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Choosing One's Own Informal Institutions: On Hayek's Critique of Keynes's Immoralism

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Abstract In the main, Hayek favored rules that apply equally to all and located such rules in tradition, beyond conscious construction. This led Hayek to attack Keynes's immoralism, i.e. the position that one should be free to choose how to lead one's life irrespective of the informal institutions in place. However, it is argued here that immoralism may be compatible with Hayek's enterprise since Hayek misinterpreted Keynes, who did not advocate the dissolving of all informal rules for everybody. By avoiding this misinterpretation, immoralism can be seen as institutional experimentation *at the margin*, which Hayek himself favored.

Keywords Institutions; rules; traditions; morality; liberty; rule of law

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1 Introduction

F. A. Hayek stressed the importance of rules more than most scholars. He favored general rules, by which he meant rules “equally applicable to all” (Hayek 1960: 154) or rules “applicable to all alike in an unknown number of instances” (Hayek 1978: 135).¹ It is perhaps therefore not surprising that he found John Maynard Keynes’s endorsement of “immoralism” – i.e. the rejection of the notion that it is desirable for everyone to follow the same rules – both shocking and dangerous.² But it will be argued here that this reaction was precipitated. Keynesian immoralism, properly understood, and a Hayekian view of rules may in fact go rather well together. Before presenting this argument in greater detail, we will summarize some main tenets of the Hayekian enterprise in order to get a better grasp of the precise basis of Hayek’s critique.

Hayek’s overall goal was liberty, by which is meant “[a] state in which a man is not subject to coercion by the arbitrary will of another or others” (Hayek 1960: 11) or “that what we may do is not dependent on the approval of any person or authority and is limited only by the same abstract rules that apply equally to all” (Hayek 1960: 155).³ A necessary and sufficient condition for liberty to apply is the rule of law, i.e. the situation where government limits the exercise of its coercive power by enforcing rules that are general, public, stable and announced beforehand.⁴ The rule of law is “a meta-legal doctrine or a political ideal” of what the law ought to be (and is hence not the same as a rule of the law, which it, however, presupposes).⁵

Now, the rule of law refers to the character of formal institutions, making use of the terminology of North (1990:4):

¹ See also Hayek (1973:50) and Locke (1988: 284): “But freedom of men under government is to have a standing rule to live by, *common to every one of that society*, and made by the legislative power erected in it” [italics added]. Cf. Buchanan and Congleton (1998) who, inspired by Hayek, present an extended argument in favor of a generality principle in politics.

² This understanding of immoralism makes the term synonymous with non-generality. There are other meanings of immoralism, but whenever the term is used here it refers to (some interpretation of) the Keynesian notion.

³ Note that generality is part of the definition of liberty. Cf. Bentham (1945: 49) and Hayek (1960: chs. 1, 4, 9, 14; 1973: 55–56; 1978: 132–133). For an initiated discussion of Hayek’s concept of liberty, see Klein (2004).

⁴ See Hayek (1944: 72; 1960: 154 ff, 207 ff).

⁵ See Hayek (1960: 205–206); cf. Oakeshott (1983).

Institutions include any form of constraint that human beings devise to shape human interaction. Are institutions formal or informal? They can be either, and I am interested both in formal constraints – such as rules that human beings devise – and in informal constraints – such as conventions and codes of behavior. Institutions may be created, as was the United States Constitution; or they may simply evolve over time, as does the common law.

Hayek has written extensively on the evolution of law and extols the common-law tradition while disparaging legislation.⁶ He argues that the laws produced in legislatures tend to turn society into an organization, as legislators wish to “run the country” and constantly intervene in particular cases. According to Hayek (1973: 122), evolved law is of a different (and much more desirable) kind:

[The evolved law] will consist of rules regulating the conduct of persons towards others, applicable to an unknown number of future instances and containing prohibitions delimiting the boundary of the protected domain of each person (or organized group of persons). ... These rules will achieve their intended effect of securing the formation of an abstract order of actions only through their universal application, while their application in the particular instance cannot be said to have a specific purpose distinct from the purpose of the system of rules as a whole.

It is Hayek’s contention that the rule of law – with, among other things, its characteristic of generality – will be better upheld through a process of law-making that develops in a non-designed manner over time than through legislation.

But Hayek was not only concerned with formal institutions – informal institutions engaged him as well, partly because he thought that they enable the rule of law to prevail (Hayek 1960: 206) and partly because he viewed civilization as a direct product of certain moral rules, conventions and traditions. As Hayek (1960: 61–62) put it:

There probably have never existed a genuine belief in freedom, and there has certainly been no successful attempt to operate a free society, without a genuine reverence for grown institutions, for customs and habits and “all those securities of liberty which arise from regulation of long prescription and ancient ways.” Paradoxical as it may appear, it is probably true that a successful free society will always in a large meas-

⁶ See especially Hayek (1960: ch. 10; 1973: chs. 4–6). Cf. Leoni (1961) and Zywicki and Sanders (2007).

ure be a tradition-bound society. ... Of these conventions and customs of human intercourse, the moral rules are the most important.⁷

Moral rules create orderliness, predictability and less need for coercive, formal institutions, all of which can be regarded as important benefits.

In advocating liberty, then, Hayek outlined certain features of formal institutions that need to be in place and referred to the importance of accepting traditional moral rules. In so doing, Hayek (1973: ch. 2) differentiates between two sources of order: *cosmos* and *taxis*. *Cosmos* denotes grown, endogenous, self-generating or spontaneous order, and *taxis* refers to made, exogenous, constructed, artificial order, or organization. The former order evolves without anyone being in charge of what emerges; the latter entails conscious construction.⁸

Hayek contrasts two attitudes towards social phenomena which relate to these two sources of order – critical and constructivist rationalism.⁹ He approves of critical rationalism, which views man “not as a highly rational and intelligent but as a very irrational and fallible being” (Hayek 1948: 8) and which therefore entails an appreciation of the *cosmos* view of institutions and order, as outlined in Hayek (1988: 75):

The process of selection that shaped customs and morality could take account of more factual circumstances than individuals could perceive, and in consequence tradition is in some respects superior to, or ‘wiser’ than, human reason.¹⁰

He rejects constructivist rationalism, a chief characteristic of which is the view that it is possible for man to successfully impose and construct institutions and social order at will, as man is viewed as rational and in possession of relevant knowledge. Hayek (1967: 92–93) puts it thus:

⁷ Cf. Hayek (1976: 56–59; 1988: 66 ff).

