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La Calidad Académica,
un Compromiso Institucional

“Se va el caimán”
Alejandro Obregón (artista colombiano)

The fiscal proviso

Leonidas Zelmanovitz

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ABSTRACT

The purpose with this work is to evaluate if there is an argument in favor of "central banking" that cannot be put aside on either economic or moral ground. In order to do such an inquiry, it will be discussed philosophically whether the institutions of private property and freedom of contract in general and good money in particular are of a higher value than national defense, since that is the last standing justification for the monetary prerogatives of government analyzed; also, we will analyze if there are other ways to provide funds for national defense less prone to create problems of collective action than interventionism in money and banking.

* Article of research. Artículo de Investigación. Artigo de pesquisa. Article de recherche.

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RESUMEN

El propósito de este trabajo es evaluar si hay un argumento a favor de la "banca central" que no se pueda aislar de los terrenos económicos y morales. Para realizar esta investigación, se discutirá de manera filosófica si las instituciones privadas con libertad para contratar y buenas entradas tienen un mayor valor al de la defensa nacional puesto que es la última justificación vigente para las prerrogativas económicas analizadas por el gobierno. De igual forma, analizaremos si hay otras formas de proveer fondos para la defensa nacional menos propensas a crear problemas de acción colectiva que el intervencionismo en el dinero y la banca.

Palabras clave: Banca central, intervencionismo, dinero y regulaciones bancarias.
Clasificación JEL: E42, E58, E63, G28, H56.
Trabajo relacionado con: (3) Propiedad, (9) Regulaciones de Mercado, (13) Regulaciones Financieras, (22) Impuestos, y (25) Economía Política y Escogencia Pública.

RESUMO

O propósito deste trabalho é avaliar se há um argumento a favor do "banco central" que não possa isolar-se dos terrenos econômicos e morais. Para realizar esta pesquisa, discutirar-se-á de maneira filosófica se as instituições privadas com liberdade para contratar e boas entradas têm um maior valor ao da defesa nacional posto que é a última justificação vigente para as prerrogativas econômicas analisadas pelo governo. De igual forma, analisaremos se existem outras formas de prover fundos para a defesa nacional menos propensas a criar problemas de ação coletiva que o intervencionismo no dinheiro e no banco.

Palavras chave: Banco central, intervencionismo, dinheiro e regulações bancárias.
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RÉSUMÉ

Le but de ce travail est d'évaluer s'il existe un argument en faveur de la banque centrale qui ne peut pas être mis de côté ou comme un autre motif économique ou moral. Pour faire une telle enquête, il sera discuté philosophiquement si les institutions de la propriété privée et la liberté contractuelle en argent général et bonne en particulier, sont d'une valeur supérieure à la défense nationale, étant donné que c'est la dernière justification de longue date pour les prérogatives monétaires du gouvernement analysé; aussi, nous analysons si il ya d'autres façons de fournir des fonds pour la défense nationale moins enclins à créer des problèmes d'action collective que l'interventionnisme de l'argent et des banques.

Mots-clés: Banque centrale, interventionnisme, de l'argent et la réglementation bancaire.
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1. INTRODUCTION

The goal with the present inquiry is to evaluate if there is an argument that I cannot put aside in favor of "central banking;" and by central banking I mean the government's prerogative to regulate money and credit. I start by identifying three different categories of arguments in favor of central banking and I have confidence that I have found sufficient grounds to dismiss the first two. In order to deal with the third argument, this work will discuss philosophically whether the institutions of private property and freedom of contract in general and good money[1] in particular are of a higher value than national defense; also we will analyze if there are other ways to provide funds for national

[1] All my reasoning about money follows from the axiom that the development of the economic capacities of a group of individuals is directly related to the extension of the division of labor among them. Since in human societies the individuals possess specific, local knowledge and subjective as well as technical knowledge about the opportunities for economic activity, the capacity to exercise this "intellectual division of labor" is key for overcoming scarcity, as Professor Jesús Huerta de Soto points out by quoting Mises' Liberalism (Huerta de Soto, 2001, p. 173). History has demonstrated that the best institutions for this purpose are the ones that grant the individuals better opportunities for them to exercise their creativity and their other productive capacities; namely the classical liberal institutions of limited and representative government under the rule of law and individual rights, and paramount among them: private property rights, freedom of contract and the availability of adequate money as an instrument for indirect exchanges. Since any monetary arrangement in conflict with private property rights and freedom of contract is less than ideal, the many examples in history in which governments have intervened in the supply of money have resulted in the production of money less than adequate for its purpose.

defense instead of manipulation of money and credit and by *that* I mean the enforcement of rules for money and credit that would infringe private property rights and freedom of contract[2].

There are many arguments in favor of the government's monetary prerogatives. Such prerogatives generally include the power to define what can be used as money, who will be authorized to produce it, what the rules are, if any, for its production. It also includes the power to authorize banks to operate and regulate them, and perhaps, most importantly, how those powers will be used as an instrument for government's policies; that is, the ways in which monetary and fiscal policy will be deployed to mutually support each other and the ultimate goals of the State. The government may use its prerogative benignly or malignly. A benign use of monetary prerogatives by the government would be the definition of a monetary regime with no forced tender, allowing competitive supply of money, for instance. A malign use of the monetary prerogatives happens when the government manipulates money and credit and by *that* I mean the enforcement of rules for money and credit that would infringe property rights and freedom of contract[3].

Since it is the existence of the monetary prerogatives which gives occasion for monetary manipulation, an important question to ask is on which grounds such prerogative is advocated. In its modern incarnation, most of the interventionism in money and banking has been delegated to a government's agency generally called central bank. Although that was not so in the past, a modern discussion about monetary prerogatives is, in essence, a discussion about the justifications for central banking.

Central banks' primary purpose in regard to the economic life of a country is to provide a medium of exchange where a single medium of exchange is permitted or to regulate its supply where there are competing suppliers. Since banking everywhere is fractional reserve banking to a greater or lesser extent, there is always a risk of crisis of liquidity at short notice in the banking industry, and therefore, a second important responsibility of the central bank is to be the "lender of last resort" for the financial system. And most, if not all, responsibilities of a central bank towards the private sector are encompassed in these two categories. But central banks have another purpose, actually their original purpose, that is, they are agents of the government's treasury; they are responsible for facilitating public funding either by helping the government to borrowor by directly crediting the government's newly produced money.

That is why we cannot discuss the rationale for central banking without taking into account fiscal policy; or as stated by Vera Smith *"… it must be admitted that it is almost certain that by far most powerful reason leading to the maintenance of Government intervention in the banking sphere, at a time when it was on the decline in other industries, was that power over the issue of paper money, whether such power is direct or indirect, is an exceedingly welcome weapon in the armory of State finance"* (1990, p. 9). Said differently, central

2 Elsewhere (Zelmanovitz, L. (2010) Money and War in Murray Rothbard's. *A History of Money and Banking in the United States*, *Libertarian Papers* 2, 17. Online at: *libertarianpapers.org*.) I have offered a presentation and an interpretation of a historical view on the relation between the fiscal necessities brought about by war and interventionism in money and banking in the United States up to World War I, with the purpose of illustrating the theoretical questions in regard to monetary policy and war finance, some of the arguments presented there are repeated here. Also, there are other arguments presented here that were previously discussed in the broader context of my Doctoral dissertation "Money - what is it and what is it for? - The ontology and functionality of money - A dissertation on the philosophical fundamentals of monetary institutions." Still, the inquiry conduced here is a novel one, as it will become clear in the following pages.

