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Original Article

Spontaneous Order vs. Centralized Planning: Hayek's Critique of the French Pandemic

Abstract:

This article explores Friedrich Hayek's critique of centralized planning through the lens of France's response to the COVID-19 pandemic. Hayek's concepts of spontaneous order and the limits of centralized knowledge are juxtaposed with the highly centralized approach adopted by the French government during the crisis. The discussion delves into Hayek's distinction between *nomos* (emergent, customary law) and *thesis* (constructed, imposed law), highlighting the tension between market-based self-regulation and state-driven directives in times of uncertainty. France's historical predisposition toward centralization, rooted in its legal and administrative traditions, is examined as a unique case study. Hayek's critique of the French elite's culture of planning and their interpretation of liberalism underscores the enduring influence of centralized thinking. The article further evaluates the pandemic's implications for Hayek's ideas, integrating critiques from other Austrian economists, including Hans-Hermann Hoppe, Ludwig von Mises, and Murray Rothbard. These perspectives offer contrasting views on the role of the state, property rights, and individual liberty during crises. The study also considers broader cultural shifts, such as the rise of secularism and the elevation of science and expertise to quasi-dogmatic status, questioning whether Western societies have moved away from the values Hayek championed. Ultimately, this article argues that the French response to COVID-19 highlights both the prescience and limitations of Hayekian philosophy. While his warnings about the dangers of centralized planning remain relevant, the pandemic reveals new challenges to the application of his ideas in a collectivist-leaning world increasingly resistant to individual freedom.

Keywords: Hayek, Spontaneous Order, Applied Austrian Economics, Centralized Planning, COVID-19 Pandemic, French Legal Tradition, Crisis Management, Pandemic Policy

The COVID-19 pandemic has been one of the most significant global crises of the 21st century, disrupting economies, societies, and healthcare systems (Schwab et Malleret 2020; Bagus, Peña-Ramos, et Sánchez-Bayón 2023). It forced governments worldwide to make rapid decisions, often relying on centralized planning to manage the crisis (Pennington 2023). France exemplifies this approach, as its pandemic response reflected a strong tradition of centralized authority, deeply embedded in its administrative and political culture (Clévenot et Saludjian 2022). From strict nationwide lockdowns to the centralization of health resources and decisions, France's actions highlight the strengths and weaknesses of a centralized model in handling complex and uncertain events (Pennington 2021; Malliet et al. 2020). Friedrich Hayek, a staunch critic of central planning, argued that such approaches inherently fail due to the "knowledge problem," the inability of any authority to effectively gather and process the dispersed information needed for efficient decision-making (Hayek 1945; 1978). The French case thus provides a valuable opportunity to evaluate Hayek's theories in the context of a modern crisis, questioning whether his critique remains relevant and whether his alternative, the concept of spontaneous order, could offer a more effective solution (Hayek 1972).

While Hayek's critique of centralized planning and his defense of spontaneous order are widely discussed in economic and philosophical circles, there has been little effort to apply his ideas to specific contemporary crises like the COVID-19 pandemic (Pennington 2020; Block 2020; Cato et Inoue 2022). The existing literature on France's pandemic response tends to focus on technical evaluations or policy critiques, often overlooking broader theoretical frameworks that could provide deeper insights into its successes and failures (Bouchet et Duvoux 2023; Malliet et al. 2020; Christl et al. 2024). Moreover, the French case remains underexplored from a Hayekian perspective, despite its unique administrative structure and history of centralized governance (Bartoli 2007). This gap is particularly striking given Hayek's critique of the French intellectual tradition, which he saw as overly rationalist and prone to centralization (N. G. Wenzel et Thomas 2023). Addressing this gap allows us to not only revisit Hayek's ideas in a concrete and timely context but also to contribute to broader discussions about the viability of centralized governance in managing crises in modern democracies (Devine 2020; Grayling 2017; Hahnel 2013).

This article offers a twofold contribution to the literature. First, it applies Friedrich Hayek's concepts—such as the limits of centralized knowledge, the role of spontaneous order, and the dangers of reactive regulation—to analyze the French government's response to the COVID-19 pandemic. By doing so, it bridges the gap between theoretical critiques of central

planning and the empirical realities of crisis management in a centralized system (Block 2020; Cato et Inoue 2022). Second, the article expands the discussion by integrating perspectives from other Austrian economists, including Hans-Hermann Hoppe, Ludwig von Mises, and Murray Rothbard (Hoppe 2018a; Mises 1998a; Rothbard 1962). These thinkers provide valuable critiques and alternative approaches, such as anarcho-capitalism and property-rights-based solutions, which challenge both Hayek's framework and the centralized model implemented by France (Boettke et Powell 2021). Additionally, the article explores how shifting cultural values in Western societies, such as the rise of collectivism and the elevation of science and expertise to dogmatic status, pose challenges to the application of Hayek's ideas. Ultimately, this study aims to fill a critical gap in the literature by offering a nuanced analysis of centralized planning during a crisis and reassessing the relevance and limitations of Hayekian thought in contemporary governance.

I. The singularity of France for Hayek

A. Hayek's Critique of the Dominant Conception of Liberalism in France

Friedrich Hayek highlighted a critical distinction between the French and Anglo-Saxon traditions of liberalism, emphasizing how these differences have shaped France's unique trajectory (Hayek 1957). Anglo-Saxon liberalism, rooted in the British tradition, emphasizes individual autonomy, spontaneous order, and limited government intervention. In contrast, French liberalism has historically leaned toward rationalist ideals, where society is viewed as a construct that can and should be shaped by reason and centralized authority. This difference, Hayek argued, reflects the French intellectual tradition's reliance on top-down structures to achieve social order, a perspective that often clashes with the bottom-up, decentralized approach championed by Anglo-Saxon thinkers (Wenzel 2010, page 60).

For Hayek, this divergence explains France's enduring preference for state intervention in economic and social affairs. French liberalism, shaped by figures such as Rousseau and later the *dirigiste* tradition, places a higher value on equality and collective welfare than on individual freedom. Hayek viewed this as a fundamental misunderstanding of true liberalism, which he believed should prioritize the protection of individual rights and the facilitation of voluntary cooperation within a decentralized framework. By subordinating individual autonomy to collective goals, French liberalism, in Hayek's view, paves the way for centralized planning and the erosion of liberty.

B. Hayek's Critique of the Culture of Central Planning Among the French Elite

Hayek was particularly critical of the French elite's penchant for central planning, which he attributed to the dominance of institutions such as the *École Polytechnique*¹ and the *École des Mines*² (Hebert 2002). These prestigious schools, which have trained generations of French technocrats and engineers, epitomize a mathematical, deterministic approach to governance. Hayek argued that this culture fosters a belief in the feasibility of designing and controlling complex social and economic systems, an assumption he viewed as fundamentally flawed. According to Hayek, the mathematical rigor and technical expertise prized by these institutions encourage their graduates to view society as a system to be planned and optimized, ignoring the unpredictable and adaptive nature of human interactions (Nakayama 2002).

This engineering mindset, Hayek contended, reflects a dangerous overconfidence in human reason and a disregard for the dispersed knowledge that underpins a free society. The tendency of French elites to prioritize efficiency and uniformity often leads to policies that stifle innovation, constrain individual choices, and create unintended consequences. Hayek warned that this culture of centralized planning not only undermines the principles of a free market but also concentrates power in the hands of a select few, increasing the risk of authoritarianism. In his critique of French technocracy, Hayek underscored the importance of humility in policymaking, emphasizing that no central authority can ever possess the knowledge necessary to manage the complexity of society effectively.

