⁴ Eucken and Hayek met at the latest at the 1928 Zurich meeting of the Verein für Socialpolitik and presented papers in the same session “Credit and Cycles” – a memorable session where Mises summarized that the Austrian business cycle theory had become *the* consensual theory of the cycle in the German-speaking world (Mises 1928/1929, 323-326). Hayek reminisced that he had met Eucken upon the intermediation of Röpke without dating their encounter (Hayek 1983/1992, 189), so it may have happened earlier than in Zurich. The first piece of correspondence available is from October 1932 and is reproduced at the beginning of this paper. When travelling from London to Vienna during the 1930s, he “regularly made a stopover in Freiburg just to visit Eucken and to keep in touch with him” (Hayek 1983/1992, 190) and attended the meetings of the “Ordo circle”, as he called the emerging school. After the war, the relationship intensified rapidly, entailing a rich correspondence which often feels as though

⁴ For more detail on the multiple biographical connections, see Kolev, Goldschmidt and Hesse (2020).

Hayek looked up to a senior, including his keen interest to know of Eucken's reactions to *The Road to Serfdom*. In a letter to Hayek from March 12, 1946, Eucken was highly laudable of the book, identified in it germs of their shared plea for a *competitive order*, but wished Hayek had been more concrete on its properties, and more precise on the history of German liberalism (Goldschmidt and Hesse 2013). Eucken was the only German scholar living in Germany who could join the founding meeting of the Mont Pèlerin Society in April 1947. In Hayek's words, Eucken became "the star" of the conference (Hayek 1983/1992, 192) and was appointed vice-president of the MPS, thus contributing to Hayek's efforts to reconnect German liberals to their international peers. Hayek invited him to write for LSE's *Economica* on the German experience with central planning (Eucken 1948). In those same years he intermediated Eucken's *Foundations* to be translated by young Terence W. Hutchison (Koley, Goldschmidt and Hesse 2020, 451-452) and be published in 1950 by William Hodge, a key publisher for Hayek's endeavor of translating crucial Austrian and German books (Tribe 2007, 217-218). In 1948 Hayek was among the founding editors of the *ORDO Jahrbuch für die Ordnung von Wirtschaft und Gesellschaft*, the ordoliberal journal still existing today which, as late as 1991, featured on its cover that it was edited "in cooperation with Friedrich A. von Hayek". Tragically, Eucken died from a pneumonia-related heart attack during a lecture series at LSE in March 1950 to which Hayek and Lionel Robbins had invited him.

In 1962, Hayek accepted a call from the University of Freiburg to join the Faculty of Law and State Sciences and teach political economy (Vanberg 2013, 100-103). Without directly obtaining Eucken's former chair, he emphasized in his inaugural lecture in Freiburg that he hoped to contribute to the legacy of the "unforgettable Walter Eucken" (Hayek 1962/2014, 214). For several years, he was director and later honorary president of the Walter Eucken Institut. The institute had been founded in Freiburg in 1954 by Eucken's widow as well as friends and colleagues of Eucken, among others Röpke, Rüstow and Erhard. Hayek delivered the first academic talk at the newly founded institute in the summer semester 1954 (Vanberg 2004, 9).

3.2 Interface Röpke-Hayek

Röpke met Hayek earlier than Eucken, at the Vienna meeting of the Verein für Socialpolitik in 1926 (Hayek 1983/1992, 188-189). We know that Eucken could not attend this meeting due to the passing of his father, philosopher and literature Nobel laureate Rudolf Eucken, ahead of the meeting. Röpke was one of the few German economists who developed a business cycle theory in line with the Austrian theory of the Mises-Hayek variety. As Gottfried Haberler reminisced, Röpke was not only seen as an intellectual peer by the Austrians, but also as a pioneer theorizing the so-called “secondary depression”, an innovation within the Austrian paradigm (Haberler 1979/2000). In a late interview, Hayek commented on his relationship to Röpke during the Great Depression and described a paper on the secondary depression now published in the Hayek Collected Works which he had sent to Röpke (Hayek 1931/2015), but Röpke had decided not to publish it since he did not find it helpful in the German context (Hayek 1979a, 12-13). Hayek visited the Institut des hautes études internationales in Geneva several times during the 1930s and met Röpke and Mises there before the outbreak of the war.

During the war, the correspondence continued, with Röpke being the “lifeline” for Eucken until their correspondence had to stop in early 1943 (Hennecke 2005, 126-127, 132-133). He also connected Eucken’s Freiburg to Hayek’s London via neutral Switzerland, including the shipment of a copy of Eucken’s *Foundations* which was shared by Robbins and Hayek, as a letter from Hayek to Röpke from April 9, 1942 indicates. In this same letter Hayek also defends Eucken’s notion of the framework outlined in Figure 1 against Röpke’s charge who had depicted it as too narrow in his review of Eucken’s *Foundations* in *Neue Zürcher Zeitung* (Röpke 1942/1959). During the war Röpke published his trilogy *The Social Crisis of Our Time* (Röpke 1942/1950), *Civitas Humana* (Röpke 1944/1948) and *International Order* (Röpke 1945/1959), which can be seen as a competitive project to Hayek’s wartime publications. In 1945 Röpke’s wife, Eva, translated *The Road to Serfdom* into German (Hayek 1945b) and the book was published in Switzerland by the publisher Eugen Rentsch where Röpke’s works during the war had appeared. In the following years, Röpke and Hayek joined