3 The exercise of monetary prerogatives may be equated to the power to establish a "monetary constitution." The "constitutional" rules about money and credit do not necessarily infringe private property rights and freedom of contract. For instance, the definition of a unit of account that the economic agents may use in their calculations, or the supply of a medium of exchange stable in value would be an exercise of such prerogatives without infringement of private property and freedom of contract.

banks perform their roles as money providers, lenders of last resort and all other instrumental functions in order to better perform its original function, that is, to become a better agent to the State in general and particularly to the fisc[4].

A discussion about the rationale for central banking should, therefore, be divided between justifications in regard to the central bank's role for the private sector and in regard to its role as a direct arm of the treasury and indirectly of State policy in general.

That money does not need to be monopolistically produced or to have its supply regulated by the State can be attested by the fact that money monopolistically produced in one jurisdiction may be use voluntarily by the economic agents in other jurisdictions as it has been the case for millennia. Since the historical evidence demonstrates that the government's monopoly on money production is not a necessary condition to have a medium of exchange available to the economic agents to facilitate their indirect transactions, that should be discarded as the reason for such monopoly[5].

But how about the group efficiency effect, where gains to all agents may be accrued from the fact they are using the same currency? This argument of efficiency in itself cannot be denied, although the transaction costs minimized by the use of a common currency may be overstated in these days of electronic and instantaneous transactions[6]. The main issue here is that to the extent that the use of a single currency offers economic benefits to the individual agents, it is for them to discover and establish that by the sum of their individual decisions; since it may be the case that apparent or real benefits do not pay off in comparison with the costs associated to the use of multiple currencies. In any case, the economic argument for the benefits of using a single currency, everything else being equal, is not an argument for the imposition of a monopoly, something that with the excuse of giving something of value to the economic agents is taking from them the capacity to judge the supposed benefit by themselves, what is morally wrong, evidently. Other argument to give the State the power to regulate money is Hamilton's argument in the 1791's "Report on the establishment of a mint" that the money produced by other sovereigns may not be reliable, as it was evidenced by the debasement of the Spanish silver coin named "*Dollar*" at the end of the eighteenth century, when it was the most important medium of exchange and unit of account in the new republic of the United States of America[7]. Sound as that argument may be, it does not follow, that giving

4 One may argue that there were no fiscal considerations in play at the creation of the Federal Reserve System (FRS) as the *fourth* central bank in the United States; true or false as that may be, that does not diminish the fact that the previous three central banks (The Bank of North America, The First Bank of the U.S., and the Second Bank of the U.S.) were created primarily with that purpose in mind and that the bank created in 1913, was completely mobilized as an agent of the Treasury by 1917 and has performed that role ever since. In regard to the Bank of England, however, there is no doubt that not only it was established in 1694 in order to provide funds to the British Crown but also that privileges such as the management of the National Debt, the acceptance of its notes in payment of taxes, and later the granting of legal tender status to them, among others were extended in order to facilitate the bank's purpose as an instrument of War finance.

5 Even after the establishment of a mint, in the United States, foreign coins had legal tender status as late as 1854 (the Spanish Silver Dollar retained that status until 1857), demonstrating that a monopoly of money supply is not a necessary requirement to have money supplied. The relative merits of providing the supply of money either monopolistically or competitively is a different discussion.

6 For instance, credit card companies incorporate the cost of foreign exchange transactions in their regular fees for some credit card contracts they offer in order to have more businesses, what allows some of their customers to do transactions in multiple currencies for no additional costs other than what they implicitly pay for transactions in their domestic currencies.

7 "The dollar originally contemplated in the money transactions of this country, by successive diminutions of its weight and fineness, has sustained a depreciation of five per cent., and yet the new dollar has a currency, in all payments in place of the old, with scarcely any attention to the difference between them. The operation of this in depreciating the value of property, depending upon past contracts, and (as far as inattention to the alteration in the coin may be supposed to leave prices stationary) of all other property, is apparent. Nor can it require argument to prove that a nation ought not to suffer the value of the property of its citizens to fluctuate with the fluctuations of a foreign mint, and to change with the changes in the regulations of a foreign sovereign" (Hamilton, 1904).

monopolistic powers to the U.S. Government or to any government for that matter to regulate money would result in better money than allowing the use of money supplied competitively. To limit for now the argument about what constitutes good money to the criterion of stability of value, the history of a State monopoly on money has been one that demonstrates that governments do not necessarily produce good and reliable money[8] even when constrained by self-imposed constraints such as a clause of convertibility; after all, those clauses can always be rescinded. So, the goal to assure "good" money is also a rationale for central banking that can be falsified; that is, central banking is neither a necessary condition nor a sufficient condition to have good money. You can have good money without central banking and central banking does not guarantee good money[9].

That leaves us with the conclusion that the reason why governments establish such monopoly is neither because that is necessary in order to have money available to the economic agents, nor because that allows them to produce better money than otherwise.

Returning to our assumption that the purposes of the modern usage of the monetary prerogatives through a central bank fulfills the three purposes

"That money does not need to be monopolistically produced or to have its supply regulated by the State can be attested by the fact that money monopolistically produced in one jurisdiction may be use voluntarily by the economic agents in other jurisdictions as it has been the case for millennia."

8 Cases of debasement of the national currency, at the time of commodity money, and cases of inflation of the money supply by the Sovereign, in cases in which convertibility was suspended temporarily or definitively, are well known and so many to be enumerated.

9 All the historical examples of debasement, suspension of convertibility and inflation demonstrate beyond doubt that central banking does not guarantee good money, but good money being supplied without central banking requires some explanation. The argument here is that in the absence of forced tender, the economic agents will choose the money that best suit their necessities; it may be the US Dollar in Panama or Ecuador, or the Spanish Silver Dollar during colonial times and later in the Antebellum USA. It is not an argument that there will always be a better money available than the one provided by the central bank, but that the monopoly of the money supply as embodied by the central banks worldwide, because of the attribute of being a monopoly, precludes the possibility of the economic agents to use a better money that may be available.

"If the banking system can create multiple claims over the same amount of financial resources (for instance, by lending money at longer maturities than the maturities required from the depositors to retrieve their deposits) that allow the banking system to allocate resources as they see fit; it may be based on a criterion of economic efficiency, it may be based on a political mandate."

of (i) providing money to the daily economic activity of the citizenry, (ii) acting as a lender of last resort and (iii) helping the government in their political goals and having disposed of the first of the three possible rationales, we are left then with the other two hypothesis for governments to assume a monopoly of money production. The first is to be a better lender of last resort and the second because that allows the central bank to better fulfill its role as enabler of the fisc.

In absolute terms, the existence of a lender of last resort is not a necessary condition for a monetary economy is also attested by the fact that for millennia there was none; but perhaps one may say that it was unfortunate that it took so long to create a lender of last resort. Then, the argument for central banking based on the need for a lender of last resort must shift towards the question about whether central banking allows a swifter adjustment of the economy to economic fluctuations[10].

