

WHERE MRS. VON DER LEYEN IS WRONG (LIKE ANY OTHER BUREAUCRAT)

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1. Introduction

The European Union was born with the aim of being just a simple trading space without barriers, a common market (a step beyond a mere tariff union; a system of cooperation between states to achieve freedom of movement of goods, capital and people). However, increasingly, bureaucrats and officials (believing that its aim should be different) tend to regulate, overregulate and coercively standardize all aspects of citizens' lives. There are even those who presume that the comparative advantage of the EU would be precise "regulation" (the bureaucratic regulatory technique).¹

In this sense we have chosen or pointed out Mrs. Ursula Von der Leyen as an example of the typical benevolent bureaucrat or technocrat, that however, if you let them, end up hyperregulating everything (convinced of having superior knowledge not only regarding the purposes but also as to the effective ways of achieving them). Along such a line we point out that the main conceptual error of bureaucrats has to do with the consideration of value as an objective reality (fixed and

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¹ After the I Smart Regulation Conference (2/6/2020) co-organized by Fundación Civismo and Instituto Juan de Mariana at the EU headquarters in Madrid, one of the speakers, in the subsequent informal talk, commented: "The US invents, China copies, and the EU regulates".

given).² In front of such a cosmovision, the Austrian School shows how value is instead subjective, ordinal and decided at the margin of human action; market prices, by its side, appear and become informally standardized around spontaneous, non-coercive institutions (which in its turn emerge also from non-coercive decentralized human action itself). The whole process involves a decentralized path of coordination and tentative knowledge in which we all participate.

Therefore, in this work, we will proceed to sketch and summarize the Austrian School's explanation of the functioning of market processes, their keys, and how they become constrained by coercive intervention in different modalities, and its corresponding effects (regarding all groups of people and regarding all the effects, those that are seen and those that are not seen, or appear later, as Bastiat explained). This approach will allow us to rethink the main problems and objectives involved in the centralized and bureaucratic management of society (and the different options that remain open for this task).

2. Market processes and coercive intervention

The Austrian School authors (especially Menger [1871]) show and characterize the simplest essential elements in relation to how human actions develop, and how they define and construct step by step (and tentatively) goods, economic goods,³ to which in turn we assign (ordinally, at the margin, each person, subjectively) value and consequently economize them; and eventually we exchange them for other economic goods and services that we value less, thus generating historical market processes that are both coordinative and adaptive to the very changing reality (those processes are, to a large extent, autonomous and self-regulating).⁴

² Consequently, bureaucrats often think of the economy as a whole, as something known or knowable *ex ante*, both regarding its ideal "state" or result, as well as the ideal path to get there.

³ Scarce in relation to the requirements placed on them, according to the relative importance that each one of us attributes to them for our survival and well-being.

⁴ A decentralized way of/for generating knowledge (tentative —always—, never final or definitive), in relation to the needs of all people and the best ways to satisfy

Böhm-Bawerk (1914) studied in “*Macht oder ökonomisches Gesetz?*” (Control or Economic Law; defining control as *Macht*, or “outside power”) if human legislation, or humane coercion of any kind, permanently and successfully neutralizes or overwhelms ‘economic law’. He arrived at the conclusion that “economic control cannot affect the conditions of distribution in any other way than through the medium of the categories of ‘marginal utility’ and ‘subjective value’; control can at best exercise a ‘constraining’ influence where economic delimitations establish the margin. Specifically, this essay shows that control doesn’t determine prices, it at most constrains them, and that the power of monopolists—whether employers in cartels or employees in labor unions—cannot prevail; rather economic law triumphs eventually. He identifies economic law with the ineradicable and imprescriptible human motivation to self-preservation and to the pursuit of the self-regarding interest, what might be called the nature of things” (Böhm-Bawerk 1914: 143, 158-159).⁵

Temporarily at least, the influence of outside control may produce intense and far-reaching, in fact very profound, effects. Under certain conditions these effects may become permanent, but apart from these special cases, there is, in my opinion, not a single instance when the influence of control would be lasting, as against the gently and slowly, but incessantly and therefore successfully, working counterinfluences of a ‘purely economic’ order, called forth through that artificial interference and the new situation created thereby (Böhm-Bawerk 1914: 194).