⁸ This dichotomy between spontaneous and made orders and an assessment of their respective characteristics is a recurring theme in Hayek’s works: see e.g. Hayek (1948; 1952b: chs. 8, 9; 1960: ch. 4; 1967: chs. 5–7; 1978; ch. 1; 1988: chs. 1–5). For surveys of theories of spontaneous order, see Barry (1982) and Sugden (1989).

⁹ See Hayek (1948; 1967: 85; 1973: 5, 29).

¹⁰ This bounded-rationality perspective creates a rationale for what Vanberg (1994a) calls genuine rule-following behavior; cf. Hayek (1960: 66). However, rules may also be seen as useful in a utility-maximizing perspective (exemplified by Becker 1968). Cf. Brennan and Buchanan (1985).

It is perhaps understandable that constructivist rationalists, in their pride in the great powers of human reason, should have revolted against the demand for submission to rules whose significance they do not fully understand, and which produce an order which we cannot predict in detail.

It is clear that at the center of Hayek's evaluation of the two attitudes, epistemic concerns are at the forefront.¹¹

Hayek's view that everyone (more or less) should follow the same rules should be understood against this background. His goal of liberty is realized under general formal rules and certain moral traditions; and generality and those moral traditions that are perceived to underlie Western civilization are best achieved, due to man's irrationality and lack of knowledge, through having rules emerge in evolutionary processes which are not guided by explicit reason. It is an illusion and "pretence of knowledge" to think that rules that can offer improvements in this regard can be constructed in a discretionary manner outside a particular historically grown order.¹²

With this way of looking at things, Hayek's attack on Keynes is understandable and unsurprising. Keynes does, at first glance, appear to challenge the core of the Hayekian enterprise by downplaying the epistemic problems people face and by dismissing evolved rules. But it will be argued that Hayek was mistaken about what Keynes had in mind and that their views are not that disparate.¹³ But first, let us take a closer look at the critique.

¹¹ Hayek (1952a) outlines a cognitive theory according to which the human brain cannot explain itself or phenomena more complex than itself. This makes it impossible for man to know much about complex social matters, such as to how to successfully design institutions. Hayek began stressing man's knowledge problem in the economic context (see e.g. Hayek 1937; 1945), but, as pointed out by Vanberg (1994a) and van den Hauwe (1998), these contributions ask how an order of actions under given rules emerges, whereas the works discussed here rather ask how the rules themselves emerge. For further analysis, see Steele (2002), Caldwell (2004) and Butois and Koppl (2006).

¹² See Hayek (1978: ch. 2).

¹³ Of course, there *were* genuine conflicts between Keynes and Hayek in other areas, most notably in the realm of macroeconomics. See e.g. Machlup (1974), Hayek (1995), Cochran and Glahe (1999) and Steele (2001).

2 Hayek's critique of Keynes

Hayek (1967: 89–91) delivered the following critique of Keynes or, rather, of the state of mind which he identified with the demise of “British” liberalism¹⁴ and which is exemplified by the attitude of Keynes and the Bloomsbury Group:

In moral philosophy the constructivist rationalism tends to disdain any reliance on abstract mechanical rules and to regard as truly rational only behaviour such as is based on decisions which judge each particular situation ‘on its merits’, and chooses between alternatives in concrete evaluation on the known consequences of the various possibilities. It is fairly obvious that this kind of rationalism must lead to the destruction of all moral values and to the belief that the individual should be guided only by his personal evaluation of the particular ends he pursues, and that it tends to justify all means by the ends pursued. The state of mind which it produces has been well described by the late Lord Keynes. Describing the views he and his friends had held in the early years of the century – and he himself admittedly still held thirty years later – he wrote:

We entirely repudiated a personal liability on us to obey general rules. We claimed the right to judge every individual case on its merits, and the wisdom, experience and self-control to do so successfully. This was a very important part of our faith, violently and aggressively held, and for the outer world it was our most obvious and dangerous characteristic. We repudiated entirely customary morals, conventions and traditional wisdom. We were, that is to say, in the strict sense of the term, immoralists. The consequences of being found out had, of course, to be considered for what they were worth. But we recognized no moral obligation on us, no inner sanction, to conform or to obey. Before heaven we claimed to be our own judge in our own case.

It is to be noticed that this statement implies not only a rejection of traditional moral rules but of all commitment to any kind of binding abstract rules of conduct, moral or other. It implies the claim that man's intelligence is adequate to order his life successfully without availing himself of the aid which general rules or principles can give him, in other words, the claim that man is capable of co-ordinating his activities successfully through a full explicit evaluation of the consequences of all the circumstances. This, of course, involves not only a colossal presumption concerning our intellectual powers, but also a complete misconception of the kind of world in which we live. ... If we want in this manner to achieve an overall order of our affairs, it is requisite that we follow the general rule in all instances and not only when there is no special reason to do otherwise. This may imply that we must deliberately disregard some knowledge of particular circumstances which obedience to the rule in the given instance may produce. Here I think a

¹⁴ See Hayek (1978: ch. 9).

true insight into the significance of behaviour according to rules demands a much more rigid adherence to them than would be conceded by the constructivist rationalists who would accept abstract rules at best as a substitute for a decision in full evaluation of all the particular circumstances and would regard it as desirable to depart from the rules whenever there is special reason for doing so.¹⁵

Keynes's approach, and this bears noting, does not entail challenging general formal institutions, in spite of Hayek's suggestion to the contrary. That is to say, he accepted a *prime facie* moral obligation to follow the law, but given the law, there should be freedom to choose how to lead one's own life irrespective of traditions and conventions. This approach therefore relates in a natural way to a basic idea in constitutional economics, to separate between the choice of formal rules and the choices made under those rules.¹⁶ It is the latter type of choices that Keynes is concerned with. This is also somewhat akin to the idea in Rawls (1993) that it is reasonable to expect people of differing backgrounds and outlooks on what constitutes the good life to agree (in an "overlapping consensus") on a minimal set of rules necessary for society to sustain itself – but with scope for differing opinions, values and actions in areas not directly related to governance as such.