their organizational capabilities to initiate an academy of liberal thinkers, which in 1947 became the Mont Pèlerin Society. After ten years of harmonious cooperation in the MPS, in the course of late 1950s and early 1960s the “Hunold affair” broke out (Hartwell 1995, 100-133; Plickert 2008, 178-189; Burgin 2012, 124-151). Röpke and Hayek broke with each other, despite the highly laudable address by Hayek for Röpke’s 60th birthday in October 1959 where he attested how “Röpke realised at an early stage, perhaps earlier than most of his contemporaries, that an economist who is nothing but an economist cannot be a good economist.” (Hayek 1959/1992, 196). In the course of the Hunold affair, Hayek gave his famous “Why I Am Not a Conservative” as an address to the 10th anniversary meeting of the MPS in 1957 in St. Moritz, and the talk was explicitly directed not only against Russell Kirk, but also against Röpke, both of whom were in the audience (Burgin 2012, 143-145). Perhaps as a late sign of reconciliation, Hayek joined the editorial team which published a new edition of Röpke’s works in 1979.

4. Hayek II’s Learning Ordoliberalism

4.1 Hayek II vs. Hayek III: First Approximation

Hayek’s significant evolution appears quasi-mandatory given the length of his scholarly life, he published from the early 1920s to the late 1980s. As outlined in the introduction, one conventional division is the one between Hayek I (business cycle theorist) vs. Hayek II (social philosopher). Such “splits” of an author may invoke a sense of schematism or superficiality vis-à-vis the complexity of a scholarly personality. Acknowledging these potential difficulties, I claim that, in Hayek’s specific case, such an analysis can be made productive: Already the transition, so clearly visible when putting *The Pure Theory of Capital* (Hayek 1941/2007) and *The Road to Serfdom* (Hayek 1944/2007) next to each other, vindicates to zoom into these years. If we use the abovementioned terminology, he shifted from a focus on the *economic process* (his business cycle theory) to a focus on the *economic and other societal orders* (his political economy of markets and their institutional framework). In line with Peter Boettke’s judgment (Boettke 2018), this transition must not be seen as leaving economics

behind. Instead, if we locate Hayek as contributing to the German tradition of socio-economics (McAdam, Kolev and Dekker 2018), his “from-process-to-order” transition can also be interpreted as a shift *within* socio-economics, namely from economic theory to economic sociology. After his failed efforts to halt the “Keynesian avalanche”, he arrived at the realization – for himself and his fellow travelers – that “an economist who is only an economist cannot be a good economist”, in line with the abovementioned acknowledgement of Röpke’s prescience (Hayek 1959/1992, 196). The introduction to *The Constitution of Liberty*, finished in the very years of the Röpke acknowledgement, is noteworthy:

“I have come to feel more and more that the answers to many of the pressing social questions of our time are to be found in the recognition of principles that lie outside the scope of technical economics.” (Hayek 1960/2011, 49).

Thus from hindsight, it was his own view that Hayek I was a phase in need of complements. But is Hayek II, the “non-technical economist” who turned to political economy and social philosophy, *homogeneous enough*? A curious hint is contained in the foreword to a 1976 edition of *The Road to Serfdom*:

“[...] a fault which is perhaps pardonable when it is remembered that when I wrote, Russia was our war-time ally – and that I had not freed myself from all the current interventionist superstitions, and in consequence still made various concessions which I now think unwarranted.” (Hayek 1944/2007, 55).

What could he mean by his “current interventionist superstitions”? One possible answer is the intellectual heritage of his first mentor in Vienna, Friedrich von Wieser, whose liberalism was indeed not quite what some hard-boiled classical liberals today would agree with (Hayek 1926/1992, 108-125; Kolev 2019, 953-955). But there is another possibility: His interventionist superstitions might have been Hayek’s own ordoliberalism. His second Viennese mentor, Ludwig von Mises, would find this second categorization particularly appealing: Mises used to call the ordoliberals pejoratively “ordo-interventionists” (Kolev 2018). In contrast to his life-long high

esteem of Eucken who is also mentioned in *The Constitution of Liberty* as one of the seminal personalities for Hayek's own development (Hayek 1960/2011, 41), his later attitude to the "Ordo circle", as he called the Freiburg School, was more ambiguous: When looking back at the school's development from the hindsight of the 1980s, Hayek spoke with skepticism of its "restrained liberalism" (Hayek 1983/1992, 190), and in this phase some of Hayek's contemporaries attempted to distinguish him from the ordoliberalists (Streissler 1972/1973).

Could ordoliberalism have been the source of Hayek's self-proclaimed early interventionism? While the paper answers in the affirmative to this question, I do not claim that the influence came directly from Eucken or Röpke. Instead, the "Old Chicago" School of Frank Knight and especially Henry Simons deserve an equally close look (Van Horn and Mirowski 2009, 140-158; Köhler and Kolev 2013). Going one step further, this analysis is not an attempt to identify unilateral influences from one scholar to another: Instead, the notions of affinities or parallelisms are more adequate to capture the archipelago of scholars and school-like formations on both sides of the Channel and the Atlantic. So what are the traces of his ordoliberalism a.k.a. "interventionist superstitions" in Hayek's two decades as an ordoliberal? The next section collects the emergence his ordoliberalism during the 1930s, while Section 4.3 reconstructs his ordoliberal zenith during the 1940s.