One may argue that an inflexible supply of money may not leave enough wiggle room for adjustments to sudden or even secular changes in the demand for money without sudden or continuous changes in the value of money, that would be detrimental to economic development and, therefore, the existence of a government's agency with the authority and the instruments to make changes in the money supply is necessary in order to avoid economic shocks.

However, in order for the central bank to have the instruments to make changes in the supply of money by fiat, either the government establishes a legal monopoly of money production that allows it to create base money by fiat, or the government allows inflationary credit creationdirectly or

[10] The lender of last resort argument for central banking and the flexibility of the money supply as an instrument to smooth economic fluctuations are folded together because the former only becomes necessary once the government intervenes with money and banking in order to achieve the latter as it will be explained in the next paragraphs.

indirectly, that is, the creation of credits without the preexisting savings, something done through fractional reserve arrangements in a broad sense.

However, a banking system organized under fractional reserve arrangements, that is, a system, which financial intermediaries are not only leveraged but there are time mismatches in the financial operations as well, is a system that, on one hand, can mobilize existing savingsmore rapidly and to a greater extent by funneling them to particular uses, among them supplying the treasury with funds; on the other hand, it is more unstable.

If the banking system can create multiple claims over the same amount of financial resources (for instance, by lending money at longer maturities than the maturities required from the depositors to retrieve their deposits) that allow the banking system to allocate resources as they see fit; it may be based on a criterion of economic efficiency, it may be based on a political mandate. The fact is that, under fractional reserve arrangements, the bankers and the politicians with power to regulate the banks can mobilize resources in a scale and with a speed that otherwise they would not be able to. And note that that can be done in any arrangement that allows the creation of multiple simultaneous claims over the same resources, not only in the case of fractional reserves on demand deposits.

The problem with leverage (borrowing in order to lend) and time mismatches (borrowing with shorter maturities than the maturities of the lending activities) is that sometimes in periods in which there are crises of confidence in the banking system or periods of increased demand for liquidity not necessarily associated with a confidence crisis in the banking system, the banks are forced to "de-leverage", that is, to call back the loans they made in order to repay the investors/depositors. Since the very essence of the system is the creation of multiple financial claims over the same amount of base money, or said differently, of multiple claims on the monetary side of the economy not represented on the real side of the economy for actual goods, that liquidation becomes problematic.

It is under such arrangements of multiple claims over same assets and time mismatches that a lender of last resort becomes an important component of the system, an essential component of the system. But if not for the significantly improved conditions for the banking system to fund the government under such arrangements, it is doubtful that that would be the "architecture" of choice for a financial system and therefore for the need of a central bank; or saying it differently: - what compels the government to come to the rescue of the banks in times of crisis of liquidity if not for the need governments have to tap in the inflationary creation of credits conjured by the banks through fractional reserve banking?

Not long ago (before 1844), the ratio of reserves to bank liabilities in England was about 30%; when the role of the BoE as the lender of last resort became known and trusted, that ratio started to decline.Aside from the general interest in having a healthy financial system as an instrument for economic growth that most politicians have, the State has a vested interest in the solvency of the banking system to the extent that the banks are agents of the treasury in its effort to raise liquidity to fund public expenses. However, that role is limited when money production is limited by external factors, such as the refusal by the economic agents, both domestically and abroad, to accept things other than precious metals as money and to accept those only at their intrinsic value and not at their face value. But today, base money is everywhere fiat money, so, at least for mainstream theorists, central banks around the world can increase the money supply and drive down interest rates on treasury bonds almost indefinitely and that allows them to be a more effective lender of last resort than before.

But one should not accept that a fiat money regime allows for easier increases of the money supply and see in that a good thing when the government is supporting the banks; after all, if not forced to divert saving to fund the public debt in one way or other, and not being caught in the moral hazard problem that a lender of last resort creates, the banks would not have needed a lender of last resort in first place[11].

So, on what the answer to the question whether a central bank with the power to manipulate the money supply either by the inflationary creation of money or by credit is a stabilizer factor in the economy and therefore an acceptable rationale for central bank depends? It depends on the idea that the banking arrangements are not only of the fractional reserve kind but that there is the implicit or explicit guarantee given by the government that they will come to the rescue of the financial system if needed. And the bankers may be sure of such a thing, because the government, if nothing else, needs the financial system to float the public debt. If not for the need to place public debt in the market, the government would be freer to make clear to the economic agents in general that a rescue of the banks with public funds, real or inflationary, is not to be expected, and therefore, the banks would be required to operate much more prudently than otherwise.

To conclude, the argument that central banks are necessary to act as lenders of last resort in order to give stability to the financial system starts from the premise that central banks add more stability than the instability they bring. That presumption obviously is a *praesumptio iuristantum*, that is, a rebuttable presumption; therefore, this assumption only offers a rationale for central banking if proved that the net result of central banking is superior to the result in the absence of central banking. If not for the guarantee that the government will intervene to provide liquidity for the banks, guarantee that becomes credible only when the government depends on the banks for its fiscal needs, the banks would be more prudent and the lender of last resort would not be necessary.

Of course if the government needs the banks to pool individual's savings in order to fund the public debt, the banking system will be less stable than otherwise and therefore, the presence of a lender of last resort becomes a stabilizing factor; but absent that need, mere existence of a lender of last resort induces non-prudent behavior.

So, as exemplified by the historical evidence, we can also reject on logic grounds that a lender of last resort is a stabilizing factor in the economy and therefore it is an acceptable rationale for central banking, since that is only the case when the government fiscal needs impose on the banks a pressure to act irresponsibly.

Having attributed the very need of a lender of last resort to the instabilities introduced in the banking system by the privileges granted to them by the government (being incidentally the access to a lender of last resort part of them), that leaves us with one hypothesis to analyze, that is, with the rationale for central banking based on its function as an instrument for State policy, in particular, State financing.

Regardless of what event we chose as our departing point for the history of central banking, either the establishment of the Bank of England (BoE) or the *Peel's Act* which gave monopoly of issuance to the BoE, we will see that governments saw it to be for their benefit to authorize an agent to produce and regulate the money supply as an instrument to create a market for public debt.

[11] Since we are dealing with counterfactuals, I can only support this claim with the logical argument that a lender of last resort only becomes necessary when the banks operate not only with fractional reserves, but also with time mismatches, being a bank operation under fractional reserves but no time mismatches the kind of operation recommended by the "Real Bills" doctrine, for instance. Fractional reserve banking and time mismatches may occur without the moral hazard created by a lender of last resort or the implicit (or explicit) guarantee by the government that convertibility will be suspended or deposits on demand will be frozen if needed but they tend to be isolated events, given that the consequence of reckless behavior is bankrupcy; they become systemic events when the bankers know that the government will not allow them to go broke and that happens when they know that the government needs them to pool short-term savings to float long-term public debts, that is, the government needs them to do exactly what will make their banks insolvents in the event that confidence is lost.