The task at hand is now to see whether Hayek's unfavorable assessment of this Keynesian position is correct and whether their views are not reconcilable.

3 Hayek on challenging traditional rules

Thus far, Hayek's critique seems perfectly understandable, given our summary of his enterprise in the introduction. But the summary left out an argument by Hayek which actually makes his critique a little

¹⁵ The Keynes quote is from Keynes (1949: 97) – note that "experience and self-control" from the original text has been added to Hayek's rendering of the quote – and is interestingly a harsh critique of Moore (1903: 162–163), who is very close to Hayek on the issue of rule-following. A similar critique of Keynes as in the quote is also presented in e.g. Hayek (1960: 159; 1973: 25–26; 1978: 16; 1984: 320–321; 1988: 57–58). Keynesian immoralism is an interesting kind, in the sense that that it can almost be seen as a form of absolute morality, elevating individual autonomy of judgment and never regarding it as subservient to traditions or conventions in place.

¹⁶ See e.g. Friedman (1962: 25–27), Brennan and Buchanan (1985: ch. 1), Buchanan (1990) and van den Hauwe (1998: 96 ff). Hayek (1976: 36) affirms this way of looking at things when he says that (formal) rules "protect ascertainable domains within which each individual is free to act as he chooses".

puzzling. It is true that he held traditions in high regard, but he did not in fact oppose all challenges of them: at times he comes through as being relatively open to institutional experimentation. Hence, it seems that he does not hold that there is a moral obligation for everyone to obey all informal institutions all the time.¹⁷ Take as an example what Hayek (1960: 62–63) has to say about challenging traditions:

There is an advantage in obedience to such [informal] rules not being coerced, not only because coercion as such is bad, but because it is, in fact, often desirable that rules should be observed only in most instances and that the individual should be able to transgress them when it seems to him worthwhile to incur the odium which this will cause. It is also important that the strength of the social pressure and of the force of habit which insures their observance is variable. It is this flexibility of voluntary rules which in the field of morals makes gradual evolution and spontaneous growth possible, which allows further experience to lead to modifications and improvements. Such an evolution is possible only with rules which are neither coercive nor deliberately imposed – rules which, though observing them is regarded as merit and though they will be observed by the majority, can be broken by individuals who feel that they have strong enough reasons to brave the censure of their fellows. Unlike any deliberately imposed coercive rules, which can be changed only discontinuously and for all at the same time, rules of this kind allow for gradual and experimental change. The existence of individuals and groups simultaneously observing different rules provides the opportunity for the selection of the more effective ones.¹⁸

Nevertheless, Hayek sharply rejected Keynes's immoralism. What was important to Hayek, due to his epistemic pessimism and the supposedly evolutionary character of the institutions he cherished, was that the challenging of traditions occurs *at the margin* – not by everyone in the same way at the same

¹⁷ Hayek's negative attitude towards the Keynesian enterprise does not stem from an objectivist, or realist, metaethics – Hayek (1976: 25-27) himself defends a relativist-like position in rejecting moral dogmatism.

¹⁸ Cf. Hayek (1960: 70): “None of these conclusions are arguments against the use of reason, but only arguments against such uses as require any exclusive and coercive powers of government; not arguments against experimentation, but arguments against all exclusive, monopolistic power to experiment in a particular field – power which brooks no alternative and which lays a claim to the possession of superior wisdom – and against the consequent preclusion of solutions better than the ones to which those in power have committed themselves” and Hayek (1978: 148–149): “As in the intellectual so in the material sphere, competition is the most effective discovery procedure which will lead to the finding of better ways for the pursuit of human aims. Only when a great many different ways of doing things can be tried will there exist such a variety of individual experience, knowledge and skills, that a continuous selection of the most successful will lead to steady improvement.”

time – and that the challenging of traditions is not about imposing a completely new, abstract moral system on everyone.¹⁹ He obviously thought that Keynesian immoralism did not meet these criteria.

4 Interpreting Keynes's immoralism: Hayek's misunderstanding

It will be argued that Hayek rejected Keynes's immoralism, or his advocacy of a right to choose one's own informal institutions, on the basis of mistakenly thinking that immoralism entailed an attempt to remake, or dismantle, the whole system of morals and traditions for everyone in accordance with radical precepts. Due to his epistemic pessimism and evolutionary optimism, Hayek thought that such a program would have disastrous effects. But while it is true that Keynes had a more optimistic epistemic view than Hayek – and on good grounds, we will claim – that is not as relevant as one might think, since Keynes, in spite of this, did not really advocate a complete restructuring of the existing set of informal institutions for everyone. His ambitions were more modest. But even such ambitions might have been met with skepticism from Hayek on epistemic grounds, and so, as a preamble to an analysis of Hayek's mistaken interpretation of Keynes, it will be argued that Hayek was overly pessimistic about man's ability to acquire knowledge about the effects of choosing informal institutions and overly optimistic about the beneficial effects of evolved rules.