¹ The *École Polytechnique*, founded in 1794, is a prestigious French institution that has historically trained engineers and technocrats, emphasizing mathematical precision and central planning in its approach to governance. A notable modern example is Jacques Attali, a graduate who has significantly influenced French economic policy and international governance through his technocratic expertise. Attali, a socialist, has advised all French presidents since François Mitterrand, shaping policies with his vision of centralized planning and globalist outlook.

² Jean-Marc Jancovici, a graduate of the *École Polytechnique* and professor at MINES ParisTech, exemplifies this tradition, advocating for technocratic solutions to ecological and energy challenges. In an interview with *Le Parisien* on October 3, 2022, he suggested, as an example of chosen sobriety, limiting CO₂ emissions by setting a quota of 3 or 4 flights per person over their lifetime (Sabrina Ramessur 2023).

II. Spontaneous Order vs. Constructed Order

A. The Evolutionary Nature of Spontaneous Order

In his exploration of societal organization, F.A. Hayek emphasizes the *limits of centralized knowledge* (1945), which he presents as a central challenge in both economic and social orders. He argues that knowledge is inherently dispersed among individuals, and no central authority can possess the comprehensive information necessary to make informed societal decisions. This idea underpins his critique of central planning and forms the foundation for his defense of decentralized systems like markets. Hayek's argument is rooted in several key points.

Hayek begins by pointing out that knowledge in society is widely dispersed among individuals. Each person holds a fraction of the knowledge available, specific to their experiences, local conditions, and personal circumstances. This fragmentation of knowledge makes it impossible for any single authority to access or aggregate all the relevant information needed to make effective decisions on behalf of society. "Not only do we not possess such an all-inclusive scale of values," Hayek argues, but "it would be impossible for any mind to comprehend the infinite variety of different needs of different people" (F. A. Hayek 1972, page 62). This dispersal is vital for the functioning of a complex society, as it allows individuals to act based on their unique knowledge, which contributes to a more dynamic and efficient system.

Related to dispersed knowledge is the concept of "constitutional ignorance," which Hayek uses to describe the inherent limitations of human understanding. He asserts that individuals, particularly central authorities, are ignorant of the specific facts that influence economic activities and social interactions. This ignorance is not a temporary problem that can be solved with better data or technology; it is a fundamental barrier to the rational construction of society. As a result, no central planner can fully understand the conditions, needs, and preferences of all individuals within a society. Consequently, attempts at central planning or overly regulated economies are doomed to failure.

Given the limitations of individual knowledge and the impossibility of centralized understanding, Hayek underscores the importance of rules of conduct. These rules emerge as essential tools that allow individuals to navigate their ignorance and make decisions based on their limited knowledge. Rules help to guide behavior in a way that facilitates cooperation and

coordination, creating a framework within which individuals can interact effectively. Hayek contends that society would become unmanageable without such rules, as people would struggle to make informed decisions without comprehensive knowledge. A central authority does not impose these rules but emerges spontaneously from the interactions of individuals over time.

Hayek further argues that the market operates as a spontaneous order that effectively harnesses dispersed knowledge. In the market, individuals make decisions based on their knowledge and circumstances, which leads to a more efficient allocation of resources than a centrally planned system could achieve. The decentralized nature of the market allows it to incorporate a wide array of information that no single planner could access. Conversely, centralized planning tends to ignore or mishandle this dispersed knowledge, leading to inefficiencies and misallocations. Hayek views the market as a superior system for organizing society: it is adaptable and responsive to human knowledge's decentralized, fragmented nature.

In addition to critiquing centralized planning, Hayek also addresses the belief that scientific advancements can overcome the limitations of human knowledge. While science can provide valuable insights, Hayek asserts that it cannot eliminate individuals' fundamental ignorance regarding the specific facts necessary for effective decision-making. Even the most sophisticated scientific models cannot capture the complexity and diversity of individual needs and preferences. As Hayek states, "Whether [an individual's] interests center around his own physical needs, or whether he takes a warm interest in the welfare of every human being he knows, the ends about which he can be concerned will always be only an infinitesimal fraction of the needs of all men" (F. A. Hayek 1972, page 62). Thus, science cannot fully compensate for centralized systems' lack of comprehensive knowledge.

In summary, Hayek's exploration of the limits of centralized knowledge highlights the importance of recognizing the dispersed nature of information in society. Centralized authorities, he argues, are inherently incapable of gathering and processing the vast amount of knowledge needed to make effective decisions for a complex society. Instead, Hayek advocates for decentralized systems—such as markets—that allow individuals to navigate their limited knowledge through spontaneous rules of conduct. His critique extends to the limitations of science, which, while helpful, cannot overcome the fundamental ignorance individuals face. This underscores Hayek's broader argument for minimal government intervention and the importance of spontaneous order in the functioning of society.

B. The Limits of Centralized Knowledge

In his critique of centralized planning and governance, F.A. Hayek highlights the inherent limits of centralized knowledge as a fundamental challenge in managing complex social and economic orders. Hayek argues that knowledge is not concentrated in the hands of a few but rather widely dispersed among individuals, making it impossible for any central authority to effectively collect and process the vast array of information necessary for governing an entire society. This limitation in centralized knowledge forms the basis of Hayek's argument for decentralized systems and spontaneous orders, such as markets, where individuals, guided by their knowledge, can make more efficient and informed decisions.

A key concept in Hayek's critique is that knowledge is inherently dispersed across society. Each individual holds unique, localized knowledge relevant to their specific circumstances and needs. Hayek emphasizes that no single entity or central planner can ever have access to the total knowledge required to make decisions on behalf of society. "It would be impossible for any mind to comprehend the infinite variety of different needs of different people which compete for the available resources" (F. A. Hayek 1972, page 62). This dispersed knowledge means that each person can only know a small fraction of the information needed to manage complex social and economic systems, rendering centralized decision-making inefficient and prone to failure.

In connection with dispersed knowledge, Hayek introduces the concept of "constitutional ignorance," which refers to the inherent limitations of human understanding (Streit et Klotten 1997). He argues that no one, including those in positions of authority, can fully grasp all the factors that influence social interactions and economic activities. This ignorance is not simply a temporary shortcoming but a fundamental barrier to effective central planning. Despite their best efforts, Hayek insists that central authorities can never fully know the diverse and ever-changing conditions under which individuals make decisions. Consequently, this inherent ignorance will constrain any attempt to construct a rational and centrally planned society.

In light of this dispersed knowledge and constitutional ignorance, Hayek emphasizes the importance of rules to navigate the complexities of social interaction. These rules of conduct, which emerge spontaneously over time, serve as essential tools for guiding human behavior in a way that allows cooperation and coordination. Hayek contends that individuals, limited by their partial knowledge, rely on established rules to interact effectively with others.

A central authority does not necessarily impose these rules; instead, they arise organically from the interactions of individuals within society. Without such rules, the complexity of social order would become unmanageable, as individuals would struggle to make informed decisions based on their limited knowledge.

Hayek sees the market as an exemplary spontaneous order that efficiently utilizes dispersed knowledge. The decentralized nature of market interactions allows individuals to make decisions based on their unique circumstances, preferences, and knowledge. In this system, information is not concentrated in the hands of a central planner but is instead diffused across millions of individual decisions. Hayek argues that this decentralized process leads to a more efficient allocation of resources than any centrally planned system could achieve. Central planning often fails to account for individuals' diverse and specific knowledge, leading to misallocations and inefficiencies that disrupt the economy's natural balance.

Hayek also critiques the notion that scientific advancements can overcome the limits of knowledge. While science can offer insights into specific areas, Hayek asserts that it cannot eliminate individuals' fundamental ignorance regarding the particular circumstances in which they must make decisions. No scientific model, no matter how sophisticated, can fully capture the complexity of human needs and preferences in a dynamic, evolving society. "The ends about which [a person] can be concerned will always be only an infinitesimal fraction of the needs of all men" (F. A. Hayek 1972, page 62). Hayek argues that even the best scientific understanding cannot replace the local and tacit knowledge that individuals use to navigate their own lives.