And the most pressing necessity that governments may face that forces them to raise money quickly is the necessity of national defense. We could expand this concept to encompass all threats to the survival of a given political regime, not only external but also internal, not only conventional war, but also rebellion. However, that expansion of the concept of national defense for the purposes of this paper would only complicate things unnecessarily; so for the purposes of the argument presented here, national defense will be considered as an external military threat not only to the political regime, but to the lives and properties of all citizenry as well.

2. THE PROBLEM WAR FINANCE POSES FOR THE INTEGRITY OF PRIVATE PROPERTY RIGHTS

Among all the possible justifications for the intrusions on private property rights in general and by the manipulation of money and banking rules in particular, the needs of war financing seem to carry more weight than anything else. Individuals prepared to resist attacks on private property rights based on any other reason face moral doubts once confronted with the needs to fund defense. What is the rationale behind the apparent difference in value judgment in the case of war finance?

In dealing with moral justifications for taxation, Eric Mack sees private property rights as: "a moral *presumption* against forced takings, a presumption that might, at least in principle, be overcome in special cases - specifically, cases that do not fit the paradigm of unjustified forced *redistribution*" (1986, p. 489). Professor Mack goes on saying that he finds no sufficient basis to actually overthrow that presumption "unless, of course, one retreats to utilitarianism" (1986, p. 509). Most people would accept social utility as perfectly acceptable moral criterion to evaluate the morality of taxation, but let's try first without that.

"Of course if the government needs the banks to pool individual's savings in order to fund the public debt, the banking system will be less stable than otherwise and therefore, the presence of a lender of last resort becomes a stabilizing factor; but absent that need, mere existence of a lender of last resort induces non-prudent behavior."

"The requirements of defense of individual rights to life and property cannot be evaluated in a metaphysical and epistemological vacuum. Being mankind who we are, being human political societies what they are, it is not reasonable to expect that national defense could be effectively conducted by any other means other than by a permanent apparatus of military defense funded not voluntarily according to the personal preferences of each individual, but compulsorily. Negating that is tantamount to negating reality."

The "special case" referred by Prof. Mack is the case of an "authentic" public good, and national defense is the quintessential one; so, the recourse to voluntary financing of national defense would imply accepting a distribution of benefits not proportional to the contributions in favor of the "free-riders," what is morally acceptable from a right's perspective, so long as all the contributors are better off. Nonetheless, Professor Mack argues that national defense financed by coercion, that is, taxation, still needs to pass the test of proving that it is provided in an efficient manner and that "even if social utility were thereby greatly enhanced" (1986, p. 509), that no group of individuals will be worse off.

But since in the real world we live in, knowledge is extremely imperfect, Professor Mack proposes a litmus test to find out ifit is morally acceptable in a given circumstance of tax financed national defense; and the test consists in a comparison with a "genuinely defensive system, one truly protective of our lives, liberties, and property" (1986, p. 511). If the cost of that system were in the "ball-park" of current levels of expenditure, the tax financed national defense would beacceptablein principle.

Yet, Professor Mack believes that it would be possible to finance national defense voluntarily; the economic gains of an effective defense system would bring the cost to what is acceptable to a "rational purchaser" regardless of the fact that there are free-riders.

I disagree with his conclusion, but I think that his proposed test offers a practical instrument to evaluate the morality of coercive financing of national defense without descending in a utilitarian calculation that Mack clearly rejects.

There are two elements that I would add to be factored in his proposed method of assessment; and the first one is that the size of the army you need to field is not an ideal number, but it is a consequence of the strength of the forces you face, as stated by

Hobbes[12]. Even if it would be possible to know what the personal preference for security of each individual is and to give a price tag to that, something that is not possible, still, we can know for certain that the cost of national defense is not related to the aggregate of those figures. The cost of national defense is determined by the military threats the nation faces and not by any internal circumstance. Therefore, if protection of life and property is of personal value for all individuals, in different circumstances, different efforts may be necessary, regardless of their individual preferences[13].

The other element, also from Hobbes, is that the arrangements for defense need to be permanent: "Nor is it enough for security, which men desire should last all the time of their life, that they be governed and directed by one judgment for a limited time, as in one battle or one war" (1994, p. 107). And that makes sense. The apparatus of defense should be built to protect not only against existing threats, but also potential threats and there are gains of specialization in this field of endeavor as in any other; therefore, the effective defense of lives and properties of every individual citizen requires a permanent organization, reasonably, prudently supplied with means to dissuade and if necessary to confront military threats.

The requirements of defense of individual rights to life and property cannot be evaluated in a metaphysical and epistemological vacuum. Being mankind who we are, being human political societies what they are, it is not reasonable to expect that national defense could be effectively conducted by any other means other than by a permanent apparatus of military defense funded not voluntarily according to the personal preferences of each individual, but compulsorily. Negating that is tantamount to negating reality. And the morality of such system should not be condemned by the mere fact that it is funded by taxation; but by an evaluation of the entire context in regard to its efficacy and reasonableness, by considering, for instance: (a) whether tax funded defense has been consented among the individual members of a given polity by the legitimate instruments of collective decision, (b) whether the means of legitimate coercion are used only to achieve that purpose or if some redistribution is also pursued, (c) whether individual rights are observed, including property rights (albeit mitigated by the provision for defense), (d) if the total cost estimated for national defense meets Mack's criterion of being measurable with the cost of the same service provided by a private rational agency, etcetera[14].

12 "The multitude sufficient to confide in for our security is not determined by any certain number, but by comparison with the enemy we fear, and is then sufficient, when the odds of the enemy is not of so visible and conspicuous moment, to determine the event of war, as to move him to attempt" (Hobbes, 1994, p. 107).

13 One may say that not everybody values his life or the life of his family so highly as to fight for them and therefore it would be an infringement of their rights to ask them for their blood or treasury for the common defense. However, I think that a distinction can be made between the "blood tax" of conscription and taxation no matter how onerous a given taxation may be. The most desperate circumstances do not give the sovereign a right to enslave his subjects and to force them to fight, nor I think that a suicidal defense or a confiscation and commitment of the destruction of everything that is valuable in order to try to prevent their loss is morally justifiable. In deciding what to commit to national defense, the sovereign needs to apply practical reasoning, prudence, as with everything else in life, and a sensible form of government is one that makes rulers accountable to the people for that. Furthermore, the right not to be forced into the army and the right to sell one's goods and emigrate is part of the individual rights which all human beings are entitled to. But once a situation of emergency has started, if your property is needed for common defense, as it will be argued with this paper, the right you have is to expect compensation, once the emergency has ceased and conditioned to the sovereign not having been defeated.

14 As previously stated, the sum of individual preferences is not the only determinant of the amount to be raised for national defense, since external circumstances such as the size of the military threat faced by a given society and the need to keep a standing army are not determined by the sum of those preferences. However, the *ex ante* conclusion of a cost and benefit analysis between the expenditures of national defense and the value of the life and property that each individual has in that given society is a determinant factor in each one's assessment that he is a net gainer or a net loser for each level of expenditure and may determine whether he judges that the best option is to leave that society or to surrender that society whose defense, according to his or her criterion of evaluation, does not pay off to defend. Under assumptions of perfect knowledge, it would be possible to talk about an objective assessment of all the values involved in such decision, and the closer each subjective decision maker comes to that objective evaluation, the better, but ultimately, each individual will decide based on the knowledge about his internal and external circumstances he possesses and, of course, he may be wrong in objective terms.