4.1 Preamble: Hayek's epistemic view

By distrusting constructed institutions almost entirely, be they formal or informal, Hayek tended to be highly skeptical of attempts, based on conscious deliberation, to construct one's own rules independently of the institutions in place. Only the spontaneous order of *cosmos* will entail rules which are conducive to liberty. The basis for this view is his epistemic considerations (rooted in Hayek 1952a), which led Hayek (1948: 25; cf. 1960: 64–65) to regard man as helplessly ignorant:

¹⁹ I thank Mark Pennington for clarifying this argument to me.

Our submission to general principles is necessary because we cannot be guided in our practical action by full knowledge and evaluation of all the consequences.

And if absence of full knowledge of all the consequences of institutional choices (in a broad sense) is a matter of fact for everyone, conscious attempts to impose “a synthetic system of morals” can only fail to achieve that which it purports to achieve and, furthermore, endanger liberty and individual well-being.²⁰ In fact, Hayek thinks that constructivist rationalism in the area of informal institutions “must lead to the destruction of all moral values.” A similarly hostile view is taken with regard to the deliberate construction of formal institutions in the form of legislation, which tends to undermine the rule of law and, thereby, a state of liberty (Hayek 1960: ch. 16; 1973: ch. 6).

However, if one recognizes that the mode of emergence is secondary and that constructed rules can sometimes reach goals such as liberty as effectively as evolved rules, Keynes’s immoralism may be understood and assessed in a different light.²¹ Such a realization might require a more positive epistemic view of man than the one favored by Hayek, which can be related to a discussion by Popper (1965: 6):

Man can know: thus he can be free. This is the formula which explains the link between epistemological optimism and the ideas of liberalism. This link is paralleled by the opposite link. Disbelief in the power of human reason, in man's power to discern truth, is almost invariably linked with distrust of man. Thus epistemological pessimism is linked, historically, with a doctrine of human depravity, and it tends to lead to the demand for the establishment of powerful traditions and the entrenchment of a powerful authority which would save man from his folly and his wickedness.

Hayek tends to argue in a dichotomous manner: either one accepts epistemic pessimism and all the rules that have evolved and which are conveyed through traditions and conventions (the critical rationalist) – or one rejects such pessimism entirely, as well as all traditions and conventions, and tries to

²⁰ Hayek argues that synthetic systems of morals (especially act-utilitarianism) will fail to achieve their own goals, as such achievement presupposes knowledge that does not exist. But since Hayek does not agree with these goals, this should perhaps not concern him in itself. What Hayek (1948: 19, 25; 1960: 64–65; 1973: ch. 1) does worry about is that attempts to implement systems of this kind will counteract his goal of liberty and, in fact, destroy the spontaneous order characterized by general and abstract rules.

²¹ Hayek (1973: 45–46) does admit that “it is at least conceivable” that constructed or designed rules can result in a spontaneous order. Cf. Buchanan (1977).

reconstruct society in its entirety (the constructivist rationalist).²² We suggest that the more reasonable way to approach this matter is to take an intermediate position – as sketched out by e.g. Keynes and Popper – in which we are indeed able to know certain things about how to successfully design institutions, although sometimes only in a limited manner and for local circumstances.²³ Carabelli and De Vecchi (2001: 280) contrast the epistemic approaches of Keynes and Hayek:

It is true that, in some situations and for some events, it is impossible to form a reasonable judgement, because we have neither reasons nor any evidence even for the present and the immediate future. In these cases of total ignorance, Keynes subscribes to Hayek's suggestion: follow rules. Keynes would have also agreed with Hayek that imitation is a practical and reasonable guide for action, but only in situations of total ignorance. Even Keynes's attitude towards tradition is extremely respectful, although Hayek criticised him for despising rules. For Keynes, however, the respect for tradition is not binding and does not mean giving up reforms. The main difference with Hayek is that Keynes considered conventions to be only the artificial means by which we rationalise uncertainty in cases of total ignorance. Actual limited knowledge, however little there is, provides a ground for an autonomous reasonable judgement that guides action. Probability is real knowledge, while conventions and market opinion are not. Probability is a priori, i.e. a logical concept. It is objective and rational. It is related to cognitive circumstances. According to Keynes, the individual agent has to consider each case on its own merits and using his own personal judgement independently of traditional judgements and conventions. He can do this by taking advantage of all the limited 'real' knowledge available to him. The importance attributed by Keynes to exceptions, in contrast to rules, is fundamental to an understanding of his differences with Hayek over the theory of human action.

Such a view involves appreciating that some rules have evolved and that some rules have been consciously constructed and that rules of both kinds have the potential to be beneficial and detrimental for Hayek's goal of liberty. The attitude is not one of rejecting everything traditional on reflex, but neither is it one of accepting everything traditional uncritically, quite along the thinking of Mill (1982: ch. 3). It furthermore does not presume omniscience in any man, but neither does it presume total and utter

²² In addition to the long quote above, an example of this "corner-solution" mindset can be found in Hayek (1952b: chs. 8–9). De Vlieghe (1994) roots Hayek's negative attitude towards piecemeal social engineering in the extreme view that a reformer has to have complete knowledge in order to be entrusted with institutional reforms.

²³ The large body of empirical research in institutional economics, constitutional economics and public choice/political economics illustrates the plausibility of this intermediate position: some consequences of alternative rules *can* be ascertained in at least a probabilistic or tentative manner.

ignorance. In effect, the sharp Hayekian dichotomy is rejected, and this then speaks in favor of the Keynesian view.²⁴ Interestingly, this illustrates a tension in Hayek, since Hayek (1960: 62–63) accepts a similar view, with scope for challenges of existing traditions at the margin.