In conclusion, Hayek's critique of centralized knowledge underscores the dispersed nature of information within society and the limitations this imposes on central planning. His argument centers on the idea that no central authority can ever gather or process the full spectrum of knowledge needed to make informed decisions for society. Instead, Hayek advocates for spontaneous orders, such as markets, where individuals, guided by their knowledge and the rules of conduct that emerge naturally, can act in a way that leads to a more efficient and adaptive social order. His broader critique extends to the limitations of science, which, while valuable, cannot overcome the fundamental ignorance that plagues centralized decision-making.

C. Principles as the Basis of Effective Regulation

In Chapter 3 of *Law, Legislation and Liberty* (1976), F.A. Hayek focuses on grounding effective regulation in *principles* rather than arbitrary decisions. He argues that only by adhering to clear and consistent principles can a legal system maintain individual freedom and prevent the abuse of power by rulers. For Hayek, principles are a bulwark against transforming laws into tools for pursuing specific ends at the expense of individual liberties. This focus on principles is critical to maintaining a stable and just society where laws protect freedom rather than undermine it.

Hayek argues that society must continually return to fundamental principles to preserve the blessings of liberty. Without a commitment to these principles, the legal system risks becoming a mere instrument for rulers to achieve their persona even rather than a protector of individual freedoms. He warns against allowing expediency or short-term goals to drive legal decisions, as this can erode the rule of law. By basing regulations on time-tested principles, society can avoid this pitfall and ensure that laws protect freedoms and promote justice (1976, p. 62).

Hayek believes the law emerges from the judicial process through general rules of conduct. Once established, these rules regulate interactions among individuals by providing a consistent and predictable framework for behavior. The key feature of these rules is their universality—they are intended to apply to all individuals and an unknown number of future cases. This ensures that the law is based on principles of justice rather than tailored to specific situations or expedient outcomes. This way, principles-based laws promote social order and individual liberty by offering a stable and just framework for societal interactions (1976, pp. 63-64).

Hayek also cautions against the unintended consequences of interfering with the market order or social systems in ways disregard fundamental principles. While the immediate effects of such interference may be visible and even beneficial, Hayek warns that the more remote consequences are often unknown or overlooked. These distant effects, which may arise long after the initial interference, can disrupt the delicate balance of social and economic interactions. Hayek emphasizes the complexity of these systems and the importance of adhering to principles that consider the long-term, often unseen consequences of regulatory action (1976, p. 64).

For Hayek, the effectiveness of regulations depends on their universal application. Rules of conduct must be consistent and applicable to all individuals, without exception. He argues that arbitrary changes to these rules by authorities undermine the stability of the legal system and create uncertainty in society. Individuals rely on the stability of these rules to plan their actions and interactions. If rules are subject to frequent or arbitrary changes, it erodes trust in the system and creates confusion, ultimately destabilizing society. Therefore, Hayek asserts that laws must be based on universal principles that provide a reliable framework for behavior (1976, p. 65).

Hayek strongly advocates for the separation of powers, notably the division between the legislative and executive functions. This separation is crucial to ensuring that the enforcement of rules remains impartial and that individual freedoms are protected. If the legislative body—responsible for making the laws—also controls the enforcement of those laws, it risks using its power arbitrarily, making laws that serve its interests. By separating the creation and enforcement of laws, society can safeguard individual liberties and ensure that rules of conduct are applied fairly and universally (1976, pp. 66-67).

In summary, Hayek's discussion in Chapter 3 underscores the critical importance of principles in formulating effective regulation. He argues that laws must be grounded in enduring principles that promote justice and protect individual freedoms rather than being driven by expediency or short-term goals. Universally applied and consistently enforced rules of conduct form the foundation of a stable and free society. Hayek's insistence on the separation of powers further reinforces his view that regulation should be designed to safeguard liberty and prevent the concentration of power in the hands of any one authority.

D. The Dangers of Reactive Regulation

In his work, F.A. Hayek highlights the dangers of reactive regulation, prioritizing short-term needs and expediency over long-term stability and freedom. This type of regulation, driven by immediate concerns, can lead to unintended consequences that distort market signals and undermine individual freedoms. Hayek argues that effective regulation must be grounded in coherent principles rather than reactive, situational responses, as the latter often sacrifices long-term societal health for short-term gains. His critique of expedient regulation is a caution against

the temptation to regulate based on immediate visible effects rather than considering the broader, more complex implications.

Regulations driven by short-term expediency are often designed to address immediate problems or crises without sufficient regard for long-term consequences. Hayek notes that such regulations prioritize visible outcomes, making them appealing in the short run, but neglect the later indirect effects. This focus on the immediate can obscure the broader, less visible impacts, leading to a situation where the regulations solve one problem only to create several others down the line. Hayek emphasizes that "Freedom can be preserved only by following principles and is destroyed by following expediency" (1976, p. 56).

One of Hayek's key concerns about reactive regulation is its failure to account for the indirect effects of regulatory interventions. While the immediate impacts of regulation may be obvious and seemingly beneficial, the more remote consequences are often unknown or disregarded. These indirect effects may include distortions in market behavior, inefficiencies in resource allocation, or unintended shifts in economic activity. Hayek warns that because these broader repercussions are frequently overlooked, policies based on short-term considerations can ultimately harm the systems they are intended to help (1976, p. 56).

Reactive regulations also risk distorting the natural functioning of the market by interfering with price mechanisms and resource allocation. When authorities impose regulations based on short-term needs, they can disrupt the market's ability to signal changes in supply, demand, and consumer preferences. Hayek argues that these distortions prevent the market from making necessary adjustments, leading to inefficiencies and misallocations. Over time, these disruptions can undermine the stability of the market system, eroding its capacity to allocate resources efficiently and adapt to changing conditions (Law, Legislation, and Liberty, p. 57).

Another danger of reactive regulation is the potential for organized interests to co-opt the regulatory process for their benefit. In a reactive regulatory environment, special interest groups may pressure policymakers to implement regulations that protect their positions at the expense of overall market efficiency. These groups often advocate for regulations that favor their specific interests, which can lead to market distortions and unfair competition. Hayek cautions that this dynamic encourages a regulatory cycle in which powerful groups continually push for further interventions that benefit them, further eroding the principles of fair competition and economic freedom (1976, p. 57).

Perhaps the most significant consequence of reactive regulation is the erosion of individual freedom. Hayek warns that focusing on expediency can lead to a dirigist organization of society, where individual freedoms are gradually sacrificed to achieve immediate regulatory

goals. As each new regulation imposes restrictions on individual behavior, it creates a cycle in which further regulations are justified to address the problems created by previous interventions. Hayek emphasizes that "freedom can be preserved only if treated as a supreme principle" and warns that prioritizing short-term expediency over long-term principles will inevitably lead to the progressive destruction of freedom (1976, p. 57).

In summary, Hayek's critique of reactive regulation underscores the dangers of prioritizing short-term expediency over long-term principles. Regulations designed to address immediate needs often neglect the complex, indirect effects that emerge later, leading to market distortions and the erosion of individual freedoms. Hayek argues that effective regulation must be based on enduring principles that promote justice and freedom rather than expedient responses to immediate crises. By adhering to these principles, society can avoid the unintended consequences of reactive regulation and maintain a stable and free market order.