4.2 Ordoliberal Germs in the 1930s

"The years of high theory", as G.L.S. Shackle famously called the period 1926-1939, were the formative period in Hayek's vita. Barely aged 32, in 1931 he obtained his professorship at LSE and initiated several controversies, most famously against Keynes and Cambridge, but also against Frank Knight on capital theory as well as against the market socialists on socialist calculation. Already in his inaugural address at LSE on March 1, 1933, Hayek formulated publicly what he wrote to Mises in the letter reprinted at the beginning of this paper: a critique of classical political economy regarding the adequacy of laissez-faire as a maxim for liberal economic policy:

“[...] the classical writers very much neglected the positive part of the task and thereby allowed the impression to gain ground that laissez-faire was their ultimate and only conclusion – a conclusion which, of course, would have been invalidated by the demonstration that, in any single case, State action was useful. To remedy this deficiency must be one of the main tasks of the future.” (Hayek 1933, 134).

This pronouncement is the first in a chain of several similar statements in which Hayek outlined the necessity for critically revisiting the legacy of 19th century liberalism in its nexus to politico-economic conclusions. From his publications during the 1930s, his essays in the edited volume *Collectivist Economic Planning* (Hayek 1935) as well as his relatively unknown, but seminal brochure *Freedom and the Economic System* which appeared in two versions in 1938 and 1939 (Hayek 1939/1997) are of special interest.

The 1935 volume was called by one of Hayek’s adversaries in the socialist calculation debates, Maurice Dobb, “a formidable counter-attack by laissez-faire on all forms of planning, and in particular on Socialism” (Dobb 1935, 532). While the attack was indeed formidable and led to ten more years of socialist calculation debates until at least *The Use of Knowledge in Society* (Hayek 1945a), the sentence contains two incorrect claims: First, that Hayek wrote as a proponent of laissez-faire; and second, that his two essays in the volume were an attack on *all* forms of planning. These key passages from Hayek’s opening essay are curious:

“To say that partial planning of the kind we are alluding to is irrational is, however, not equivalent to saying that the only form of capitalism which can be rationally advocated is that of complete *laissez faire* in the old sense. There is no reason to assume that the historically given legal institutions are necessarily the most ‘natural’ in any sense.” (Hayek 1935a, 21-22),

and furthermore:

“The question as to which is the most appropriate permanent framework which will secure the smoothest and most efficient working of competition is of the greatest importance and

one which, it must be admitted, has been sadly neglected by economists.” (Hayek 1935a, 22).

In my view, this essay contains the first traces of Hayek’s “third way” which, both in content and rhetoric, bears decidedly ordoliberal traits. The notion of the “framework” is, as outlined above, a fundamental building-block of the ordoliberal research program. Besides, Hayek underscores that the framework has to be “permanent”, that economic policy should aim at constancy, one of Eucken’s constitutive principles of the competitive order. Furthermore, the main purpose of Hayek’s framework is to institutionalize competition, in perfect harmony with the ordoliberals and their focus on the competitive order as the proxy for a “good” order of the economy. This is the type of planning which Hayek not only accepts as some sort of compromise, but instead emphatically requires as fundamentally important for a well-ordered market economy. Just like the ordoliberals, he distinguishes “his” planning from both socialist planning and from laissez-faire. The closing sentences from this section are also illuminating:

“It is important to realize in any investigation of the possibilities of planning that it is a fallacy to suppose capitalism as it exists today is the alternative. We are certainly as far from capitalism in its pure form as we are from any system of central planning. The world of today is just interventionist chaos.” (Hayek 1935a, 23-24).

It is noteworthy that in the first quotation Hayek expresses skepticism about the fitness of “historically given legal institutions”, while in addition the third quotation critically questions “capitalism as it exists today”. The varying degrees of skepticism about the quality of evolved institutions will constitute a major difference between Hayek II and Hayek III, as discussed in Section 4.4.

So is it his trust in the necessity for and the designability of a permanent, competition-enabling framework for the competitive order, which can be very different from the “historically given legal institutions”, that Hayek later called his “interventionist superstitions”? If so, then his early political economy and related social philosophy of the 1930s and the 1940s are indeed quite consistently

“interventionist”. Curiously, in the paragraph ahead of the last quotation, he explicitly emphasizes that this is *not* the context where he discusses the “separate problem of state intervention in a capitalistic society” (Hayek 1935a, 21), for which he refers to Mises’ *Critique of Interventionism* (Mises 1929/2011). In his concluding essay to the volume, Hayek discusses the various forms of socialism which have surfaced during the socialist calculation debates. It is curious that he sees a proximity of proposals by certain “younger economists” in the socialist camp who aim to restore competition within a socialist order of state-owned means of production on the one hand, and his own plea for the “the construction of a rational legal framework for capitalism” on the other (Hayek 1935b, 218). However, he questions whether “planning” in such socialist proposals has anything to do with its traditional sense.

In those very years of heavy involvement in the socialist calculation debates, Hayek published one of his most famous articles, *Economics and Knowledge* (Hayek 1937) which many have seen as the beginning of his emancipation from Mises (e.g. Caldwell 1988, 525-530). This emancipation is relevant for the story of “his” ordoliberalism as a process of distancing from Mises’ laissez-faire stance, and it is helpful to juxtapose it to Röpke’s similar process vis-à-vis the senior Austrian (Kolev 2018). What is even more important is that Hayek’s *knowledge topos*, around which all his future work would gravitate, took shape precisely in the period between *Economics and Knowledge* and *The Use of Knowledge in Society* and thus simultaneously with the ordoliberal Hayek II phase. Already in *Economics and Knowledge* where he struggles with what can serve as objective data to the interacting individuals when analyzed from a subjectivist perspective, he also looks out for the “conditions of a competitive society” (Hayek 1937, 37) for the interpersonal coordination of plans, addresses the issue of “constancy of the data” (Hayek 1937, 47), and emphasizes above all that identifying “the propositions about how people will learn” (Hayek 1937, 53) will be crucial for his forthcoming research program of economics that is aimed to be useful in explaining coordination in the “real world”. It is not difficult to match these two sides of the same coin: His focus on the institutional framework à la ordoliberalism in his politico-economic writings outline exactly such a device which