What man knows and may know is one thing. Another thing concerns the character of evolved rules. Is there reason to expect a *cosmos* of the kind envisaged by Hayek to be supremely conducive to reaching his goal of liberty? If not, the case for subordinating all human affairs to traditions and conventions becomes even weaker. And there is, in fact, good reason to be skeptical of Hayek’s evolutionary optimism.²⁵ Arguments to this effect have been proffered by e.g. Brennan and Buchanan (1985: 9–10):

Some modern social analysts (notably Hayek and his followers) display an apparent faith in the forces of social and cultural ‘evolution’ to generate efficient rules. There seems to be no reason to predict that these forces will always ensure the selection of the best rules ... There may then be little or no evolutionary pressure toward the emergence of superior rules. This prospect alerts us to the need, periodically, to review alternative sets of rules and to regard rules themselves as objects of choice, to be changed and redesigned according to the patterns of social states they generate.²⁶

²⁴ This position can be related to the intuitive and critical levels of moral thinking outlined by Hare (1981). The former level refers to the way we think morally in familiar and everyday situations without deeper reflection. Here, not much knowledge about effects is needed and rule-following is natural. The latter level refers to the way we think morally about non-familiar situations that are not part of our everyday life – more specifically, it refers to the selection of the best set of rules for use in intuitive thinking. At times, critical thinking can be used to evaluate and change the rules. Someone only engaged in critical thinking is called an archangel by Hare, and someone only engaged in intuitive thinking is called a prole. Hayek seems in this sense to regard every individual as a prole – but Hare thinks that everyone uses both levels of thinking, in different degrees.

²⁵ At times, Hayek himself admits that the evolutionary process is not perfect from the point of view of his own normative views – see e.g. Hayek (1973: 88–89; 1976: 25–27; 1978: 19–20; 1988: 27) – but it is not made very clear to what extent he approves of constructivist action on such a basis and, if so, what type of action would be acceptable. Hayek does speak of “evolutionary rationalism” (1973: 5) and about a wish to not bring about “an abdication of reason” (Hayek 1960: 69). Kukathas (1989) analyzes this tension in Hayek, as does Vanberg (1994a,b) and Denis (2002).

²⁶ Cf. Buchanan (1959), Menger (1963: 233; 1985: 225–235), Buchanan (1977), Barry (1982: 31–33), Gissurason (1987: 169–170, note 18), Buchanan and Congleton (1998: 3–5), van den Hauwe (1998), Posner (2003: 287–289; 2005: 162), Berggren (2004: 81) and Schubert (2005). The specific idea of group selection as a key element

An implication of the Keynesian-Popperian careful optimism in conjunction with reasonable skepticism about the ability of evolution to generate a desirable order unaided is hence that there is a potential for successful constructivism in the design of informal institutions.

4.2 Hayek's misunderstanding

Hayek's worries primarily deal with *the character and scope* of immoralism, that is, how it changes adherence to informal institutions and the extent to which it is adopted. Due to epistemic limitations, if change is too radical and encompassing, Hayek thinks it clear that this will result in thwarted plans and an undermining of cherished goals. This brings us to Hayek's fundamental misunderstanding in assessing Keynes, viz. the interpretation that Keynes's immoralism involves the total rejection of all traditional rules for everyone. Before taking a closer look at this interpretation, we will distinguish between social and internal informal institutions in order to clarify what it means to choose one's own informal institutions.

4.2.1 *What does it mean to choose informal institutions*

It may seem like a strange usage of terms to talk about *choosing* informal institutions. Is an institution not a rule that per definition applies as a constraint on choice? Yes, but as constitutional economics clarifies, choices may take place on different levels, and on one level one at times chooses one's constraints on other types of choices. In a sense, by choosing informal institutions one chooses an "internal constitution", one's own code of behavior.²⁷

It is useful here to differentiate between *two types of informal institutions*. On the one hand, there are those that exist in society, such as traditions and customs that have evolved and that are up-

of cultural evolution (Hayek 1967: 66–81; 1979: 202; 1984: 318) is criticized by Vanberg (1986; 1994a: ch. 5), Sugden (1993) and Denis (2002).

²⁷ This relates to Schelling (2006) and his analysis of ways to commit to future courses of action.

held in social interaction and not generally directly chosen by anyone. Let us call them *social informal institutions*. On the other hand, there are those that exist inside the individual, a person’s own set of norms. These may be, but do not have to be, chosen. Let us call these *internal informal institutions*. In other words, there is morality or norms as a social phenomenon and there is morality or norms as an internal phenomenon, and these overlap to different extents. The individual can choose to accept the informal institutions present in society or to reject them. Choosing one’s own informal institutions hence does not refer to choosing social informal institutions – in fact, they cannot (easily) be chosen – but to choosing internal informal institutions that may deviate from social informal institutions.

The basic idea is illustrated in Fig. 1. The circle to the left illustrates the social informal institutions and the circle to the right illustrates the internal informal institutions for some individual *i*. As can be seen, there is substantial overlap, but there is also an area (A) which denotes the social informal institutions that *i* has rejected (or at least does not abide by); and there is an area (B) which denotes the internal informal institutions that applies to *i* without applying to people in general. These areas can vary in size, depending on how individualistic and discretionary *i* is; and the sizes of the circles themselves can also vary, implying that the number and strictness of rules can vary between societies and individuals.

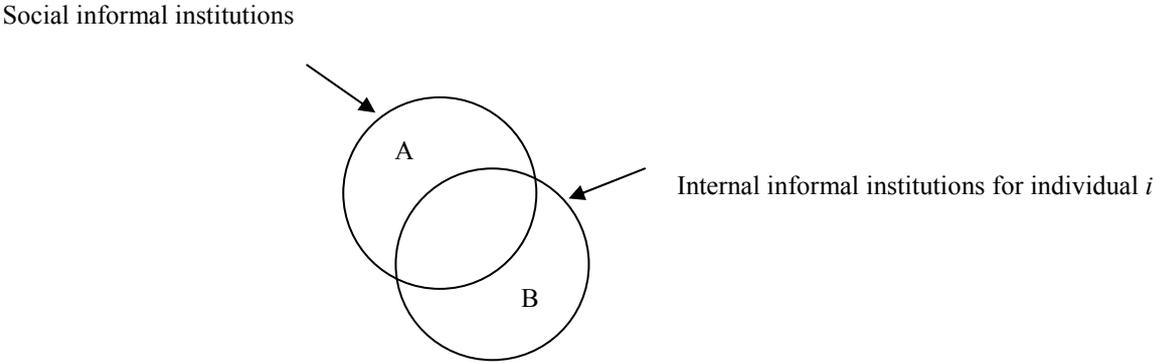


Fig. 1 Two types of informal institutions

For the ensuing analysis, it is useful to distinguish between four cases, using Fig. 1 for purposes of illustration: i) Some social informal institutions are rejected (A) and internal informal institutions are in place (the right circle); ii) All social informal institutions are rejected and internal informal insti-