Spontaneous Order vs. Constructed Order: Insights and Critiques from Hayek's Framework

| Theme | Description | Examples and Critiques | Contributions and Limitations |
|---|--|--|--|
| The Evolutionary Nature of Spontaneous Order | Hayek emphasizes the limits of centralized knowledge and highlights how rules and market mechanisms emerge naturally over time. | Quote: "We must see this, or we shall grope in the dark!" Market systems adapt to fragmented knowledge; central systems fail. | Provides a compelling defense of decentralized systems but lacks concrete applications for real-world policy challenges. |
| The Limits of Centralized Knowledge | Knowledge is inherently dispersed among individuals, making it impossible for central authorities to act efficiently. | Central planning ignores diverse needs and preferences. Failures in planned economies underscore inefficiencies. | Strong argument for decentralization but overly dismissive of modern data capabilities in planning. |
| Principles as the Basis of Effective Regulation | Hayek advocates for universal, consistent rules grounded in principles to prevent abuses of power and ensure freedom. | Universality ensures fairness. Laws as predictable frameworks rather than expedient tools for rulers. | Underscores the importance of consistent laws but does not address how to update principles in dynamic societies. |
| The Dangers of Reactive Regulation | Reactive policies prioritize short-term fixes at the expense of long-term stability, leading to market distortions and inefficiencies. | Quote: "Freedom can be preserved only by following principles." Special interest groups exploit reactive policies. | Highlights long-term risks of short-term thinking but lacks solutions for urgent crisis management. |

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III. Law, Legislation, and the Market Order: the challenge

A. Nomos vs. Thesis: Two Approaches to Law and Regulation

In *Law, Legislation, and Liberty*, F.A. Hayek distinguishes between two approaches to law and regulation: Nomos and Thesis. These two forms of law reflect fundamentally different ways of understanding how legal systems operate and maintain societal order. Hayek's discussion highlights the importance of recognizing the organic development of law within society (Nomos) versus the imposition of laws by authority (Thesis) and how each approach impacts social order and economic efficiency.

Nomos refers to laws that emerge spontaneously from the customs, traditions, and collective practices of individuals within society. It represents a set of universal rules of just conduct that individuals generally follow without formal legislative processes. Nomos evolve, reflecting the values and expectations shared by community members. Its adaptability and decentralized nature allow for a flexible legal order that aligns with the organic development of society (1976, p. 99).

In contrast, Thesis refers to laws deliberately created and imposed by governments or central authorities. These laws are formal, enacted through legislative processes, and may not always reflect the underlying customs or spontaneous order that governs individuals' behaviors. Thesis-based laws can be arbitrary and often designed to achieve specific outcomes, disrupting the natural flow of societal interactions. Hayek criticizes this approach for its top-down nature, which frequently conflicts with the organic order of Nomos (1976, p. 100).

Hayek argues that Thesis-based legislation often disrupts the natural functioning of markets by imposing arbitrary rules that do not align with the realities of individual behavior or market dynamics. Because such laws are typically crafted to address specific, immediate issues, they can lead to unintended consequences that interfere with the price mechanisms and signals that guide market actions. This disruption prevents markets from functioning efficiently, as government-imposed regulations often ignore the complex interactions within the market.

For example, regulations designed to solve short-term problems may create distortions that exacerbate the issues they seek to remedy (1976, p. 120).

Moreover, Hayek highlights how the state can blur the distinction between public and private law, as government-imposed laws increasingly serve specific social aims or interest groups rather than maintaining a fair and competitive market. This complicates the regulatory landscape, further undermining the efficiency of markets and eroding the principles of individual freedom and competition (1976, p. 99).

Nomos, in contrast, reflects an organic legal order that emerges from the interaction of individuals within society. It is not imposed from above but develops from the ground up, allowing individuals to form expectations about the actions of others based on shared norms and practices. Hayek emphasizes that the role of a judge in a system of Nomos is not to enforce the will of authority but to help preserve the social order that has already been established through the spontaneous behaviors of individuals. Judges in this system act as facilitators of justice by ensuring that individual actions align with the accepted rules of conduct that have evolved within the community (1976, p. 120).

Hayek stresses that society cannot exist without Nomos because it is only through individuals following certain common rules that an orderly society can be formed. Contrary to the belief that laws originate from authority, Hayek argues that authority derives from law—specifically, the natural laws that emerge through social interactions. He points out that the judge's role is not to create order but to maintain the existing spontaneous order that individuals have established (1976, p. 120).

Hayek further argues that Nomos is essential for preserving individual freedom. Because Nomos consists of general, universally accepted rules of just conduct, it allows individuals to act within a predictable legal framework. This framework supports freedom by ensuring that no arbitrary authority interferes with individual actions unless those actions violate the accepted rules of conduct. In contrast, Thesis-based laws, often imposed for specific purposes, can restrict individual freedoms by enforcing regulations that serve the interests of a few at the expense of the many. Hayek warns that this top-down approach to lawmaking risks eroding liberty, as laws imposed by the state often reflect the interests of powerful groups rather than the needs of the broader society (1976, p. 100).

Hayek also highlights the evolutionary nature of Nomos, explaining that this type of law is not static but constantly evolves as society changes. New rules emerge organically when there is a conflict between existing laws and new moral beliefs or social practices. Importantly, these changes do not occur through formal legislative processes but through gradually accepting new

norms within the community. As Hayek notes, progress must be built on tradition, and while we may re-examine and challenge our existing rules, changes must be made to maintain the overall order of actions within society (1976, p. 167).

In summary, Hayek's distinction between Nomos and Thesis underscores the importance of understanding how laws are formed and their impact on society. Nomos represents a natural, spontaneous legal order that emerges from individual interactions and is essential for preserving liberty and maintaining social order. In contrast, Thesis embodies imposed regulations that can disrupt market functioning, create arbitrary outcomes, and erode individual freedoms. Hayek's critique of Thesis-based legislation highlights the dangers of top-down regulation and the importance of allowing legal systems to evolve organically in response to societal needs.

B. The Role of the Market (Catallaxy) as a Self-Regulating System

In Chapter 10 of *Law, Legislation, and Liberty*, F.A. Hayek explores the role of the market, or catallaxy, as a self-regulating system. Hayek argues that the market operates through individuals' spontaneous and decentralized interactions, each acting on their knowledge and preferences. These individual actions collectively result in price signals that reflect supply and demand dynamics, guiding resource allocation and coordinating economic activities without the need for central planning. In Hayek's view, the market is an efficient mechanism for balancing diverse needs and facilitating social cooperation by relying on competition and price mechanisms rather than government intervention.

The concept of catallaxy refers to a market order that emerges naturally from the interactions of individuals. In this system, no single entity controls or directs the overall process; rather, prices act as signals that convey information about supply and demand. These signals enable individuals to make informed decisions, leading to an efficient allocation of resources. Through its decentralized nature, the market allows individuals to respond to changing economic conditions by adjusting their behavior based on the information provided by price fluctuations. This self-regulating process ensures that resources are distributed according to the needs and preferences of society, without the need for central coordination (1976, p. 71).

Hayek argues that government interference disrupts the market's self-regulating capacity. Regulations imposed by authorities often lack a full understanding of the complex interactions within the market, leading to unintended consequences. For instance, regulatory interventions can distort price signals by imposing artificial supply, demand, or pricing constraints. These distortions hinder the market's ability to adjust to changes in economic conditions, resulting in inefficiencies and misallocations of resources. For example, price controls or subsidies can lead to overproduction in some sectors and shortages in others, as they prevent prices from accurately reflecting underlying economic realities (1976, p. 72).

In addition to creating market inefficiencies, government regulations can foster a dependency on authority for decision-making. When businesses and individuals become reliant on government directives to shape their behavior, they may lose the incentive to innovate or compete effectively. Businesses may focus on compliance with regulations rather than improving products or services to meet consumer demand. This regulatory environment stifles competition and undermines the dynamic, self-organizing nature of the market. Over time, the market's ability to generate innovation, increase productivity, and meet diverse consumer needs is diminished, as businesses prioritize regulatory adherence over competitive excellence (1976, p. 71).