3. THE NATURE OF MONEY AND THE FRAMEWORK FOR THE DEBATE ON WAR FINANCE

For more than a century now, the main divide about the nature of money has been between those who see money as a spontaneously evolved institution in society whose purpose is allowing and enhancing the division of labor, and those who see money as an institution created by the State as an instrument for its policies. The debate about war finance, in all its dimensions, from the description of its instruments to the evaluation of their efficacy and the justifications for their use in each given circumstance, may be better understood in the context provided by the discussion on the nature of money. If money is just one more instrument for the implementation of State policies, then there are no limits in that regard to what the government can do to money. On the other hand, if money is understood as the instrument for indirect exchanges, then there are ethical limits to what can be done to money. A precise understanding about what money is may inform the best ways to provide for war finance when necessary.

And as stated above, it is axiomatic that money was introduced in society and its main function still is to facilitate indirect exchanges; and in that regard, the introduction of specific forms of money, including credit or State money, only becomes possible, and ultimately successful, because they perform that basic function. So, the fact that some monies, including our monies today, may have been introduced by the State does not contradict the thesis that instruments of facilitating indirect exchanges are introduced in society not by command but because they perform a useful function for the individuals.

So, not even (what I would recognize as a genetic fallacy) stating that money was created by the State and therefore its main purpose is to be an instrument for the State gives legitimacy to the claim that because our monies were created by the State, the rulers can do whatever they wish with money as if there were no moral constraints. Money becomes and remains a morally accepted instrument for the State to the extent that it remains adequate for its basic function; and its basic function is to enhance the division of labor in society, not to serve State's policies.

So far we have talked about justifications for central banking without trying to distinguish what kind of justifications they are. Basically, we are in search of justifications on grounds of economics and ethics. Our understanding is that justifications on those grounds would appeal to all constituencies interested in this topic. And the matrix of our inquiry, so far, is the following:

Table 1. Matrix of rationales for central banking

Justifications for central banking	Economic grounds	Ethical grounds
A Central Bank is necessary in order to have (good) money provided for society	Central banking is neither necessary nor sufficient to have good money; no solid economic case for central banking based on the monopoly of money production exists. The group efficiency effect argument for the selection of a single currency does not imply that such currency should be provided without competition.	Central banking is neither necessary nor sufficient to have good money; no solid moral case for central banking based on the monopoly of money production exists. Stealing from the individuals the right to use a currency of their choice is morally wrong.
A central bank is necessary in order to have a stable financial system by its actions as a (effective) lender of last resort	Central banking allows effective lending of last resort under fiat money and fractional reserve arrangements, which are unstable by nature, defeating the purpose of greater stability through central banking.	There are no necessary social good achievable through central banking whose deficiency is not a consequence of the introduction of central banking.

Justifications for central banking	Economic grounds	Ethical grounds
A central bank is a (relevant) instrument of the fisc in cases of emergencies.	The mitigation of private property by the manipulation of money may be the best way to have fast access to real existing savings under emergencies, short-term extreme circumstances, but a strong real economic sector, "deep" financial markets, and sound management of public finances are the most efficient policy for peacetime and all but extreme cases, as a way for the State to have access to existing goods necessary to wage war.	In case of war, is the survival of the political body a "higher value" than private property rights? Is the "fiscal proviso" morally justifiable? My answer is yes, it is. But since it is not possible to evaluate morally central banking regardless of its economic efficiency, this answer admits important qualifications.

4. INSTRUMENTS FOR WAR FINANCE AND THE SINEWS OF POWER

In order to compare the economic consequences of the different methods of war financing, it seems advisable to start describing those methods. Following Mises in *Nation, State, and Economy*, Professor Gabriel Calzada Alvares separates the methods into four categories: conscription-confiscation, taxation, inflation, and war bonds (Calzada, 2005, p. 149)[15].

In the context of Mises' distinction between a "Soldier's War," a somewhat limited form of war that may be compatible with a market economy and civilization itself, and "Total War," conscription, or the "Blood Tax" as Mises used to call it, is the very beginning of unlimited warfare. The rationale that may be inferred here is that once the populace consents to the government enslaving part of the citizenry and potentially sending them to death, any other limitation on the power of government, such as private property, free speech, whatever, loses its legitimacy. After all, how can someone have the right to refuse to give up his property if others are forced to give their lives?[16].

Regarding confiscation, according to Professor Calzada, the taking of already produced goods and means of production would eliminate the incentives for entrepreneurs to make the necessary adjustments to transform the structure of production in order to deliver war supplies; therefore it is a self-defeating method.

Considering taxation, inflation, and public debt as instruments to raise the resources to wage war, it is important to take into consideration Mises' lesson that "War can be waged only with present goods" (Mises, 2006, p. 139). Accepting Mises' assumption, from an economic standpoint, i.e. deciding on the use of the scarce resources available, a generation that wages war must bear its material cost.

However, since most of the wealth of the individuals is not usually kept in liquid assets, but in illiquid ones, it must be understood that sometimes the share of the existing wealth that is required for the war effort is bigger than what can possibly be taken from the tax-payers without forcing them to fire-sell non-liquid assets, producing strong redistributive impacts; or, simply, the State might not have the tax-collection mechanisms to raise the amount required in a timely and orderly manner. These are considerations that may lead

15 See Mises (2006) Covering the State's War Costs, *Nation, State, and the Economy*.

16 The same point is made by Professor Robert Higgs in *Crisis and Leviathan* quoting the economist Wesley C. Mitchell, who wrote in 1943 that "When lives themselves are treated as means (to the end of military victory) so is property" (Higgs, 1987, p. 202).

"In concrete terms, the access to a broader pool of resources that debt allows in comparison with taxation (since taxation is always aimed at profits and revenue but not at the principal, it is aimed at the capital gains, but not at the capital) is what makes the capacity to fill the public coffers by raising liquid resources through financial instruments so essential in cases of war."

to the use of one form of taxation over others or may induce the government to have recourse to debt or inflation in order to respectively spread the burden of the material cost of the war among owners of liquid and illiquid assets and to collect more recourses than it would otherwise be possible to collect via direct taxation.

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There are some goods that by their nature cannot be used for the war effort; still their owners may be called to pay for the acquisition of other goods that can have military use. Still, the mobilization of resources to wage war is limited to the capacity of the economy to produce military supplies, but that capacity is different from the capacity to pay for those supplies.

Let's assume, for instance, that in a given society there are 80 billion dollars in fixed assets and 20 billion in liquid assets and at the same time the annual income is 12 billion and from that income, 8 billion is current expenditures and 4 billion are investments. If it is for the government to wage war taxing only income or consumption, it is doubtful that more than say, 6 billion could be raised, and even that at an "economy of war" kind of economic system. However, if the war is financed with debt, some of the existing liquid assets and even some of the fixed assets can be mobilized for war production; to the extent that owners of liquid assets may buy war bonds and fixed assets may be diverted to war production if the State has the resources to pay for their use. Theoretically, war procurement could be, for some time, totally financed by debt without even denting civil consumption. Obviously, that is not sustainable in the long run and here is not the place to discuss why that is so. But it issufficient for our purposes to demonstrate that debt allows the government to draw resources from the existing wealth, while taxes only allow (without forcing fire-sale liquidations) to draw from the existing income; even if the goods diverted to war, in the end, are limited by the capacity of the economy to convert capital and other resources from their civil uses to military ones.