tutions are in place (the two circles do not overlap at all); iii) Amoralism, i.e. social informal institutions are rejected and internal informal institutions do not exist (there is no right circle); and iv) No social informal institutions are rejected (the two circles overlap perfectly). Case iv) corresponds to one reading of Hayek, but one that we do not find plausible due to Hayek's openness, after all, to institutional experimentation at the margin. Immoralism is to be understood as normative support, in principle, for anyone of cases i), ii) and iii).

Cases ii) and iii) are not probable (or perhaps not even possible) in practice, as one's internal informal institutions are never completely chosen or completely rejected.²⁸ Some are always present, by necessity, whether the individual is aware of them or not, and some of these in turn are probably always in line with some corresponding social informal institutions. In terms of Fig. 1: the circle to the right always exists, even though it may be small, and there is always some overlap between the two circles. In essence, different versions of case i) must be compared.

4.2.2 Hayek's misunderstanding: the character of immoralism

Hayek seemed to worry that Keynes's view implied amoralism (case iii) in the preceding section), i.e. the destruction of all informal institutions.²⁹ As noted, no one can probably rid themselves of all norms, some of which may not even be consciously noted. Hence, immoralism cannot really imply amoralism. But of course, it does allow for a situation quite similar to it. Hence, "choosing one's own informal institutions" *could* entail rejecting most internal informal institutions in favor of comprehensive discretionary decision-making.

But as noted, many other possibilities exist for those who reject some or most social informal institutions. At the other extreme point, an individual could choose to abide by extremely harsh internal informal institutions, much more strict than those of the surrounding society. An example would be the morals espoused by certain devout religious groups – see e.g. Iannaccone (1994). Among those who choose their own informal institutions, there is no reason to presume that they in general will

²⁸ It is not required for any argument in the present paper that all social informal institutions could be consciously rejected, only that *some* can be.

²⁹ Cf. Buchanan's (1987) discussion of moral anarchy.

favor something akin to amorality over some more comprehensive internal informal institutions. It is also probable that among those who deviate from traditions in some manner of form, many will choose to follow traditions in some areas but not in others. Note how this accords well with Hayek's desire to allow for experimentation at the margin. For example, it is probably in the interest of most people to adhere to traditions that pertain to economic life (with norms such as honesty and punctuality and outcomes such as trust) – perhaps due to the Gauthier's (1986) "morals-by-agreement" logic.³⁰ At the same time, other private matters, as regards e.g. family life, social life and religion, may be chosen more independently in accordance with personal taste.³¹

To make Keynes's immorality even less "radical," one could interpret him as saying that he only advocates the freedom to choose *certain* informal institutions – namely, those that purport to regulate behavior which does not entail negative external effects. Hayek does not seem to make such a distinction in his strong argumentation for having people follow conventional, tradition-based informal institutions, irrespective of whether they are associated with external effects.³²

Furthermore, one must remember that people who (wish to) deviate from traditions may still face social costs, if others dislike their deviating, even if the implication of immorality is an implicit "instruction" to people in society that they should accept deviations from traditional and convention-based norms, if some in their midst wish to deviate, and that they should therefore not, without careful analysis, impose social sanctions on these individuals. Presumably, such sanctions should only be exercised if negative external effects follow from the resulting behavior.³³ When people do impose

³⁰ See e.g. Klein (2001), Berggren and Jordahl (2006) and McCloskey (2006).

³¹ Admittedly, Hayek (1978: 126) does not view favorably the "strong anti-clerical, anti-religious and generally anti-traditionalist attitude" of continental liberals – cf. Hayek (1973: 25); and Hayek (1948: 23) claims that "true individualism affirms the value of the family and all the common efforts of the small community and group." See also Hayek (1988: ch. 9, p. 157).

³² It could very well be that formal institutions regulate most behavior that brings about negative external effects anyway, which almost automatically reduces the discussion of informal institutions to deal with regulation of behavior without negative external effects.

³³ *Even if* an immoralist argued that there should *never* be any social sanctions, it is extremely unlikely that more than an utterly small number of people would agree with him and follow his "instruction." Hence, the immoralist program can *de facto* be predicted to be circumvented by the use of social sanctions, if so preferably (for an

social sanctions, for whatever reason, they have to be reckoned with when individuals decide how to lead their lives and be included in individual cost-benefit analyses.³⁴

Lastly, some may indeed be something close to amoralists, but the outcomes of their actions may not be deemed immoral or bad by others. Here, one must differentiate, in the manner of Smith, between motivation and evaluation of results. Good results may emerge on the basis of a noble motivation. To take the Bloomsbury group: they did adhere to certain normative precepts (for themselves, at least); in fact, goodness in the sense of Moore (1903) was their supreme value, being met by pursuits of beauty and friendship.³⁵ But good results may also emerge on the basis of an egotistic motivation, if, say, the formal institutions are of a certain, constraining kind (cf. Vanberg 2002), if there are incentives stemming from social sanctions for people not to exploit others and act opportunistically, or if the type of behavior that is exercised does not entail negative external effects.³⁶

In all, concerns about amoralism seem precipitated.

immoralist) only in the context of behavior with negative external effects, and the program should be assessed in that light.