Hayek compares the market to a complex game of skill and chance, where individuals act according to rules that guide their interactions. Similar to a game, the outcomes of the market are unpredictable, and there will naturally be winners and losers. However, Hayek emphasizes that it would be nonsensical to demand that the results of market interactions be "just" in a distributive sense. The outcomes in a market system are determined by a combination of skill, effort, and luck, which cannot be planned or controlled centrally. According to Hayek, what is important is that the rules of the market are fair and that no one cheats. Beyond that, the market must be allowed to operate freely, without interference, to ensure that it can continue to serve as an adaptive, self-regulating system (1976, p. 71).

While Hayek recognizes the market as the most effective mechanism for securing services that can be priced, he acknowledges that there are some areas where the market may not fully meet societal needs. These include services that cannot be easily sold to individuals or where public goods are involved. Hayek cautions, however, that the limitations of the market should not automatically justify government monopolies or exclusive state control over these services. Instead, he advocates for creating multiple, independent centers to address unmet needs. This diversity of service providers ensures that the government does not become the sole

authority and maintains the competitive, decentralized structure that is key to the market's success (1976, p. 72).

In conclusion, Hayek's analysis of the market—called catallaxy—highlights its role as a self-regulating system that relies on the spontaneous interactions of individuals to coordinate economic activities and allocate resources efficiently. Government interference, through regulations, distorts the price signals that guide the market and can lead to inefficiencies, stifled innovation, and dependence on authority. Although Hayek acknowledges certain market limitations, he stresses that these limitations should not result in a government monopoly, and he advocates for maintaining the decentralized, competitive nature of market systems. His argument underscores the importance of allowing the market to function freely as a dynamic and adaptive order.

Law, Legislation, and the Market Order: Hayek's Analysis of Nomos, Thesis, and Catallaxy

| Theme | Description | Examples and Critiques | Contributions and Limitations |
|--|---|---|---|
| Nomos vs. Thesis: Two Approaches to Law and Regulation | Hayek distinguishes between Nomos (spontaneously developed laws) and Thesis (imposed laws), highlighting how each impacts social order and market efficiency. | Nomos reflects evolving traditions and just conduct; Thesis-based laws often lead to arbitrary outcomes and distortions in market functioning. | Nomos promotes adaptability and individual freedom, but Hayek does not fully address the transition from Thesis to Nomos in modern systems. |
| The Role of the Market (Catallaxy) as a Self-Regulating System | Hayek describes the market as a decentralized, self-regulating system (catallaxy) that efficiently coordinates economic activities through price signals. | Price controls and subsidies disrupt price signals, leading to overproduction, shortages, and reduced innovation; market limitations exist but should not justify monopolies. | Highlights the efficiency of market systems but underestimates the role of regulation in addressing public goods and societal needs. |

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IV. COVID-19 and the French Response: A Challenge to Hayekian Principles

The French government implemented extensive restrictions during the COVID-19 pandemic, significantly impacting businesses, public gatherings, specific sectors, and key markets (Malliet et al. 2020; Clévenot et Saludjian 2022; Desson et al. 2020). These interventions, while aimed at controlling the virus and protecting public health, had profound economic and social consequences, drawing criticism from a liberal perspective for distorting markets and infringing on individual freedoms (Karadimas 2023).

1. Mandatory Closures of Non-Essential Businesses

Beginning in March 2020, non-essential businesses such as restaurants, bars, retail stores, and entertainment venues were mandated to close under the state of emergency law (*LOI n° 2020-290*). Essential services, including grocery stores, pharmacies, and banks, were allowed to continue operations. The economic fallout was severe, with small and medium-sized enterprises (SMEs) in the retail and hospitality sectors experiencing widespread closures and job losses. The Austrian School critiques such interventions, highlighting their role in disrupting market efficiency and suppressing entrepreneurial activity.

2. Restrictions on Public Gatherings and Curfews

Public events and gatherings were heavily restricted, and curfews were imposed in high-risk regions, prohibiting movement between 9 PM and 6 AM under *Décret n° 2020-1310*. These measures dealt a significant blow to industries dependent on large gatherings, such as tourism, entertainment, and cultural events. Theaters, cinemas, and music festivals were canceled, creating a ripple effect on supply chains and employment in these sectors.

3. Sector-Specific Restrictions

Certain industries faced targeted restrictions. The hospitality industry was required to comply with stringent health protocols, such as reduced seating capacities and curfews, severely affecting profitability. Public transportation services implemented capacity limits, and healthcare professionals were subjected to vaccination mandates, barring

unvaccinated workers from practicing. These measures disrupted healthcare services and strained the sector's already limited workforce (Pennington 2024).

4. **Interference in Key Markets**

The government intervened in several markets:

- **Labor Market:** Vaccination mandates and the promotion of teleworking created disparities in work accessibility. Essential workers, particularly in public-facing roles, could not benefit from remote work flexibility.
- **Information Market:** The government sought to regulate information, combating misinformation but also raising concerns about censorship and control over legitimate information dissemination.
- **Healthcare Market:** Restrictions on alternative treatments, such as hydroxychloroquine, highlighted tensions between public health policies and medical autonomy, sparking debates on innovation and individual medical decisions.

V. The French Road to Serfdom

France's administrative and intellectual evolution exemplifies what Friedrich Hayek termed the "abandoned road," marking a departure from liberal principles in favor of centralized authority (Pennington, s. d.). While the French Revolution initially championed individual liberty and economic freedom, subsequent developments veered toward collectivism and state intervention. This shift was embodied by the rise of the welfare state and *dirigisme*, which prioritized centralized planning over decentralized market solutions. The COVID-19 pandemic amplified this trend, as the French government relied heavily on executive orders to impose sweeping measures such as lockdowns and curfews. These decisions, often bypassing parliamentary debate, concentrated power in the presidency, underscoring Hayek's warnings about the dangers of unchecked authority and the erosion of economic freedom in crises.

This centralization was fueled by what Hayek described as "The Great Utopia," a belief in the perfectibility of society through rational planning (F. A. Hayek 1972, pp 24-32). The French government's zero-risk approach during the pandemic exemplified this utopian mindset, striving to save everyone through mandatory vaccinations and other top-down measures (Negroni 2024). However, this idealistic pursuit ignored the complexity of human interactions and the trade-offs inherent in central planning. Policies designed to ensure public safety often disregarded decentralized decision-making processes, leading to inefficiencies and unintended consequences. The resulting economic and social tensions validated Hayek's critique that utopian thinking often undermines individual liberty and exacerbates the very issues it seeks to resolve.

The tension between individualism and collectivism became starkly evident in France's implementation of the *laissez-passer sanitaire*, which restricted access to public spaces based on health status (Schouler 2024). These measures prioritized collective security at the expense of individual autonomy, aligning with Hayek's critique of collectivist systems. Critics highlighted the discriminatory nature of such policies, which excluded individuals from essential services and raised questions about equality before the law. Moreover, the overlaps between past public health policies and the COVID-19 response revealed a deeply ingrained centralist reflex, further reinforcing Hayek's warning that collectivism often erodes the balance between state control and individual freedom.

The narrative of planning as "inevitable" dominated French political discourse, particularly during the pandemic. President Macron's declaration, "Nous sommes en guerre,"

encapsulated the justification for sweeping state intervention (Macron 2020). Hayek critiqued this mindset, arguing that crises often serve as convenient pretexts for expanding state control. The French government's reliance on emergency measures, framed as necessary for public welfare, underscored the risk of normalizing such interventions, raising questions about the long-term implications for democracy and liberty.