can help individuals to learn how to coordinate not only via prices, but also via the coordinating capacity of the framework. The dynamic process of interpersonal coordination requires the stable environment of the framework, within which the individuals increasingly learn the coordination game. For this combination of dynamics and stability, the notion of “learning liberalism” has already been coined (Wegner 2008; Boettke 2018). This paper specifies the term through Hayek’s German-language contextualization and makes it less generic by calling it “learning ordoliberalism”. The full-fledged version of this Hayekian ordoliberalism will take shape in *The Road to Serfdom* and *The Constitution of Liberty*. To both, the abovementioned brochure *Freedom and the Economic System* (Hayek 1939/1997) is an important precursor (Caldwell 2020, 730-731). One of the reviewers, Hayek’s adversary in the socialist calculation debates H. D. Dickinson, aptly starts his review with:

“This pamphlet is a manifesto, at once concise, cogent and eloquent, of individualistic individualism. It is a fundamental challenge to the doctrine of liberal socialism.” (Dickinson 1940, 435).

Freedom and the Economic System is indeed a manifesto and contains several core notions and ideas, but Dickinson is right to challenge the lack of what he calls a “positive programme”, especially a politico-economic concretization. In the end, he locates Hayek to be at the beginning of a project in search for such a positive programme:

“On the other hand, the liberal opponents of collectivism have not so far entered the field with a positive programme. Can they suggest any workable set of institutions in the realm of property, inheritance, contract, money, and business organisation which will be compatible with private property and the free market and which will at the same time guarantee the ordinary man a reasonable security of livelihood and prevent the accumulation of wealth (and, what is still more important, the concentration of power over wealth) in the hands of a minority of the community? [...] It is greatly to be hoped that Professor Hayek will follow up [...] with a blue print for a liberal classless society.” (Dickinson 1940, 437).

So what is the essence of *Freedom and the Economic System* which in its first version appeared in April 1938, few months ahead of the Colloque Walter Lippmann, while the second was published in 1939 in the Public Policy Pamphlet series of the University of Chicago, and what of it can be interpreted as ordoliberal?

The brochure contains Hayek's critique of National Socialism and fascism with their "close kinship" to socialism as well as his skepticism about the compatibility of central planning and democracy. Above all, Hayek refines and expands his statements from the *Collectivist Economic Planning* essays about the desirability and properties of a freedom-enhancing and learning-enabling framework.

After his critique of socialism, Hayek endeavors what Dickinson wished he had done more concretely, namely an outline of a positive programme for 20th century liberalism. For "the application of reason to social problems in general", Hayek proposes "planning for freedom" as opposed to socialist or interventionist "planning for constant interference" (Hayek 1939/1997, 194-195). And this planning is again focused on an ordoliberal-like permanent framework of general rules:

"We can 'plan' a system of general rules, equally applicable to all people and intended to be permanent (even if subject to revision with the growth of knowledge), which provides an institutional framework within which the decisions as to what to do and how to earn a living are left to the individuals. In other words, we can plan a system in which individual initiative is given the widest possible scope and the best opportunity to bring about effective co-ordination of individual." (Hayek 1939/1997, 194).

Hayek explicitly interweaves this type of planning with his incipient *knowledge topos* by praising "the free combination of the knowledge of participants" which would be enabled by the "construction of a rational framework" of such general rules (Hayek 1939/1997, 194-195). Both the necessity of such a construction and the capacity on the side of the scholar to construct such a framework are clearly given, even though he struggles with the realization that it is "very difficult to apply it [the

rational system of law] to a concrete case” (Hayek 1939/1997, 194). The rules of the framework have to be “general and permanent”, and as such the principles on which the framework is based “aim mainly at the elimination of avoidable uncertainty” (Hayek 1939/1997, 195). Their generality does not interfere into the individuals’ ends and does not decide about the preferability of some individuals or groups against each other.

Equally noteworthy in *Freedom and the Economic System* is Hayek’s critique of classical liberalism regarding the institutional framework, very much lines of Eucken’s critique of classical political economy and its belief how the competitive order would arise in *any* rule-of-law system:

“Now it must be admitted that this task of creating a rational framework of law has by no means been carried through consistently by the early liberals [...] Yet it should have been obvious that the question of the exact content and the specific limitations of property rights, and how and when the state will enforce the fulfillment of contracts, require as much consideration on utilitarian grounds as the general principle.” (Hayek 1939/1997, 195).

The critical importance of the institutional framework emerges at the end of this section on “planning for freedom”:

“A certain dogmatism in this respect, which often had the appearance of an unwillingness to reason on these problems, brought the development of this kind of planning to an early standstill and has tended to throw the whole liberal doctrine into discredit.” (Hayek 1939/1997, 196).

This focus on the generality and permanence of a framework which can – and has to be, at that very moment – be designed by scholars reads as ordoliberalism at its best, both regarding the critique of dogmatic laissez-faire in 19th century political economy and the “positive programme” for a new, more robust 20th century liberalism.

4.3 Ordoliberal Zenith in the 1940s

While the 1930s were Hayek's most intense period in terms of multiple intellectual controversies, the 1940s were seminal for his political popularization of liberalism to broader circles and for creating a debating platform about what 20th century liberalism could mean. This section focuses on *The Road to Serfdom* and the intellectual debate about the competitive order at the founding meeting of the Mont Pèlerin Society.