³⁴ Buchanan (1993) stresses that individuals tend to value autonomy or independence and that private property is conducive to this end. Within that private sphere, as delineated by the formal institution of property rights, people are free to make their own choices, for example in the realm of informal institutions, as they see fit – and they can more easily, by relying on what they own, endure social and economic sanctions initiated by those who dislike their choices. Private property may, then, facilitate for those who deny that there is a moral obligation to follow norms rooted in traditions and conventions to feel confident in choosing their own norms.

³⁵ This line of reasoning is akin to a defense of subjectivist or relativist views of ethics that has been presented in response to claims that such a view leads to the adoption of a mindset that “anything is permitted” (which echoes Hayek’s concerns with immoralism). For an extended argument, see Berggren (2004).

³⁶ It is, we suggest, a mistake to posit that Keynes wished to decide how to lead his life freely in order to act opportunistically (*even if* he is thought to have had an egotistic rather than a noble motivation). This interpretation is supported by another member of the Bloomsbury Group – see Woolf (1960: 148–149) – who found the term immoralism misleading. Keynes may, however, have thought it likely that others would act opportunistically or irrationally – which is part of the theme of the next section, where Keynes is interpreted as advocating a right to choose one’s own informal institutions only if one belongs to an illuminated elite with “wisdom, experience and self-control”.

4.2.3 Hayek's misunderstanding: the scope of immoralism

What about the scope of immoralism, however it manifests itself? Does it not apply to *everyone at the same time*? We would like to argue that it does not. The Hayekian worries here seem mistaken on at least two counts. First, the Keynesian advocacy of immoralism is not, we argue, advocacy of immoralism for all but only for a small group of people, an elite, with greater intellectual powers than the ordinary man.³⁷ In this sense, Keynes comes close to Hayek's "marginalist" stance: experimentation in the realm of informal institutions should not involve everyone.

According to this interpretation of immoralism, Keynes is thought to agree with Hayek that too widespread questioning of informal institutions is not really desirable. In Keynes's case, this is an elitist approach, a position generally associated with him and the spirit of which was conveyed in a letter to Lytton Strachey, as quoted by Skidelsky (2003: 74):

Is it monomania – this colossal moral superiority that we feel? I get the feeling that most of the rest never see anything at all – too stupid or too wicked.³⁸

This view suggests that Keynes did not really care about the opportunities for people in general to lead their lives free from traditions of various kinds – the perceived superiority of an elite of which he was part made him embrace immoralism for him and his kind only. He may very well have thought tradi-

³⁷ It is possible, like Hayek, to interpret Keynes as saying that a right to choose one's informal institutions extends *to all* – see e.g. Keynes (1949: 97–98): "We were among the last of the Utopians, or meliorists as they are sometimes called, who believe in a continuing moral progress by virtue of which the human race already consists of reliable, rational, decent people, influenced by truth and objective standards, who can safely be released from the outward restraints of convention and traditional standards and inflexible rules of conduct, and left, from now onwards, to their own sensible devices, true motives and reliable intuitions of the good." That is not, however, in our view the most plausible interpretation, as implied by the quote in section 2.

³⁸ Cf. Buchanan and Wagner (2000: 80): "Personally, he was an elitist, and his idealized world embodied policy decisions being made by a small and enlightened group of wise people." However, it bears noting that unlike the case of economic policy, where decisions by an elite necessarily affect everyone in an alike manner, the case of choosing informal institutions only involves making choices for oneself.

tions apt as a set of rules for those “too stupid or too wicked”.³⁹ Interestingly, this position (like Hayek’s) has an epistemic part to it, namely that some – a select few – are thought rational enough to delve into critical moral thinking along the lines of Hare (1981). The archangels are to be allowed free rein to do what they wish within the confines of the rule of law, but not the proles. Recall from the quote: “*We claimed the right to judge every individual case on its merits, and the wisdom, experience and self-control to do so successfully*” [italics added].

Such an understanding of Keynes may open for some reconciliation with Hayek, as it implies that only a few persons reject social informal institutions while most people continue to adhere to the customs in place. For one, to engage in critical moral thinking (to use Hare’s term) involves transaction costs, and there is in any case no encouragement from Keynes for people in general to become immoralists.

However, one could argue that Hayek, in being open to institutional experimentation, did not single out elites as particularly suited to choose their own informal institutions. They, like everyone else, are thought ignorant of consequences of institutional choices by him.⁴⁰ But even if this holds, there is no reason to think that Hayek found elites particularly *unsuited* to choose their own informal institutions, so we still consider Keynes’s approach with “immoralism for a few” largely in line with the marginalist approach of Hayek.

One possible risk is that if an elite begins to challenge informal institutions, this may induce others, and perhaps everyone, to engage in such a challenge, transforming the marginal challenge into

³⁹ When Keynes terms himself an immoralist, he presumably refers to the position that a rule should be applicable to all *even if not similarly situated*, and rejects it. But there is no reason to suppose that he rejects the view that what he considers right for A must be considered right for B, *granted relevantly similar circumstances* (see e.g. Hare 1952, 1963; Singer 1961; Kant 1964; Mackie 1977: ch. 4; Levin 1979). In fact, Keynes thought that circumstances did differ between A and B, between himself and his group and others (the “too stupid or too wicked”). Hence, immoralism was not about singling out any specific persons or group of persons without basis (Hayek 1960: 154) but about differentiating on the basis of certain characteristics. In any case, as noted by Mackie (1977: 98–99), even if immoralism *is* understood as implying that a rule is not applicable to all similarly situated individuals in an equal manner, this does not imply much about substantive positions. It can rather best be seen as a sign of someone withdrawing from using moral language.

⁴⁰ Hayek (1960: 155) stresses that no one, including (and perhaps especially) those who rule, should be allowed to deviate from commonly shared rules, including informal ones.

a total one. This would be at odds with the Hayekian approach. Let us consider four scenarios with regard to the attitudes of people in general: i) people do not know that an elite gets to choose informal institutions;⁴¹ ii) people know and accept it; iii) people know and also wish to choose their informal institutions (which implies instability of the initial situation, where only an elite gets to choose); or iv) people know and wish to (re-)establish a setting where everyone obeys the same informal institutions.