Hayek's critique also emphasized the incompatibility of planning with the rule of law. Centralized decision-making during the pandemic led to frequent regulatory changes, undermining the principle of legal certainty. Measures such as mandatory vaccinations sparked debates about the limits of state intervention and the inviolability of individual rights. Critics drew parallels to the Nuremberg Code, emphasizing the ethical necessity of informed consent. By prioritizing collective health objectives, the French government often bypassed established legal protections, validating Hayek's concerns about the fragility of the rule of law under centralized regimes.

The French dirigiste model also reflects Hayek's assertion that economic control fosters authoritarian tendencies. While not overtly totalitarian, the centralization of economic decisions created vulnerabilities, as the state assumed greater control over private enterprises and individual freedoms (Schouler et al. 2024). The *laissez-passer sanitaire* and restrictions on unvaccinated professionals, such as healthcare workers and police officers, exemplified how collectivist policies could lead to coercive practices. These measures deepened societal divides and highlighted the dangers of subordinating individual rights to state-defined collective goals.

Finally, the pandemic revealed how technocratic governance could stifle dissent and manipulate truth. The French government's reliance on scientific expertise³ as an unquestionable authority curtailed public debate and suppressed alternative perspectives. Hayek warned that centralized systems often undermine the competition of ideas, replacing critical discourse with conformity. The elevation of expert-driven narratives during the pandemic reinforced this dynamic, reducing public trust in governance and eroding the foundational principles of a free society. These developments demonstrate the enduring relevance of Hayek's critique, as France's pandemic response illuminated the risks of central planning in undermining democracy, liberty, and the rule of law.

³ The key French health agencies during COVID-19 were Santé publique France (surveillance and public health campaigns), Haute Autorité de Santé (vaccine and treatment evaluations), ANSM (medication and vaccine safety), ARS (regional crisis management), Institut Pasteur (research on the virus), and INSERM (clinical trials and biomedical research).

The French Road to Serfdom during COVID-19: Key Themes and Examples

| Section | Key Argument | Examples/Details | Hayekian Principle |
|---|---|---|---|
| 1. The Abandoned Road | Departure from liberal principles toward centralized authority. | COVID-19 executive orders, enacted under the état d'urgence sanitaire, bypassed parliamentary debate, undermining legislative oversight and public accountability. | Centralized planning erodes individual autonomy and economic freedom. |
| 2. The Great Utopia | Pursuit of a utopian vision through central planning. | COVID-19 'zero-risk' approach with sweeping interventions (lockdowns, mandatory vaccinations). | Utopian thinking leads to inefficiency, overreach, and unintended consequences. |
| 3. Individualism vs. Collectivism | Collectivist policies prioritize the majority's well-being at the expense of individual freedoms. | Laissez-passer sanitaire restricted access to services; Decree No. 2021-1059. | Collectivism undermines innovation, freedom, and voluntary cooperation. |
| 4. The 'Inevitability' of Planning | Planning justified as 'inevitable' in crises, reinforcing state intervention as a norm. | Macron's declaration: 'Nous sommes en guerre,' to justify sweeping government control. | Planning is not inevitable; spontaneous order offers alternatives. |
| 5. Planning and Democracy | Centralized planning undermines democratic processes through concentration of power. | Executive orders sidelining legislative debates during COVID-19. | Democracy is incompatible with the coercive power required for central planning. |
| 6. Planning and the Rule of Law | Central planning leads to arbitrary and unpredictable governance, eroding the rule of law. | Frequent regulatory changes regarding COVID-19 measures (e.g., mask mandates, shifting vaccine requirements from one to three doses); controversies over mandatory vaccination policies violating bodily integrity. | Predictable, general rules are essential for legal certainty and individual rights. |
| 7. Economic Control and Totalitarianism | State control of the economy increases vulnerability to authoritarianism. | Dirigisme amplified by health mandates and business closures. | Economic freedom is essential to safeguard against totalitarian tendencies. |
| 8. Who, Whom? | Central planning creates imbalances in power dynamics between citizens and technocrats. | Technocrats (agence de santé) held unchecked authority during COVID-19, often without transparency or accountability. | Power centralization enables coercion and reduces accountability. |
| 9. Security and Freedom | Trade-off between public safety and personal liberty. | Lockdowns and vaccine mandates restricted personal freedoms in the name of collective health. | Security often comes at the cost of liberty; balance is crucial. |
| 10. Why the Worst Get on Top | Centralization attracts individuals who seek power for its own sake. | Critiques of decision-making during the pandemic highlighted reliance on poorly informed or politically motivated experts. Internationally recognized scientists, such as Professors Raoult and Montagnier, were contradicted and sidelined by politicians like Minister of Health Olivier Véran, who lacked scientific expertise but held decision-making power. | Centralization incentivizes power-seekers rather than effective leaders. |
| 11. The End of Truth | Manipulation of truth under centralized systems suppresses dissent and critical debate. | Dominant expert-driven narratives stifled dissenting opinions about vaccines and health measures. Public opposition to mandates and lockdowns faced systemic challenges, as highlighted by sociologist Laurent Muchielli and scientists Didier Raoult and Luc Montagnier. | Open competition of ideas is essential for truth and liberty. |
| 12. The Socialist Roots of Nazism | Collectivist policies can lead to authoritarian practices under the guise of societal goals. | Unvaccinated professionals barred from working (e.g., doctors, soldiers, police); comparisons to Nuremberg Code. | State-directed collectivist policies risk undermining individual rights and freedoms. |
| 13. The Totalitarians in Our Midst | Normalization of state intervention blurs democracy and technocracy. | COVID-19 restrictions criticized for disproportionate limitations on liberty (70 jurists critique). | Technocracy and normalization of interventionism weaken democratic safeguards. |
| 14. Material Conditions and Ideal Ends | Material conditions justify restrictive measures, often at the expense of liberal ideals. | Justification of lockdowns and mandates as public health imperatives. | The preservation of liberty must not be sacrificed for temporary material gains. |

Source: Journal of Libertarian Studies - Created with Datawrapper

VI. Critiques and Limits of Hayek's Philosophy in the Context of COVID-19

A. Hoppe: Government and Social Evolution – A Critique in the Context of COVID-19

Hans-Hermann Hoppe provides a sharp critique of Hayek's views on government and coercion, which he considers inconsistent and ultimately aligned with modern social democratic principles (Hoppe 1994, page 68). Hoppe argues that Hayek's justification for government intervention, particularly during crises, rests on an incoherent definition of freedom and coercion, which allows for extensive state control while claiming to preserve liberty. This critique becomes particularly relevant in the context of the French government's centralized response to COVID-19. As Hoppe explain, Hayek's belief that the government should provide services that markets "cannot provide adequately" handed the state a blank check:

"Among these are "protection against violence, epidemics, or such natural forces as floods and avalanches, but also many of the amenities which make life in modern cities tolerable, most roads ... (Hoppe 1994, page 68)

During the pandemic, this justification was invoked to legitimize sweeping measures such as lockdowns, compulsory vaccinations, and economic bailouts. Hoppe's critique highlights how these actions align with a social democratic vision of governance that undermines true individual liberty (Hoppe 1989). For Hoppe, Hayek's definition of freedom as the absence of coercion is flawed because it includes scenarios where individuals must act in accordance with government mandates, so long as those mandates are predictable and formalized. This perspective allowed Hayek to justify taxes, compulsory military service, and even zoning laws—categories Hoppe argues are coercive by nature.