Hayek spent the war years evacuated in Cambridge where he worked on the "Abuse and Decline of Reason" project (Caldwell 2010), and in the last prewar letter to Freiburg of June 13, 1939 he consulted Eucken hoping to profit from his Comte and Saint-Simon expertise. *The Road to Serfdom*, the book which would make him famous for some and notorious for others, was written in Cambridge and constituted a piece in the "Abuse and Decline of Reason" project. Regarding his state of mind after the 1941 publication of *The Pure Theory of Capital*, he reminisced in the abovementioned 1976 preface:

"But though I tried hard to get back to economics proper, I could not free myself of the feeling that the problem on which I had undesignedly embarked were more challenging and important than those of economic theory, and that much that I had said in my first sketch needed clarification and elaboration." (Hayek 1944/2007, 53-54).

I argue that *The Road to Serfdom* is imbued with the same ordoliberal politico-economic spirit which is at the core of *Freedom and the Economic System*. Moreover, Eucken's and Röpke's notion of the interdependence of the economic, legal and political orders is foundational for Hayek's main thesis: The tendency towards economic illiberty is caused by central planning initially in the economic order and subsequently becomes an excessive burden for the democratic process which is not capable to conduct central planning and to simultaneously preserve pluralism of values and value rankings.

Regarding the role of government, Hayek is in perfect harmony with the ordoliberals: The rule-setter of the institutional framework is *the* seminal function he assigns to the state in a liberal society:

“According to the modern planners, and for their purposes, it is not sufficient to design the most rational permanent framework within which the various activities would be conducted by different persons according to their individual plans.” (Hayek 1944/2007, 85).

Just as the ordoliberal, he pleads for “effective competition” which should be “created” through the framework:

“It [the liberal argument political] does not deny, but even emphasizes, that, in order that competition should work beneficially, a carefully thought-out legal framework is required and that neither the existing nor the past legal rules are free from grave defects.” (Hayek 1944/2007, 86).

In a liberal society, the “division of labor” between private individuals and the institutions of the state-made framework can look as follows:

“The functioning of competition not only requires adequate organization of certain institutions like money, markets, and channels of information – some of which can never be adequately provided by private enterprise – but it depends, above all, on the existence of an appropriate legal system, a legal system designed both to preserve competition and to make it operate as beneficially as possible.” (Hayek 1944/2007, 86).

As outlined in Section 2, it is precisely this combination of economic and legal expertise for shaping the framework of the economic order which has become the trademark of ordoliberalism. Before proceeding to the last text of Hayek’s “ordoliberal 1940s”, his correspondence with Eucken and Keynes about *The Road to Serfdom* is illuminating with respect to the role of the framework. Both are generally laudable of the book, but their suggestions go in rather different directions. They share a critique: Both wished Hayek had been more concrete. But whereas Eucken pressed for more elaboration of the notion of the framework and of the properties of the competitive order, Keynes saw in such deliberations no effective possibility to delimit or demarcate the scope and role of government (Eucken 1946; Keynes 1944).

As the outcome of joint efforts by Hayek and Röpke, the Mont Pèlerin Society was founded in April 1947 to enable economists, lawyers, philosophers and historians to debate the renewal of liberalism in the second half of the 20th century. In its early decades the MPS included – in line with Hayek’s rather ecumenical nature – a rather heterogeneous group, ranging from social democrats like Maurice Allais and Karl Popper, to ordoliberalists like Eucken and Röpke, and free-market libertarians like Mises and Henry Hazlitt. For this narrative, the founding meeting in 1947 is of special interest,⁵ more specifically the first session which Hayek called “Free Enterprise and Competitive Order”. In this session, Hayek presented a paper on the competitive order (Hayek 1947/1948) together with Eucken and Aaron Director, the latter stepping in for the recently deceased Henry Simons and delineating the “Old Chicagoan” notion of the competitive order. The following quotation captures the essence of Hayek’s ordoliberalism:

“While it would be an exaggeration, it would not be altogether untrue to say that the interpretation of the fundamental principle of liberalism as absence of state activity rather than as a policy which deliberately adopts competition, the market, and prices as its ordering principle and uses the legal framework enforced by the state in order to make competition as effective and beneficial as possible – and to supplement it where, and only where, it cannot be made effective, is as much responsible for the decline of competition as the active support which governments have given directly and indirectly to the growth of monopoly.”
(Hayek 1947/1948, 110).

If put next to each other, the papers of Hayek, Eucken and Director (the latter two are preserved in the Hayek Papers) read as perfectly complementary contributions to the very same research program. In 1947, Hayek was as close to “Old Chicago” and Freiburg as he would ever get – despite his forthcoming tenures at Chicago and Freiburg. This also becomes palpable from the specific formulation which he employed a few months after the MPS meeting, in August 1947 at the

⁵ For the continuation of the debates in 1949 at the second meeting in Seelisberg, including the conflict between the ordoliberalists and Mises, see Kolev, Goldschmidt and Hesse (2020).

precursor of the European Forum Alpbach in his beloved Austrian Alps while delivering a talk “Man in the Planned Economy”:

“Especially in this area [creating the conditions for effective competition], already before the war a number of important studies were published in Germany, primarily owing to the impulses of Professor Walter Eucken in Freiburg i.B. and of Professor Franz Bohm, now in Frankfurt. [...] The problem of the “order of the economy” [“Ordnung der Wirtschaft” in the original] in the sense in which these scholars have addressed it and have attempted to sketch its solution is one of the most important tasks which the human mind can pose itself today, and the solution of which is of immense importance.” (Hayek 1947/2004, 170).