5. THE FINANCIAL REVOLUTION IN ENGLAND

The classical account of the relation between money and war is P.G. M. Dickson's *The Financial Revolution in England - a Study in the Development of Public Credit 1688–1756*. The central thesis of the book is that it was thanks to the capacity of the British Crown to raise money beyond its taxing capacity, through borrowing, that England was able to field the military forces necessary to succeed in war against France and its allies. So much so that a contemporary source (Issac de Pinto) states that the astonishing capture of Havana in 1762 "would not have been possible if one-third fewer ships and troops had been assigned to the task" (Dickson, 1967, p. 9).

Professor Dickson then describes the features of the new system of public finance developed in that period, the development of the market for short-term and long-term public debt, and the relations between the treasury and the financial markets in general.

His argument about the relation between the fiscal necessities of the Crown and the development of British financial markets can be understood as operating in two directions; that is, the creation of a stable and efficient government was a precondition for the development of successful public borrowing in the same way that such borrowing ended up shaping, out of necessity, a more efficient and stable government in the United Kingdom.

Dickson's argument was further developed in both directions by other authors. One direction, which is the more relevant for our purposes, is to say, as Niall Ferguson does[17], that the existence of a central bank (formally introduced in the U.K. with the privilege of monopoly of issuance to the Bank of England by the Peel Act of 1844) is crucial for governments to deal with emergencies like wars by the flexibility in the money supply that they allow (2008, p. 100). For instance, talking about the reaction to the crisis of 1914 he writes, "Then, as now, the authorities reacted to a liquidity crisis by printing money" (2008, p. 301).

The other direction is to stress the importance of the fiscal needs of the State forming and shaping financial markets. This direction is the one presented by Richard Sylla with his essay "Shaping the US Financial System, 1690-1913" in *The State, the Financial System, and Economic Modernization*. According to him, the financial requirements and policies of the State "determine the ways in which private financial institutions and markets emerge and develop" (Sylla *et al*., 2007, p. 250). For the author, the financial programme of Alexander Hamilton, which was aimed at providing one more weapon to the Republic's arsenal, resulted in launching a banking system and a securities market in the United States; for him, the lesson of history is that "virtually" every major financial innovation is just a reaction to fiscal needs and policies.

[17] See Ferguson, N. (2008). Of Human Bondage, *The Ascent of Money*

6. THE "*FISCAL PROVISO*"

Even if one disagrees with consequentialist justifications for what ought to be considered right, it is necessary to keep in mind that notwithstanding strong protection of private property rights, the lesson from the history of money and banking generally has been one of dilution of those rights, especially through interventions in the monetary and financial arrangements every time that the contingencies of war financing so require.

In the historical record, there are countless episodes in which, for fiscal reasons resulting from a state of war, a government intervened in the monetary institutions sometimes with disastrous effects for the economic performance of society and that is a reality that must be dealt with[18].

Let's assume, like Larry White and George Selgin do (Selgin and White, 1999), that the "fiscal necessities" are the ultimate justification for government's control over money and banking, or in any case, that they are a better explanation than "market failures"[19]. After all, the evidence from history shows many occasions in which a sovereign rightly or wrongly, seeing no other means to wage war but by trumping private property rights, to the extent that he was able to do it, seized private property for that purpose. It is as if there is a "*fiscal proviso*" in the protection that a sovereign offers to private property rights. That is, sovereign powers have acted throughout history as if, under some circumstances, specifically in cases of armed struggle, the protection of private property was not absolute[20].

Is an armed struggle an argument strong enough to overcome most, if not all, limitations on political power as well? Is this an argument of "realpolitik" (the government has the guns, they can take your horse, there is nothing you can do about that) or is there also a "moral" argument to be made? Is the preservation of peace or the survival of the polity a "higher" moral value than "mere" individual rights?

This is perhaps the opportunity to discuss whether there are other persuasive justifications to limit the state to a minimum than the moral tradition that evolved into individual rights, as argued by Robert Nozick, for instance. Or, in other words, for the thinkers not satisfied with Nozick's claim that there is "an area in moral space around an individual" (Nozick, 1974, p. 54) that no one, even the polity, can trespass, are there other arguments to offer in favor of a State with limited powers?

The argument in favor of an unlimited State is traditionally associated with the social contract described by Thomas Hobbes, in which the individuals surrender their liberty to the sovereign in exchange for protection against others. Since the entity then created by the covenant among those individuals, Hobbes's Leviathan, has the right to prevent the use of violence and fraud among the contractors and to marshal them for the purpose of common defense. Since according to Hobbes, "whosoever has the right to the End, has right to the Means," it follows that the sovereign has the "right" to use whatever means he deems expedient, including the private

18 On that, Mariana's remark, as quoted by Laures (2008, p.142), that "It is said that statesmen very often act according to the principle that necessity knows no law" should be taken at face value.

19 Arguments for fiscal needs as the ultimate justification for government's intervention in monetary matters may be also found in David Glasner (2005, p. 36) and James Buchanan (2000) among others. Incidentally, Professor Buchanan's description of the government as a "revenue-maximizing ogre" is a very illustrative one.

20 That, legally, private property rights are not absolute is a matter of positive law everywhere, to my knowledge; the issue discussed in this section is if ethically, in terms of reasoning about what is moral, one may find arguments against a conception of absolute rights.

property of his subjects, to provide for the peace and security of the community. As the Hobbesian argument goes, the sovereign has legitimate authority to take any liberty his subjects have retained; and that seems to justify morally the *fiscal proviso*. But the problem with such line of reasoning is that it serves to justify anything else the sovereign might do.

According to Professor Michael Levin, it is here that a distinction between Hobbes's supposedly unlimited State and Nozick's State, which is constrained by inalienable rights possessed by the individuals, may be drawn: "Nozick believes there are 'side constrains' on the State's action even in pursuit of its legitimate goal, and thus disagrees with the end-means maxim. For him, the right to keep peace entails the right to means to keep peace which do not violate the side constraints" (Levin, 1982, p. 342); or in the words of Jan Narveson, for Nozick "… rights are rigid, incapable of being legitimately violated even for the sake of preventing wholesale further violation by others…" (Narveson, p. 324).

As Professor Levin argues, there are reasons for the contractors to give up their "swords" but not their "plows." Essentially, it may be expected that once everyone abdicates the use of violence, even if the sovereign is not good at enforcing peace, the level of violence tends to diminish; at the extreme, if everyone adheres to the pact, the sovereign does not need to do anything to establish security. In relation to everything else, figuratively represented in Professor Levin's paper by the "plows," the sovereign, *prima facie*, cannot provide for the individuals by monopolizing the means to do so better than the individuals can do for themselves.

This may be considered his central argument in favor of "A Hobbesian Minimal State": there is no reason for the individuals in the state of nature to establish a social contract with a broader scope than surrendering to the sovereign their "swords" in exchange for the expectancy of peace and

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security. Anything else the Leviathan decides to do is only justified in light of the original contract to the extent that it is necessary to achieve that goal; nothing else[21].