In the case of France's pandemic response, Hoppe's critique reveals the contradictions in Hayek's framework. By endorsing a monopoly of coercion through the state, Hayek inadvertently validates the very centralization and authoritarian tendencies he sought to critique. Hoppe's alternative, rooted in anarcho-capitalism and a strict property rights framework,

challenges the assumption that crises justify expanded state power. Instead, Hoppe's approach emphasizes decentralized, voluntary solutions that avoid the pitfalls of state overreach seen in France's pandemic management (Hoppe 2018a; 2021). This critique underscores the dangers of Hayek's accommodation of state authority, which, according to Hoppe, facilitates the erosion of true freedom under the guise of collective security.

B. Mises: A Priori Methodology, Rationalism, and Property Rights in the COVID-19 Crisis

Ludwig von Mises, a staunch advocate of the a priori methodology in economics, argued that the fundamental truths of economic behavior stem from human action and cannot be invalidated by empirical or situational interventions (Mises 2003; 1998). This perspective exposes the flaws in the centralized policies implemented during the COVID-19 crisis, where sweeping state interventions were justified under the guise of scientific rationality (Mises 1990). Measures such as mandatory lockdowns and economic restrictions overlooked the praxeological implications of human action, particularly the essential role of individual freedom and market incentives. For Mises, these policies embodied a misapplication of rationalism, where so-called scientific planning disregarded the limits of human knowledge and the self-regulating mechanisms inherent in decentralized market processes (Salerno 1993; Yeager 1994).

Central to Mises's critique is the sanctity of property rights, which he viewed as the foundation of a stable social and economic order (Terrell 2000). During the pandemic, these rights were systematically undermined through government-imposed restrictions, such as the forced closures of businesses, limitations on the use of private property, and the imposition of sweeping health regulations. These interventions disregarded the fundamental autonomy of individuals and enterprises, treating private property as a tool subordinate to collective health objectives. Mises would argue that such policies not only violated core economic principles but also set dangerous precedents for the erosion of individual liberties under the pretext of crisis management (Mises 1950; 1961).

Moreover, Mises's work underscores the dangers of interventionism, which often exacerbates the very problems it seeks to solve (Ikeda 2002; Mises 1998; 1929). By disrupting market mechanisms and sidelining voluntary cooperation, the COVID-19 interventions created

inefficiencies and long-term economic damage that could have been mitigated through less intrusive approaches. Mises would contend that the state's heavy-handed response ignored the potential of spontaneous order to address the crisis more effectively while respecting individual rights. Ultimately, the pandemic response highlights the enduring relevance of Misesian thought in defending property rights, promoting non-coercive solutions, and cautioning against the hubris of centralized planning.

C. Rothbardian Critique: Anarcho-Capitalism and the Illusion of State Interventions During the Pandemic

Murray Rothbard's anarcho-capitalist framework offers a sharp critique of state interventions during the COVID-19 pandemic, highlighting their inefficacy and the coercive nature of centralized authority (Rothbard 1962; 1973). Rothbard argued that the state inherently operates through coercion, disrupting voluntary exchanges and market-based solutions. The pandemic response, characterized by sweeping lockdowns, mandatory vaccination policies, and extensive economic controls, epitomized this overreach. For Rothbard, these measures were not only violations of individual liberty but also illusions of efficacy, as they failed to account for the decentralized knowledge and adaptive capacity of individuals and communities. The state's attempt to manage the crisis demonstrated its fundamental inability to solve complex societal problems effectively.

Rothbard's critique also emphasizes the role of property rights as the cornerstone of a free and functional society (Terrell 2000). During the pandemic, state-imposed restrictions infringed on these rights, whether through forced business closures, restrictions on private gatherings, or arbitrary mandates on vaccine compliance. Rothbard would argue that such interventions undermined the natural mechanisms of the market, which, if left unimpeded, could have coordinated resources and responses far more efficiently. From his perspective, the coercive redistribution of resources and the restriction of individual autonomy during the pandemic only deepened economic dislocation and social fragmentation, revealing the inherent flaws of relying on state-driven solutions.

Finally, Rothbard's vision of anarcho-capitalism provides an alternative to the centralized paradigm. In his framework, private property, voluntary cooperation, and market

competition would have allowed for localized and adaptive responses to the pandemic. For example, private healthcare providers, unencumbered by bureaucratic regulations, could have innovated faster to meet demand, while individuals and communities, driven by self-interest and mutual benefit, could have devised tailored solutions without state interference. Rothbard's critique underscores the illusion of state interventions as not only ineffective but actively detrimental, advocating instead for a society grounded in voluntary exchanges and the abolition of coercive institutions.

VII. Lessons Learned: The Limits of Hayekian Ideas in the Face of the Crisis

A. The Judge: Accountant of Norms or Creator of the Law?

Friedrich Hayek stressed that the rule of law requires judges to act as interpreters of pre-existing norms rather than creators of new rules (Hayek 1960; Posner 2005; Zywicki et Sanders 2007). However, the COVID-19 pandemic challenged this principle as courts in Western democracies, including France, were frequently called upon to address unprecedented public health measures. In many instances, judges effectively assumed a quasi-legislative role, crafting new interpretations of laws to justify emergency powers granted to the executive branch (Schouler et al. 2024). For example, France's Conseil d'État upheld decrees that allowed prefects to impose mask mandates under the justification of proportionality and appropriateness to local circumstances. These judicial decisions blurred Hayek's distinction between spontaneous order and constructed rules, exposing the tension between maintaining legal predictability and addressing the demands of a crisis (R. Candela et Jacobsen 2021; Pennington 2020).

This shift gave the executive branch immense power, with limited checks from the judiciary or constitutional bodies. Neither the administrative courts nor the Conseil Constitutionnel intervened to question the proportionality of the measures in a substantive manner, raising concerns about the erosion of individual freedoms. The lack of robust judicial oversight was compounded by the difficulty of evaluating proportionality based on reliable data. For instance, while COVID-19 accounted for approximately 5% of all deaths in France in 2020, the overall mortality excess was concentrated in a brief period, suggesting that the long-term impacts of the pandemic may not have justified the severity of the administrative measures. Comparing mortality data from similar periods in past years, such as the 2016–2017 flu epidemic, further underscores the importance of a diachronic analysis to assess the necessity and proportionality of such interventions.

The pandemic thus highlighted a critical weakness in Hayekian theory: the assumption that the judiciary would serve solely as an impartial interpreter of laws fails to account for the flexibility and politicization of legal systems during crises. As judges adapt to emergent

challenges by granting the state expanded powers, the balance between law and liberty risks becoming skewed. This not only compromises individual freedoms but also undermines public trust in the rule of law, leaving a dangerous precedent for future emergencies.

B. Secularism and the Rise of Science and Experts as a New Dogma

Friedrich Hayek cautioned against the dangers of centralized planning based on the presumption of superior knowledge, yet the COVID-19 pandemic highlighted how this concern manifests in new and unexpected ways. In secular societies like France, science and expertise have assumed a quasi-dogmatic role, replacing traditional religious or moral frameworks with technocratic authority (Barras 2017; Kuru 2009). During the pandemic, health experts and technocrats dictated policies that were implemented with little democratic oversight, elevating scientific consensus to an unquestionable status. This shift sidelined alternative perspectives and dismissed dissenting voices as irrational or unscientific, all in the name of the collective good. For Hayek, this phenomenon represents a troubling evolution of centralized authority, where the guise of "rational" expertise perpetuates restrictions on individual liberty, paradoxically undermining the decentralized knowledge Hayek championed.

This reliance on expertise reveals significant cultural and systemic challenges. Maxime Langevin's work, for instance, illustrates the risks of scientific dogmatism, such as the production of false data, the self-censorship of researchers, and the delay or suppression of studies that challenge prevailing opinions (Langevin 2024). The politicization of science during the pandemic became evident in the manipulation of clinical trials, selective promotion of studies, and censorship of dissenting scientific content on social media. These dynamics erode public trust in science while reinforcing its status as an authoritative arbiter of policy, creating a feedback loop that justifies further restrictions on freedom. Hayek's critique of central planning, while insightful, does not fully account for this cultural shift, where the authority of science itself can be co-opted to legitimize centralized decision-making.