Finally, in a 1948 postscript to *The Road to Serfdom* which was never published, Hayek calls the book “an advance sketch” to the “whole system of ideas” which was on his mind at the time and which required “a more complete exposition” (Hayek 1948, 10). This exposition would be *The Constitution of Liberty*. As it surfaces in his correspondence with Fritz Machlup, Hayek embarked on *The Constitution of Liberty* in early 1953, and the specific formulation in the letter is noteworthy: He was now “beginning to have definite plans for that positive complement to *The Road to Serfdom* which people have so long [been] asking me to do.” (Hayek 1960/2011, 6).

4.4 Hayek III: *The Double Anamnesis*

Two years later, again at the European Forum Alpbach, Hayek’s talk “What Is Mind” (Hayek 1949/2017) points in a rather different direction. When addressing the convention of students, he overcomes his scruples that “[i]t may seem presumptuous for a mere economist to address a problem over which philosophers and psychologists have labored for so long and with so little success.” (Hayek 1949/2017, 346). The talk addresses “the ordering of the sensory world”, revisits the “two different orders” of the physical and the mental, and more generally the nature of and limits to human cognition – i.e. that “the mind can never explain itself!” (Hayek 1949/2017, 349, 350, 357). Regarding the issues of learning and the “explanation of the principle”, his paper can be

read as a prequel to *The Sensory Order* (Hayek 1952/2017) – or as a sequel to Hayek’s interests in psychology of the early 1920s (Hayek 1920/2017). And mentally, he was indeed moving back to the 1920s: “What Is Mind” was delivered few months before Hayek left Europe, but he did not immediately settle down in Chicago. First, he travelled to the University of Arkansas at Fayetteville where divorce laws made it easier to divorce his first marriage and to marry his Viennese love of the early 1920s (Hennecke 2000, 230-231; Caldwell 2004, 133-134).

This is precisely the time in which this paper locates the gradual transition in Hayek’s scholarship that is captured with the juxtaposition of Hayek II vs. Hayek III. This transition is not assessed as a categorical break, but rather as a shift of his focus. And it certainly was a process which unfolded slowly and took well into the years after *The Constitution of Liberty*, rather than an event which could be precisely pinpointed at a certain moment of time. This section presents two complementary formulations of the *anamnesis* as to the differences between Hayek II and Hayek III. Section 4.5 follows up with a *diagnosis* about two, again complementary motivations which explain this transition.

The first anamnesis focuses on Hayek’s warning against “pretense of knowledge” which he picked for the title of his Nobel lecture (Hayek 1974/1989). Hayek’s plea for humility and against the conceit of omniscience has become a trademark of his thought, one which today’s Hayekians constantly use – and sometimes abuse. This warning is a double-edged sword, and only the plea for humility and against the conceit of omniscience is its productive edge. At the same time, abuse is possible once “pretense of knowledge” is swung around like a club against any position about certain institutions, their nature and quality. The notion of “pretense of knowledge” obviously raises the crucial question about the demarcation line between what is known and what remains unknown to the individual. However, the warning against the possibility of knowing everything should not be easily turned into the opposite proposition. A second-generation ordoliberal formative for the Cologne strand of ordoliberalism, Hans Willgerodt, who was also a nephew of Röpke, found an elegant formulation for this risk: In Willgerodt’s warning against the abuse of

Hayek's warning, "pretense of knowledge" (Anmaßung von Wissen) should not and does not automatically imply "pretense of not knowing anything" (Anmaßung von Unwissen) (Willgerodt 2004). Of all places, one of the most succinct formulations of Hayek's struggle with this tension can be found in the foreword to the German edition of *The Constitution of Liberty*, published by the Walter Eucken Institute in 1971, where he reflects about the "completeness" and "definitiveness" of what he could present to the citizen whom he hopes to convince of his own values. Hayek sees an urgency to express one's imperfect and incomplete knowledge "at least for problems on which others work intensely", and reassures himself with a marginalist-sounding formulation that once an author has stated this imperfect knowledge, one can quickly expect "a diminishing return" to follow (Hayek 1960/1971, v).

In line with this juxtaposition, Hayek III is interpreted as focusing on this facet of his work which emphasizes *what we do not know*, while Hayek II emphasizes how *what we have already learned must suffice* to shape the orders around us, imperfect as this knowledge may be at any point of time. Hayek III can be accused of having left behind a blind spot which later Hayekians, in their ideological quests, have transformed into a certain mysticism which is not easy to reconcile with science and its quest for knowledge. In contrast, Hayek II employs a different rhetoric which signals a higher level of trust: Here the study of historical economic and legal institutions provides a rich database which enables learning about the qualities of these institutions. This database is useful for Popperian, *reformist* "piecemeal engineering", as opposed to *revolutionary* attempts to replace an entire order: Hayek reiterates at numerous occasions that – in line with Austrian marginalism which goes well beyond the notion of utility – it is not entire systems which we can "take" from history to replace politico-economic reality (Servant 2018), but only incrementally improve single institutions:

"In all our endeavor at improvement we must always work inside this given whole, aim at piecemeal, rather than total, construction, and use at each stage the historical material at hand and improve details step by step rather than attempt to redesign the whole." (Hayek 1960/2011, 131-132).

And yet the tension remains. When precisely is “the whole” at stake, apart from clear-cut situations like 1917 in Russia or 1933 in Germany? What if the “Thatcher-Reagan revolution”, as seen by its adversaries, is assessed as *the* radical change of the postwar order – was it then an “endeavor at improvement” which was legitimate along Hayek’s lines? Apart from such important epistemological questions, this paper shows how in moments like the 1930s and the 1940s – moments when orders were falling apart – “to redesign the whole” is simply required by the circumstances. So what is the appropriate attitude of the scholar in such moments: *we do not know* or *what we have already learned must be enough*? Hayek’s illness at the end of his life did not allow him to experience consciously the fall of socialism, but it appears questionable whether Hayek III would have been as confident about the possibility of redesigning the post-communist frameworks as was Hayek II after the end of National Socialism and fascism.