As concluding remarks, Böhm-Bawerk (1914: 197) invites other scholars to amplify and even correct his analysis, since he says “It may be that my analysis, which I personally do not consider exhaustive by any means, may have to be amplified, elaborated and corrected in many points. To me, the essential thing is that the problems discussed here we need, in any event a new method of

them (according to the previous decisions—history—and the different options available—or invented/able—at that moment).

⁵ Along the same lines, Böhm-Bawerk showed also that reasoning in these cases is necessarily deductive: the methods of economic theory alone will explain the influence of outside power (Böhm-Bawerk 1914: 142, 180).

approach on the basis of the —seemingly— unimportant truth, not sufficiently acknowledged so far, that the influence of social control does, and must operate through the formulas and laws of pure economic theory”.⁶

Along these lines we have proposed a new type of graphical representation of the market price formation *processes* as being bottom-up, following the example or model that for the horse market Böhm-Bawerk (1889) himself had presented years before. This model, in addition to illustrating and providing clarity to the examples of Böhm-Bawerk’s uncoerced free market, serves to illustrate and schematize the basic elements characteristic in different modalities of coercive intervention. Such graphical device serves also to avoid the errors induced by the Marshallian scissors model (Bueso 2016).⁷

3. The idea of replacing (at once and by political impulse all or most of) the installed electrical production capacity with other sources of a renewable type

Underlying many public policies pursued by the European Union (with Von der Leyen as a prominent figure or prototype) there seems to lie the idea of replacing the installed electrical production capacity with another of a renewable nature (for example wind turbines), so that burning fossil fuels would be avoided. It seems like a very good idea in principle. However, it does not take into account that human action occurs fundamentally “at the margin”: we decide, both companies and individuals, about “one more unit” (or less) in relation to what we already have.

⁶ Böhm-Bawerk hoped to have made clear one point: “there is one more thing that not even the most imposing dictate of power will accomplish: It can never do anything in contradiction to the economic laws of value, price and distribution; it must always be in conformity with these; it cannot invalidate them; it can merely confirm and fulfil them” (Böhm-Bawerk 1914: 194).

⁷ Those errors become evident by comparison: improper aggregation, timeless static approach, reversed OX and OY axes, etc. (instead of a bottom-up, dynamic, contingent and path-dependent process, decided at the margin of human action step by step by concrete buyers and sellers under their specific restrictive conditions...).

Thus, once the public policy objective had been achieved (having most of the installed capacity coming from renewable energies), the centre of human action would continue to be focused on the margin: then, increasing consumption for new purposes would lead producers to a new election at the margin, and again we would be facing the very same dilemma.⁸

The market decides step by step using economic calculation as a guide (expected profits or losses), and in this way it can modulate its decisions step by step. Political means, on the contrary, have no (any) possible measure or modulation (Mueller 2023; in reference to von Humboldt 1792; also Mises in “Bureaucracy”).⁹ And once the initial objective would be achieved (the substitution or replacement of the previous installed capacity) the same problem would arise again... and again (and with it the eventual “need” to reapply new coercive activity). Coercive intervention not only has no measure, but by its very nature will require successive new coercive measures, a coercive escalation that, in principle, “would never have an end”.

In the same way, fossil fuels would continue to be available to people and companies located outside the European Union, and

⁸ The bureaucrat in charge of coercive intervention does not have any available method to measure the economic result of his/her intervention (coercive intervention does not allow for a pure and definite assessment, and then it does not allow to self-regulate). He does not know when to stop; he is faced with all-or-nothing decision-making and consequently finds himself embarked on an *in crescendo* interventionist series without an end. This is why von Humboldt’s considerations lead to the conclusion that “state activity is —it should be— strictly subjected to the principle of necessity with reverence for the individuality of self-active beings and the care for freedom that springs from his respect. Accordingly, the principle of necessity is the only infallible means to empower laws and give them authority; they —truly authoritative *laws*— arise solely from this principle” (Mueller 2023)

Market processes, on the contrary, work on the principle of utility, which allows infinite gradations, and find in market prices (resulting day by day from the corresponding historical market processes, self-regulated through its own feedback loops by both sides) the guides that allow agents to have a reference *every day* (represented in the corresponding benefits or losses in the accounting book, a reflection about the coordinative —or *de facto* uncoordinated instead— nature of their actions), and therefore each agent can act and self-regulate him/herself step by step (in fact this happens by need, since it could not be otherwise where the principle of property governs every human action —that is, unless government subsidies enter the scene, the other side of taxes).