Scenarios i) and ii) seem unproblematic from the Hayekian point of view – experimentation still takes place at the margin. Scenario iii), where there is a “replication effect” of choosing one’s own informal institutions, involves a development with an endpoint where everyone challenges traditions and where there are few common, binding informal institutions left. In terms of Fig. 1, everyone’s right circle overlaps little with the left circle. The immoralist could here be seen as an introducer of mutations into the evolutionary process and hence fulfil an import role. Traditions do, after all, change, albeit slowly, and change must come from somewhere.⁴² Some changes catch on, and if detrimental in the evolutionary selection process, they will eventually tend to be weeded out. They could, however, be successful: Hayek (1976: ch. 9; 1978: ch. 5) himself at times notes that traditions contain atavistic elements and sentiments that are not conducive to his overall goals.

Scenario iv), lastly, implies that a situation where people choose their own informal institutions vanishes or is minimized – the circles of Fig. 1 tend to overlap more or less completely for more or less everyone. In fact, Keynes admits that this scenario is not implausible in the quote: “The consequences of being found out had, of course, to be considered for what they were worth.” That is to say, in accordance with the logic of Becker (1968), a rational actor takes both expected costs and benefits into account, and in this case only deviates from traditional morality to the extent that the probability of detection multiplied by the cost in terms of social disapprobation is smaller than the expected preference satisfaction of doing what he wants. It can be argued that Hayek would not wholeheartedly embrace this scenario, given his openness to experimentation at the margin.

Thus, we have established that Keynes proposed that a few should be free to choose their internal informal institutions and that this accords rather well with Hayek’s marginalist approach to chang-

⁴¹ Skidelsky (2003: 74) points out the following about the Apostles, an exclusive society in Cambridge to which Keynes belonged and where G. E. Moore’s ethics was embraced: “One should never underestimate the effect of secrecy. Much of what made the rest of the world seem alien sprang from this simple fuel. Secrecy was a bond which greatly amplified the Society’s life relative to its members’ other interests”.

⁴² See van den Hauwe (1998) and Hayek (1976: 147).

ing social informal institutions. This conclusion is reinforced by considering that such freedom to choose need not entail anyone choosing to deviate (much or completely) from traditions and customs.

And this conclusion is even further reinforced by clarifying that Keynes did not propose a whole new, abstract, synthetic system of morality. Hayek especially criticized radical system builders with an ambition to impose new, constructed rules on a society; but there are no indications that Keynes was of that type.

In all, there are good reasons to not associate Keynesian immoralism with attempts to do away with all traditions and customs for everyone at the same time. Keynes was more of a marginalist than first meets the eye and hence not as anathema to the Hayekian enterprise as Hayek himself thought.

4 Concluding remarks

The purpose of this paper is not to defend immoralism or any other normative position. It is instead to see whether Keynes's immoralism poses a threat to the type of society that Hayek promotes, characterized by liberty and respect for traditions and customs. Hayek himself certainly thought so.

It bears noting that Hayek himself was open to challenges of the informal institutions in place – *so long as such challenges occurred at the margin*. That is to say, traditions and customs should not, in his view, all be abandoned by everybody at the same time and be replaced by either amorality (adherence to no informal institutions at all) or a new, synthetic, abstract system of morality. The basis for opposing such “radical” challenges is his epistemic pessimism and evolutionary optimism – that no one can know how to construct an ideal moral system without rooting it in actual, evolved practices and that no one can know the consequences of abandoning many tried institutions at the same time. Such encompassing experimentation has, he thought, potentially disastrous effects, spilling over into the realm of formal institutions, undermining the rule of law and liberty.

It is argued here that Hayek's view is not really at odds with Keynes's immoralism, as Keynes was more of a marginalist than a radical. Hayek mistakenly thought that immoralism implied the abandonment of all traditions by everyone at the same time. Such complete amorality is probably not feasible – some informal institutions are probably needed for any person to function – but clearly, people *could* reject *most* traditions. But would they? It is certainly not neither a necessary nor a probable consequence of immoralism, and to the extent that some do, they can be expected to be quite rare.

Not wishing to follow established traditions does not readily translate into not wishing to follow any informal rules whatsoever. And Keynes was an elitist and did not, as Hayek thought, advocate widespread, popular abandonment of most rules. Instead, he argued for a right for a select few (most notably, the members of the Bloomsbury Group) to choose their own informal institutions.

One thing that furthermore should make this immoralism less threatening from a Hayekian perspective is that it does not, like the main forms of constructivist rationalism disliked by Hayek, suggest a whole new “synthetic” moral system. It is true that on epistemic matters, Keynes did have much in common with the constructivist rationalists; but it is equally true that he was not, like them, advocating “the pursuit and attainment of an absolute collective purpose” (Hayek 1960: 56) in the context of informal institutions. His endeavor was instead of a negative kind – one of rejecting the view that traditions should be followed by everyone and enforced to this effect – and does not as such propose, like e.g. act-utilitarianism, a new general system applicable to all. In all, this accords rather well with Hayek’s positive attitude towards challenges to established rules at the margin: quite a few are to choose their own informal rules; of those who do, many will choose to partly follow traditions anyway; and there is no suggestion of a complete overhaul of all informal rules in a big-bang fashion.

And notably, there is no conflict between immoralism and Hayek’s cherished goal of liberty – not directly, in that immoralism has nothing to do with arbitrary coercion, and not indirectly, in that immoralism does not undermine encompassing, basic values that undergird the rule of law and a free society.

Against this background, we suggest that one can be an immoralist in the sense outlined here and be committed to the thrust of a Hayekian worldview without thereby being clearly inconsistent. There may be some tensions (as in Hayek’s own writings), but that is all.

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