The second, complementary anamnesis contrasts what may be called “the primacy of order” to “the primacy of liberty”. Hayek II’s attitude to the urgent necessity of stable frameworks can be depicted as a primacy of order over liberty, while Hayek III shifted these categories. In line with Goldschmidt and Rauchenschwandtner (2018), this paper locates the ordoliberalists as proponents of the primacy of order: An adequate order is needed first, and only then can liberty thrive within this order. This is very much congruent with Hayek II’s emphasis on the *competitive order and its designable framework* as the main intellectual challenge for political economists in his neoliberal generation. Dynamics and spontaneity here characterize *only* the economic process, while the framework of the economic order is seen as static and permanent. In other words, Hayek II outlined a theory for the construction of frameworks which is a necessary exercise *at a point of time*. Hayek III’s emphasis on the *spontaneous order and its evolving framework* implies, in contrast, a primacy of liberty: Here liberty is needed first, and it then leads to the emergence of adequate orders. Dynamics and spontaneity here characterize *both* the economic process and the framework of the economic order. Hayek III outlined a theory how society learns through experimentation with rules and frameworks *across time*.

4.5 Hayek III: *The Double Diagnosis*

If the above *anamnesis* about the transition which unfolded during the 1960s and 1970s is correct, a *diagnosis* for what happened is required. Two diagnostic attempts will be sketched here: First, how Hayek's ideational milieu changed; second, how economic and social reality changed as well. Regarding the ideational milieu, two different aspects appear relevant. To begin with, Hayek's circle of friends altered significantly around 1950. Eucken passed away in London in March 1950, during the very months of Hayek's move to Chicago. In the meantime, one central reason for moving to Chicago had vanished few years earlier: Henry Simons, who had constituted one angle in the Freiburg-London-Chicago triangle, committed suicide in 1946. The relationship with Röpke deteriorated during the 1950s. Thus, personally the "ordoliberal archipelago" to which Hayek contributed his learning ordoliberalism during the 1930s and 1940s, was no more. In addition to his *contemporaneous friends*, his *historical friends* changed as well. The immediate postwar years mark the beginning of Hayek's fascination for the Scottish Enlightenment and its proponents. As early as 1945, Hayek endorsed Smith, Hume and Ferguson for their "true individualism" (Hayek 1945/1948). As the historian of economics developed in him (Peart 2015), Hayek produced an intriguing and rather ordoliberal reading of the British tradition of this "true individualism":

"It was not 'natural liberty' in any literal sense, but the institutions evolved to secure 'life, liberty, and property,' which made those individual efforts beneficial. Neither Locke, nor Hume, nor Smith, nor Burke, could ever have argued, as Bentham did, that 'every law is an evil for every law is an infraction of liberty.' Their argument was never a complete laissez-faire argument, which, as the very words show, is also part of the French rationalist tradition and in its literal sense was never defended by any of the English classical economists. They knew better than most of their later critics that it was not some sort of magic but the evolution of 'well-constructed institutions,' where the 'rules and principles of contending interests and compromised advantages' would be reconciled, that had successfully channeled individual efforts to socially beneficial aims." (Hayek 1960/2011, 118-120).

In addition, already in the 1940s his market-process view of competition was “more dynamic” than the Stackelberg-inspired market-forms view of competition of the ordoliberals (Hayek 1946/1948). This emphasis on the dynamics of the economic process, plus the powerful influx of evolutionary thought from the Scots, could have pushed him to also “dynamize” his theory of the economic order. *The Sensory Order*, coupled with his increasing interest in complexity theory (Lewis 2016), turned him more and more to these aspects of the human nature which underscore the limits to cognition, especially when it is supposed to explain and design complex systems. This applied also to his transition regarding the cognitive capability of the scholar vis-à-vis the framework: from a *designer who is attentive to the limits to one’s knowledge* (Hayek II) to an *observer who can be hampered by an over-emphasis on the limits to one’s knowledge* (Hayek III).

The second layer of the diagnosis are the fundamental changes in economic and social reality which took place between the 1940s and 1980s. Two aspects changed radically: the urgency to stabilize the frameworks of the interwar decades from falling apart, and the *possibility* to shape these frameworks. The 1940s witnessed the most intensive cooperation in the neoliberal generation in general and in the “ordoliberal archipelago” in particular, but it was also the decade in which most questions of political, economic, geostrategic etc. order were being resolved. The Pax Americana stabilized the international relations in the Western world and clarified the fronts in the Cold War, while the Bretton Woods institutions ordered international economic relations for the decades to come. The window of opportunity to shape the orders of economy and society closed and the urgency to do so dwindled as the new postwar stability took shape. The remainder of Hayek’s life took place in the rather stable postwar world, and it is hardly surprising that this also reflected on his scholarly evolution. In Paul Samuelson’s retrospective, Hayek’s positioning against the market socialists convinced “most economists born after 1910” that full-fledged central planning was doomed to remain inferior to the market mechanism (Samuelson 2009, 2). In such times of stable orders and frameworks, economists do not feel incentivized to spend much intellectual energy on issues of frameworks, so that an economics focusing on orders and frameworks which can be called

“contextual economics” is not particularly topical; instead, “isolating economics” is opportune due to its focus on the economic process within a stable framework (Goldschmidt, Grimmer-Solem and Zweynert 2016). Hayek did not leave economics behind, and certainly did not engage in isolating economics of the Samuelsonian type. But if we take his distinction of the “three layers of rules” which constitute frameworks – the genetically inherited, the culturally transmitted and the consciously designable (Hayek 1979b, 159) – his focus shifted primarily to the first two layers. After 1950s the window of opportunity to shape rules in the third layer was mostly closed. His public pronouncements like letters to the editor of *The Times* or *Frankfurter Allgemeine Zeitung*, especially when containing advice for politicians like Margaret Thatcher (Farrant and McPhail 2017), had little in common with the systematic, theory-laden, almost manifesto-like letter to the editor of *Time and Tide* at the outset of this paper.