Granted, the one who decides what is necessary is the sovereign, and that does not solve the problem that the *fiscal proviso* represents for the claim that individual rights in general and private property rights in particular are absolute, since the needs for defense may still justify expropriation of private property in the Hobbesian Minimal State.

"To the extent that the fiscal proviso on the absoluteness of private property rights with allowance for government intervention in money and banking is an argument of political realism, it does not carry moral weight, the sovereign may take what is necessary for the survival of his regime simply because he can without regard to what he or others know to be right."

Furthermore, an argument against the fitness of absolutist States, with weak protection of individual rights to better provide peace and security than, say, a constitutionally limited government may be made on historical grounds. So, the "Hobbesian" covenant here may be understood as limitingthe degree which private property may be conditioned to the circumstancesto a minimum; justifying a protection of these rights, for all practical

21 Admittedly, this "Hobbesian Minimal State" is a departure from the Hobbes mature ideas that all property rights are conventional and therefore the Sovereign is not limited by previously acquired property over "plows" since there were none previous to civil society; indeed in Part I of *Behemoth, or the epitome of the civil wars of England*, Hobbes explicitly rejects the idea: "… the people in general were so ignorant of their duty, as that not one perhaps of ten thousand knew what right any man had to command him, or what necessity there was of King or Commonwealth, for which he was to part with his money against his will; but thought himself to be so much master of whatsoever he possessed, that it could not be taken from him upon any pretence of common safety without his own consent" (Hobbes, 1839). Still the concept of a "Hobbesian Minimal State" is conforming to Hobbes ideas about the origin and purposes of civil society and in this sense it is applied in this paper. That is the sense in which Levin uses the concept of "Hobbesian Minimal State" and also, in my understanding, equivalent to the identification James Buchanan has with a "Hobbesian" world view, one in which individuals are utility maximizers, everyone prefers order to anarchy, only the sovereign can establish order, but there are no controls over the sovereign's passions. For Buchanan, that view is compatible with Public Choice theory, although it was empirically disproved; after all, history tells us that almost always the sovereigns have been constrained (Buchanan, 1979, p. 274). So, here the "Hobbesian" view, as for the "Virginia school", should be blended with contractualism (Buchanan, 2000, p. 7) and should not be understood as literally and narrowly derived from Hobbes thought.

purposes[22], similar to the one advocated under the natural law-individual rights tradition.

That is, at least, the exception Professor Buchanan takes with Thomas Hobbes, who "failed to see that resolution of the problem raised by the presumed anarchistic chaos does not require the all-powerful sovereign, and that such resolution requires, instead, only the limited sovereign which enforces property and contract" (Buchanan, 2005, p. 66).

To the extent that the *fiscal proviso* on the absoluteness of private property rights with allowance for government intervention in money and banking is an argument of political realism, it does not carry moral weight, the sovereign may take what is necessary for the survival of his regime simply because he can without regard to what he or others know to be right. The recognition that that is a fact of life, that persons in a position of power may abuse of their position for personal benefit knowing that is not fair, is an important part of the description of the reality we are discussing in this paper and therefore it needs to be taken into account, but it is not part of the normative discussion conduced in this paper[23].

To the extent that the *fiscal proviso* is an ethical argument, it may be considered in two ways; first, it may be considered in a very narrow form, and in this case only differing from a conception of absolute private property in the sense that it would allow, in emergencies, the use of property to be compensated for later on; and in the second form, it may simply be equated with the bleak and cynical moral position argued by *Thrasymachus* in the dialogue depicted in the first book of Plato's *The Republic*.

The argument for the morality of the very narrow limits in which the fiscal necessities of the State may justify a temporary and further compensated mitigation of private property rights may be found in the authority of Juan de Mariana when he wrote, "In case of urgent need the king might also debase the coinage without the explicit consent of the people but would be under obligation to restore the old coinage as soon as normal conditions returned and to make good any loss sustained by those concerned" (Laures, 2008, p. 126).

As it is well known, Juan de Mariana argued that debasing the currency is equivalent to a tax and, therefore, subject to the consent of the subjects, and punishable with excommunication, as prescribed by the Bull *In Coena Domini* at least since 1478 when such an article was introduced by Pope Martino V and was amended several times until the 1587 version of Pope Sixto V in force at the time of "*De Monetae Mutatione*" (López, 1768, p. 17)[24]. Still, the exception of emergency, if duly compensated, is considered morally acceptable by Mariana[25].

22 For all practical purposes, because it must be assumed that under the Hobbesian covenant, the sovereign will utilize every means at his disposal to restore or compensate any property taken in an emergency to the defense of the polity.

23 Still, evidently, there is a qualitative distinction, both legal and moral, between taxation and expropriation and that will soon be explored.

24 As common an opinion of the sixteenth-century theologians as the censure of excommunication in the case of a king imposing new taxes without the consent of the people would be (Laures, 2008, p. 125), that was not necessarily the opinion of the kings in Europe and Spain in particular, more inclined to see the Bull as an intromission into secular affairs, as the publication of Don Juan Luis López' *Historia Legal de la Bula llamada "In Coena Domini"* and the legal opinion of Josef de Ledesma show.

25 In regard to national defense, an interesting feature to explore is to what extent the very provision of defense is the compensation for any takings made to fund it. Here the context of the "Hobbesian" social contract mentioned earlier should be brought back to the discussion. It would be unfair for the sovereign to take a given piece of property because it happens to be at hand and put the burden of its loss on the shoulders of its previous owner alone instead of distributing that burden among all the citizenry in the constitutionally agreed form. That is what differentiates taxation from expropriation.

7. CONCLUDING NOTES

As a matter of fact, it seems clear that one cannot expect from any government respect for private property rights and freedom of contract in general and sound money and free banking in particular, in the presence of armed conflict. This attitude of disregard for individual property rights is the "natural" response of different governments in different historical moments. It is a "fact of life." The acceptance of this attitude as the "natural" response from government in facing military struggle does not imply, in any way, that the survival of the polity justifies unconditionally incursions against private property rights in general and sound money and free banking in particular.

A discussion on alternative ways to finance war other than debasing the currency and regimenting the banking system to drain the savings of the country in the shortest period of time possible, if one has sufficient detachment, is a valid intellectual exercise on contra-factual arguments. But in this paper we are dealing with those arguments of *forçamaior* that in face of the circumstances were the basis for actual decisions.

It is reasonable to acknowledge the fact that it is in the "depth" of financial markets (as the concept has been utilizedmore recently), i.e., in the complexity and extension of capital markets that a country may find the appropriate instruments for financing emergencies, and the "deepness" of a financial market is a direct function of the extension of the protection of private property rights and freedom of contract in that society. On the other hand, desperate times require desperate measures, and it is not always that the political leaders are at leisure to think in any time frame other than the shortest possible.

To distinguish between moments like, say, at the beginning of the American Revolutionary War, a moment in which the situation could not seem more desperate, and the circumstances of American federal finances during WWI, in which no "greenbacks" were issued because it was not deemed to be necessary, would be an exercise in casuistry, and the result of such exercise would likely be that sometimes the interest of the community may be understood as a morally superior value to individual rights by the majority of the population, or by the political leaders, or the intellectual elite, or whomever. To engage this utilitarian reasoning as an acceptable guide for moral evaluation is exactly the point about the pervasiveness of a "fiscal proviso" as a matter of *real-politik*.