⁹ Thus, according to Mueller (2023; in reference to von Humboldt [1792]), the basic principle of the limits of state activity lies in its strict necessity (not utility).

given their nature as a cheap, accessible, modular and efficient source of energy, they would end up being burned anyway, and would also place those citizens and companies in a position of comparative advantage (versus EU citizens and companies). The alternative for European bureaucrats could be to try to extend coercion (or seek or force international agreements) outside the borders of the EU, a fact that would now place us in a context of coercive extension or “spatial” coercive escalation (not only “temporary”, as in the previous paragraph).

The point is that, if the problem is the burning of fossil fuels, the possibility of burning them will always remain open, (a) “spatially”, because agents from other territories will decide to use it as a source of cheap and convenient energy (cheaper in fact, since demand has been reduced), or (b) “temporarily”, when new born people in the same territory may decide or choose to burn said resources in the future as an economic action. To avoid this, according to such worldview, an infinite number of Von der Leyens or bureaucrats should then follow one another over time to try to prevent combustion.

4. Is there no alternative?

As we have seen, the market has its own (autonomous) dynamics that make it very difficult to block certain routes as long as they are seen by some agents as remunerative. An example would be the prohibition of alcohol in the US during the 1920-1933 period. In our case, in our opinion, better ways or procedures could be found (that could be really effective) in order to fulfil the desire that some people might feel (the desire that certain people currently feel) that it would be necessary to block the burning of fossil fuels (or decarbonize the economy), even before more effective paths or profitable alternatives can emerge that would displace said combustion as a cheap¹⁰ source of energy.

An important idea or factor here is that, as long as there remain “free” countries (outside a specific territorial area to that subjected

¹⁰ An accessible, and modular and efficient —dense— source of energy.

to decarbonization policies) and as long as there is no any effective and profitable alternative source, it will be very difficult to prevent oil and other fossil fuels from ending up being burned there in those other foreign countries (a fact that makes decarbonization policies in specific territorial areas appear as making little sense).¹¹

Then the question is: Does it make sense to continue implementing more and new complex¹² interventionist measures in the same direction? Does it make sense to coercively block a type of activity in the present, contrary to the beliefs of the population, when if these beliefs continue, in the future it would be necessary to apply new and more coercive interventionist measures,¹³ applied by a supposedly more conscientious bureaucratic elite?

In other words (rhetorical): Are we not leaving aside the true factor of change: the education and moral sentiments of the people (of the population who are not political leaders)?

The economy is a spontaneous and evolutionary order born from respect to private property, which aims and develops economic goods and services over time, which functions as an open and autonomous process for knowledge emergence. But there are other areas of knowledge that operate on the basis of similar principles but whose essence is not economic goods or services but other kind of human actions: morality, education, language... I think it would

¹¹ It cannot be ruled out that the interventionist policies dedicated to blocking fossil fuels burning have not only been ineffective but perhaps even to a considerable extent counterproductive. The current situation in Germany (where the supply of Russian gas—and Algerian—has become compromised by the war in Ukraine), where currently “more” fossil fuels are being burnt than before, with coal itself having recovered ground, seems to point in that direction. It may be that such an increase is not just a palliative temporary policy.

Faced with such a possibility or evidence, to reiterate as a solution “to go further and faster” (Von Der Leyen 2019: 5) seems to be a meaningless headlong rush (leading therefore to a downward spiral, not wanting to acknowledge what seems obvious).

¹² The main characteristic of the new type of coercive intervention measures (which has more diffuse lines than simple prohibition or price fixing; or even than a Pigouvian carbon tax) is that they are associated with subsidies financed from (the monopoly in) the creation of fiat money and public debt (with that the cost involved is redistributed among more people and the perception or effectiveness of those charges become delayed in time, which is the cause of the typical economic cycle of boom and bust or recessions—which in fact they cause—).

¹³ Because that possibility will still be there, open for them.

be convenient to allow (or to reinforce) them, their autonomous functioning, so that it would be the eventual knowledge and moral conviction arisen from such spontaneous orders the factors who would decide and execute, where appropriate, said blockade.