5. Conclusion and Outlook

According to German critical rationalist Hans Albert, the main theoretical achievement of Eucken’s ordoliberalism consisted in rediscovering the crucial importance of orders for the unfolding of certain social processes, thus contributing a new answer to the Kantian question about the “conditions of the possibility of an order of liberty in today’s society” (Albert 2005, 413-414). This paper identified the section of Hayek’s long life during which he also did precisely this, and that not only substantively. In addition, the specific rhetoric which he employed in the 1930s and 1940s – the set of concepts around the economic constitution’s framework of the competitive order – is particularly close to the contemporaneous rhetoric of the ordoliberals. The paper underscored that these affinities, in substance and rhetoric, were not so much influences from one thinker on another. Rather, I focused on the urgency of living in a world of disintegrating orders amid the near-destruction of civilization as the main driver behind the Hayek-Eucken-Röpke-affinities. The indispensability of orders for social processes, as outlined by Albert, felt much more pressing in the extremely fragile world of the 1930s and the 1940s than it did in the postwar decades.

Given the rich “treasure trove” which Hayek’s longevity, ecumenical personality and wide-ranging research interests left behind for historians of the social sciences, the paper attempted to add a perspective which is worth revising by anglophone Hayek scholars. This does not include any claims that the nexus to the “ordoliberal archipelago” was more important than contemporaneous Anglo-Saxon discourses. But it does put the spotlight on a link which certainly mattered a lot within the neoliberal generation during its formative decades. The neoliberals were no revolutionaries and were aware that 18th and 19th century philosophers and economists knew about the importance of the framework. But the ruptures of the Great War and the interwar decades gave the discussions about the stability of orders and their frameworks a much greater *topicality*, to use a term by Edmund Husserl who was a crucial influence for Eucken. Foucault’s terminology helps to make this point. The ordoliberals and Hayek II were confronted with a genuinely new *governmentality* problem: Thinking the order of the state vis-à-vis the economy and society when the German state almost destroyed civilization and then thoroughly collapsed, all of that – unlike in the 18th or 19th century – in the context of a fully democratic society.

Hayek’s learning ordoliberalism, by combining his knowledge topos with the ordoliberal notion of the framework, added a specific twist to the “order of liberty” question. Yes, at certain points of time frameworks need to be radically reset, but for their improvement over time which mostly happens gradually, we are dependent on societal learning. Hayek III’s spontaneous order and cultural evolution focused on how we learn about frameworks *across* time, while Hayek II focused on the necessity and the properties of frameworks *at a certain point* of time. These two focuses of Hayek *the scholar* mirrored the worlds in which Hayek *the citizen* lived: Hayek II lived in world which needed new orders for liberty to be possible at all, while Hayek III lived in world where liberty was reliably guaranteed and could gradually improve the existing orders. If we disentangle “laissez-faire within rules”, Hayek II was closer to Eucken and his emphasis on the rules part, while Hayek III approached Mises and his emphasis on the laissez-faire part. Hayek III was closer to the Austrian tradition’s emphasis on the *dynamics* of social processes in more or less steady frameworks, while

Hayek II and the ordoliberals bundled their intellectual energy on the *statics* of the frameworks around the social processes when these statics were threatened.

Not surprisingly in this reading, the ordoliberal research program declined during the postwar decades, and that not only because of Eucken's unexpected death or the lack of originality and ideological aberrations by some second and third generation ordoliberals (Feld and Köhler 2016; Dold and Krieger 2021). The Federal Republic became soon a stable society with a prosperous economy, so the issues of statics increasingly lost their topicality. Hayek's decades at Freiburg – all the way from 1962 to his passing in 1992, interrupted only by the unfortunate years at Salzburg – did not stop the decline of the ordoliberal research program, quite on the contrary: Hayek III took shape precisely in these Freiburg decades. As mentioned above, his failing health did not allow him to consciously experience the collapse of socialism and the corresponding fundamental shock to the statics of the postwar order.

For better or worse, the decades since 1989 have been fundamentally different when compared to the relative stability of the Cold War. And while radical ruptures like postcommunist transition or the Arab Spring were largely regionally contained phenomena, in most recent years the entire Western world has entered a phase of multiple crises. The accumulation of still unresolved technological, economic, political, demographic and geostrategic crises can be described as a “cumulative disruption of orders” (Kolev, Goldschmidt and Zweynert 2019, 646), a disruption which goes well beyond the economy. In such a world, the topicality of research programs that emphasize the importance of frameworks and their statics rises again. If after the pandemic citizens do not regain confidence in their national and international orders of economy and society, populism could loom in an even uglier face. The recent explosion of new literature on ordoliberalism (Horn 2021, 3-5) meanwhile clearly extends beyond the initial interest in the German response to the Eurozone crisis. In the reading of this paper, a Hayek IV today would probably agree with this new topicality of ordoliberalism – in case we have hopefully learned from the 1930s and 1940s that liberty presupposes stable orders.

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