The pandemic underscores the paradox in Hayekian thought: his celebration of dispersed knowledge and skepticism of centralized power did not anticipate the rise of technocracy in secular societies, where the authority of science can function as a new form of dogma. The political corruption of scientific advice and the suppression of alternative

viewpoints reveal the fragility of individual liberty when expertise becomes monopolized. This dynamic challenges the Hayekian ideal of a free society governed by spontaneous order, highlighting the need to scrutinize the unchecked cultural power of "rational" expertise in shaping collective behavior and policy decisions.

C. Long-Term Socialization: A Collectivist Turn in the Western World, Eroding Freedom

Hayek's vision of a society based on individualism and spontaneous order seems increasingly at odds with the long-term socialization trends in Western democracies. Over the past decades, collectivist values—such as reliance on state-provided security, equality through redistribution, and collective responsibility—have become deeply ingrained. The pandemic amplified these tendencies, as citizens widely accepted restrictions on personal freedoms in exchange for promises of safety and stability.

Hans-Hermann Hoppe's critique of public education provides a poignant illustration of this shift. Hoppe argues that the extensive and prolonged exposure to state-run education systems, which now dominate the most formative years of a person's life, serves not to enlighten but to indoctrinate. Over time, individuals emerge less as independent and critical thinkers and more as obedient subjects aligned with state-driven collectivist ideals. As he notes, "The longer the time a person has spent within the system of public education, the more he is committed to leftist-egalitarian ideas and has swallowed and wholeheartedly internalized the official doctrine and agenda of 'political correctness.'" (H. H. Hoppe 2018b, page 96-97) This systemic indoctrination, spanning decades, undermines the foundation of individualism and reinforces a culture of conformity and dependency.

This cultural shift illustrates a key limitation of Hayek's framework: it presupposes a society that values individual liberty as a foundational principle. In a world where collectivist ideals dominate, Hayek's warnings about the dangers of planning may resonate less, as people prioritize security over freedom. The pandemic starkly revealed how deeply entrenched collectivist mindsets have become, making the Hayekian vision of spontaneous order increasingly difficult to realize.

D. The Evolution of Western Values Since Hayek's Era

Since Hayek's time, Western values have undergone significant transformation, in Europe and France in particular (Fourquet et Cassely 2022; Inglehart 2013). The rise of identity politics, the focus on social justice, and an increasing reliance on state intervention reflect a departure from the classical liberal ideals of Hayek's era (Rupert 2012). This evolution complicates the application of Hayekian thought to contemporary crises.

The pandemic revealed how these shifting values influence public acceptance of centralized authority (Karadimas 2023). For instance, appeals to collective well-being often override concerns about individual rights, as seen in widespread support for lockdowns and mandates. Hayek's emphasis on the moral and cultural prerequisites for liberty seems increasingly at odds with societies where personal freedom is subordinated to notions of collective equity and safety. This evolution raises important questions about whether Hayek's framework can be adapted to address the ideological and cultural realities of the 21st century⁴ (R. A. Candela et Geloso 2021).

A new perspective on centralized responses to crises can be found in the "After Action Review of the COVID-19 Pandemic: The Lessons Learned and a Path Forward," a comprehensive report by the Select Subcommittee on the Coronavirus Pandemic, U.S. House of Representatives (Select Subcommittee on the Coronavirus Pandemic et Accountability 2024)⁵. This report examines the implications of centralized authority during the pandemic, including its impact on public trust, economic stability, and civil liberties. The findings highlight the tension between collective safety measures and individual freedoms, a central theme in Hayek's critique of centralized planning.

⁴ Hans Hermann Hoppe also wrote extensively on this question (Hoppe 2018a; 2015; 2014).

⁵ Unfortunately, the European Union and France did not produce similarly clear and well-documented reports, leaving critical questions about governance and pandemic responses less systematically addressed.

Critiques and Limits of Hayek's Philosophy in the Context of the COVID-19 Pandemic

| Theme | Description | Examples and Critiques | Contributions and Limitations |
|--|---|---|---|
| Hoppe: Government and Social Evolution – A Critique in the Context of COVID-19 | Hoppe critiques Hayek's justification for government intervention, highlighting contradictions in his framework during crises like COVID-19. | France's lockdowns and mandates reflect a social democratic vision critiqued by Hoppe for undermining individual liberty. | Hoppe's framework offers a strict defense of property rights but lacks a detailed strategy for managing crises without state power. |
| Mises: A Priori Methodology, Rationalism, and Property Rights in the COVID-19 Crisis | Mises emphasizes the sanctity of property rights and critiques centralized COVID-19 policies for disregarding praxeological principles. | Forced closures and sweeping regulations ignored decentralized market responses and violated property rights. | Mises' principles highlight intervention flaws but underestimate the challenge of applying praxeology in public health emergencies. |
| Rothbardian Critique: Anarcho-Capitalism and the Illusion of State Interventions During the Pandemic | Rothbard critiques state interventions as coercive and inefficient, advocating for anarcho-capitalist solutions during crises. | Lockdowns, mandatory vaccines, and economic controls disrupted voluntary exchanges and deepened economic inefficiencies. | Rothbard provides a radical critique of state overreach but offers limited practical solutions for crisis scenarios. |
| The Judge: Accountant of Norms or Creator of the Law? | Hayek's principle of judges interpreting norms clashed with judicial overreach during the pandemic, enabling expanded state power. | France's Conseil d'État legitimized emergency powers, blurring the line between judicial interpretation and legislative creation. | Hayek's judiciary model struggles with crises requiring rapid legal adaptability, risking freedom and rule of law. |
| Secularism and the Rise of Science and Experts as a New Dogma | The COVID-19 response revealed the rise of science as a quasi-dogmatic authority, sidelining decentralized perspectives and individual liberty. | Selective promotion of studies and censorship of dissenting views during the pandemic highlight technocratic overreach. | Hayek's skepticism of centralization aligns with the critique of technocracy but doesn't anticipate its rise as a secular dogma. |
| Long-Term Socialization: A Collectivist Turn in the Western World, Eroding Freedom | The pandemic amplified collectivist mindsets, undermining Hayek's vision of individualism and spontaneous order. | Collectivist education systems and public dependency reflect long-term cultural shifts away from individual liberty. | Hayek's vision presumes a culture valuing liberty, making it less applicable in societies embracing collectivist norms. |
| The Evolution of Western Values Since Hayek's Era | Western societies' shift toward collectivism and state intervention complicates the relevance of Hayek's classical liberal ideals. | Support for centralized measures like lockdowns shows evolving values prioritizing collective equity over personal freedom. | Adapting Hayek's ideas to modern cultural realities requires integrating concerns for collective values and equity. |

Conclusion

France's response to the COVID-19 pandemic provides a compelling case study for evaluating Friedrich Hayek's critique of centralized planning. The reliance on top-down measures, from lockdowns to mandatory health passes, illustrates the limitations of centralized knowledge and the unintended consequences of reactive regulation. While Hayek's ideas on spontaneous order and the dangers of collectivism remain highly relevant, the pandemic also highlights challenges he did not fully anticipate, such as the rise of technocracy and the quasi-dogmatic role of scientific expertise in shaping policy. Ultimately, this analysis underscores both the prescience and the limits of Hayekian philosophy in addressing crises in an increasingly collectivist and centralized world. Moving forward, a careful balance between individual freedom and collective security will be critical to preserving the principles of a free and adaptive society.

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