Along these lines, the book originally titled *Ideas for an Attempt to Determine the Limits of the Effectiveness of the State* written by Wilhelm von Humboldt (von Humboldt 1792)¹⁴ is of special interest.

5. Non-economic spontaneous institutions, and their importance in the formation of convictions that actually act as the ultimate decision maker (with special reference to moral, educational and scientific institutions)

The spontaneous institution called 'market' means a decentralized knowledge process, self-regulated, self-regulating. But there are other spontaneous institutions that mean or involve knowledge processes as well (also decentralized and self-regulated, also tentative), such as language, the different academic or scientific disciplines (science as an entrepreneurial process [Bueso 2019]), the family, the school, or even morality. In fact, morality (or morals, as an autonomous and decentralized process or processes of practical knowledge of such a kind, mostly intuitive [MacIntyre 1981]) is at the basis of the emergence of every spontaneous institution, since it is from respect to each other, for each fellow human being, that spontaneous institutions emerge and develop (and this is even the key of their success, and their sustainability; and the way in which most of the different avenues for knowledge have been opened).¹⁵

In such a way, each person's moral liberty appears to be a social need, a necessary and universal condition, as the way for adaptation/knowledge/progress to emerge. Accordingly, the notion of a General Will seems explicitly repudiated in von Humboldt (Burrow 1969: 51; von Humboldt 1792: 36). And the key point is education

¹⁴ Written when von Humboldt was very young. Although this book was not published until after his death, by his brother.

¹⁵ Including scientific processes, which are also tentative, different from resulting in absolute certainty (there is no such thing as omniscience).

(*Bildung*): “The goal of all education is to foster the development of personal individuality. Individual freedom and the diversity of the experience of life are the prerequisites for individual development”. Therefore, in determining the limits of state activity, it follows that “every attempt by the state to interfere in the private affairs of citizens is reprehensible unless they have a direct bearing on the violation of one person’s rights by another person”. That means State intervention beyond the resolution of civil disputes is illegitimate (Mueller 2023; Burrow 1969; von Humboldt 16-22).¹⁶

In my opinion, the element of exclusivity (the property principle applied [Shaffer 2009]) is what gives to traditional or spontaneous institutions¹⁷ its key functionality, and what make their functions wholly sustainable.

We could say that, as a result of, and at once as a channel for, virtuous behaviors, spontaneous institutions, in their different attempted modalities and forms, appear or emerge historically as different decentralized patterns of action, shared by imitation or voluntary affiliation, open to competition, and usually integrating the principle of non-aggression. Its study was masterfully outlined by Carl Menger in the last chapter of his *Grundsätze* (Menger 1871).

¹⁶ Humboldt’s attack, as it develops, makes three essential criticisms. Firstly, by treating its subjects as children the paternalist State, however benign, denies them the central feature of their humanity, the freedom to choose and the opportunity to spontaneously develop their potentialities by learning, as Emile had to do, from the consequences of their own actions. Secondly, it diminishes the quality of the experiences from which they learn because by imposing its own uniformity of character on its citizens it deprives them of the fruitful clash and contact of well-nurtured; it flattens, as it were, the social landscape. Thirdly, by acting only on men’s outward behaviour, and by doing for them much of what they should learn to do for themselves, it weakens their initiative and independence and hence, in the long run, society itself: ‘the man whom [the State] has accustomed to lean on an external power for support, is thus given up in critical emergencies to a far more hopeless fate’ (Burrow 1969: 51-55).

On the other side, the inconsistency of Humboldt attitudes to State education at different times in his career represents more than a capitulation to patriotic enthusiasm. Humboldt, even when he became minister, wanted education kept pluralistic so far as possible, but the dilemma remained (Burrow 1969: 47).

¹⁷ Which are simply “a means” —a neutral means open and available to each and everyone.

Such element is what is lacking in political (so-called) “institutions”, coercive monopolies or coercive uniformities, which transformed into “ends in themselves”, misalign benefits and burdens, and prevent learning in such an area.

They are the key point (or nuclei of order) around which civilization emerged and develops (in the form of spontaneous orders).

But on the contrary, if a specific pattern is transformed into “an end in itself” and forced, it becomes a monopoly (a coercive systematic arrangement, destructive of both liberty and social order).^{18,19,20}

In my opinion, it is decentralized spontaneous processes and institutions that should be encouraged (being careful of not coercing or doping any one of their lines in the competitive struggle — which would transform them into a monopolistic scheme—, granting free and uncoerced access and safeguarding the independence and self-regulated functioning of the different actors, lines and institutions).

In this way, the (tentative) knowledge processes can/could be more balanced and the consequences towards the future will be more conscious and consistent.

In this sense, Tullock’s advice and recommendations are relevant in relation to scientific research processes (Tullock 1966: 215-242). In the same way, MacIntyre’s exposition about the nature and status of generalizations in social sciences (MacIntyre 1981: 103-108) is also relevant, as well as the criticism of the philosophy of science underlying the Enlightenment and its heirs, including the Marxists (MacIntyre 1981: 103), and the criticism of fetishism in managerial expertise and bureaucratic skills (MacIntyre 1981: 107, 73-80, 25-26).

¹⁸ This is the key central idea in the whole book *Boundaries of Order* (Shaffer 2009).

¹⁹ Some authors (as Patrick Deneem) accuse modern liberalism of rejecting the view (taught by both Christianity and classical political philosophy) that true freedom consists of virtuous conduct (according to this rejected traditional view, people must restrain their passions in order to be truly free). Such modern liberalism, however, replaces virtue with mere individual autonomy, rejecting that there is any objective good that must be discerned or discovered (David Gordon “Misreading Mill”, *Mises Wire* 6/16/2023). Following a similar dangerous line, other authors rely on the State as a moral monopoly. For instance, Markus Gabriel points out that “in Germany we rely on the state as a vehicle of moral progress”, an idea rooted in the thought of Kant and Hegel (David Gordon “Outside the Universe”, *Mises Wire*, 7/14/2023).

²⁰ Also relevant, although in another area, are the well-founded criticisms about the lack of accountability, representativeness, etc., of the architectural ‘design’ for the different bureaucratic positions in the European Union, including the European Parliament. See, for instance, the acidic criticism of one MEP in the Appendix attached.

6. Conclusions

The European Union, under the lead of technocrats, is expanding its powers with serious problems of representation and accountability.

Any situation brought about by means of “power” may in itself again bring into play motives of self-interest, tending to oppose its continuance (Böhm-Bawerk 1914: 192).

As an alternative, we propose to promote (or to set free) decentralized civil spontaneous institutions in different fields (including a truly free market, and avoiding coercive monopolies), safeguarding their autonomous and self-regulated functioning.

Conflict of interest

The author declares that he has no conflict of interest.

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Appendix

Speech by Mr. Ryszard A. Legutko (Strasbourg, 11/22/2022); delivered on the occasion of the ceremony to mark the celebration of the 70th anniversary of the European Parliament:

"Madam President, Prime Ministers, two minutes of truth, of bitter truth. And the bitter truth is that the European Parliament has done a lot of damage in Europe.

It has been sending the false message it represents the European *demos*. There isn't, and there won't be, any European *demos*.

The Parliament infected Europe with shameless partisanship. And the infection became so contagious that it spread to other institutions such as the European Commission.

The Parliament has abandoned the basic function of representing people. Instead, it has become a machine to implement the so-called European Project, thus alienating millions of voters. The Parliament has become a political vehicle of the Left to impose their monopoly with their fierce intolerance towards any dissenting view.

No matter how many times you repeat the word "diversity". Diversity is becoming an extinct species in the European Union. And particularly in this Chamber.

The Parliament is a quasi-parliament because it rejects the essential principle of parliamentarism, namely accountability. The deputy —let me remind you— is elected by the voters and must be accountable to the voters that elected him.

Not so in the European Union. The idea that, say, Spanish, German, French, etcetera, deputies, accountable to their own national electorates, can dictate something to, shall we say, Hungarian society, or any other society, to which they cannot be held accountable, and which cannot take them to task, is simply preposterous.

Call it what you will, but Democracy, it is not.

To sum up: The Parliament represents the *demos* that doesn't exist, works for the project that ignores reality and law, shuns accountability, turns it back to millions of people, and serves the interests of one political orientation —and this is just the tip of the iceberg.

Having said that, ladies and gentlemen, I rest my case."