So, the different episodes in American history in which the federal government has intervened with money and banking in order to provide for war finance allow one, from the comfort of one's armchair, to distinguish two different arguments against governments trumping private property rights in cases of emergencies: the first one is that it is not an efficient way to gather the recourses necessary to face the emergencies, and the second is that it is not in the best interest of the community to do that in the long run[26].

[26] Other episodes of relativization of private property rights in the face of a perceived emergency are the Gold Clause Cases in the 1930s. When Franklin D. Roosevelt in 1933 devalued the U.S. Dollar from about 22 dollars per ounce to 35 dollars per ounce, a Joint Resolution of Congress invalidated all contracts establishing payments at the pre-devaluation parity. That was challenged in court and, in *Perry v. United States* (Perry, 294 U.S. 330, 1935) as in *Marbury v. Madison* (5 U.S. 137, 1803) before that, the decision denied a remedy to the claimants in order to avoid a confrontation with the President. Franklin Roosevelt made clear to the Justices that out of necessity, he would not obey a decision upholding the Gold Clauses, forcing them to risk a constitutional crisis. But, as stated by Professor Gerard N. Magliocca in an undated working paper (Magliocca, p. 32), "The most plausible source of that necessary duty is the Commander in Chief Clause, but even the most eager apologist for executive power could not stretch that provision to cover monetary action in peacetime." That basically draws the line between what was an emergency in which case qualified action would be morally acceptable, and what, in essence, was a pure exercise of power.

The first argument can be easily granted, i.e. it is not so difficult to show how, through the protection of private property, the government may create the trust necessary to raise more resources than through rapacious means. That is an argument that, without denying the moral case for trumping private property rights, gives practical reasons for limiting it to the circumstances of the most extreme and desperate emergencies.

The second argument is more difficult to defend, i.e. what if there is really no time to gather the resources necessary to face the emergency by any means other than confiscation? Does any individual have the right to refuse his property when the very survival of the community as an independent political body is at risk and with that his own life and the remaining of his property? The answer to this question is far from consensual in America and, in any event, historically, the government in the U.S. has not refrained from trumping private property rights in case of emergencies out of respect for individual rights.

The way I see it, the recognition that even American political institutions will allow the relativization of individual rights in case of emergencies is the main lesson left by the history of war financing in the United States. A major challenge that remains unmet is to show all involved parties that it is possible to create a principled way to deal with such cases.

The current monetary constitutions in the U.S., in Europe, and everywhere are not the ideal monetary arrangements for a free society. Nonetheless, they command enormous legitimacy. They are not yet part of the commonly accepted discourse claims for the abolition of the forced course of the currency and the closing of the central bank, and the different national financial systems are part of the economic backbone that sustains the current level of division of labor and subsequent production without which the life of billions would be compromised.

The *de facto* precedence that fiscal considerations have taken over monetary matters since men in

"So, the different episodes in American history in which the federal government has intervened with money and banking in order to provide for war finance allow one, from the comfort of one's armchair, to distinguish two different arguments against governments trumping private property rights in cases of emergencies: the first one is that it is not an efficient way to gather the recourses necessary to face the emergencies, and the second is that it is not in the best interest of the community to do that in the long run."

"It is also our contention, restated with this paper, that although it is not possible to eliminate the fiscal proviso that de facto entitles the sovereign to intervene in money and banking arrangements, it is possible to limit the moral support to these interventions to the needs of war financing, and no State monopoly of money, central bank, laws of legal tender, or authorization for peacetime public financing are necessary for that."

power first grasped the potential to use money manipulation as an instrument to readily dispose of the existing goods and services in society must be understood as what it is, that is, an exercise of brute force, an act of extortion on the part of ones who have the necessary means of coercion.

The only qualification to such indictment is the old one, present already in Oresme and Juan de Mariana, that if the very security of the individuals is at risk, it is excusable for the government to use the liquid wealth of the same individuals for their defense to the same extent that it uses any other form of wealth, and once the emergency ceases, the private property taken from some or all of the citizens should be restored or adequate compensation must be paid. Again, it is stated that there are aspects of the reality, economic considerations that make inevitable the mobilization of liquid assets by men in power in the case of war. It is through the use of liquid assets that they may have access to dispose of the available goods in amounts well above the current yield of all capital goods in society without forcing their liquidation, which, incidentally, would be very damaging to production, as Mises pointed out.

That is, inclusively, what makes the organization of political societies in the form of national States the prevalent form of political organization in our days.And such assertion can be derived from the fact that national States are in a better condition to readily dispose of not only current production, but also accumulated wealth in society by manipulation of money and banking rules. In sum, the political organization of human societies in national States with the power to manipulate money and banking has proved to be a more efficient arrangement to readily provide for the sinews of war than other forms of political organization.

It is on this consideration of *real-politik* that I see with immense skepticism any idea of getting away from the national State or its presence in monetary matters.

But as Ayn Rand wrote, you do not define what is morally right in normal conditions in society from the perspective of survivors from a sunken ship clinging to a raft (Rand, 1964, p. 56)[27].

Even recognizing that the most adequate monetary institutions are the ones most suitable for its essential function; if it is understood that the survival of the political community is a good in itself[28] that may, in case of an emergency, justify the use of accumulated resources of the individuals in such community for its defense, then a *fiscal proviso* may be made in the regulations of money and banking in order to allow the sovereign to draw on the depth of the financial markets for the resources necessary to wage war. But even that should be done, to the greatest extent possible, without eliminating the attributes of money that make it appropriate for its main function; otherwise, there will be no deep financial markets to draw from.

One of the key conclusions of my research on money is that the ideal attributes for a monetary system would be the production of money stable in value, with a supply flexible enough to accommodate changes in the demand for cash balances, inexpensive for the economic agents, and which would prevent the production of inflationary credit expansion, that is, would be able to prevent the counterpart in the financial sector of a mismatch in time and quantity between savings and investments in the real sector.

It is also our contention, restated with this paper, that although it is not possible to eliminate the fiscal proviso that *de facto* entitles the sovereign to intervene in money and banking arrangements, it is possible to limit the moral support to these interventions to the needs of war financing, and no State monopoly of money, central bank, laws of legal tender, or authorization for peacetime public financing are necessary for that. Actually, to the extent that they introduce attributes, which are inimical to the ones best suited to money's natural function by the introduction of instability of the money supply, into the monetary arrangements, they compromise the possibilities of floating war bonds in case of need.

If a central bank is understood as a modern proxy to the monetary prerogatives of government in general, only to be used in cases of extreme emergencies, then a moral defense for its existence may be found in this paper. However, if the central bank is understood just as one instrument to manage fiat money for any other purpose than the defense of the life and property of individuals, this paper advocates that it is morally wrong, tantamount to forgery, economically unnecessary and also damaging to the purposes of individual human flourishing that are the ultimate rationale for political institutions.

27 According to her, "It is important to differentiate between the rules of conduct in an emergency situation and the rules of conduct in the normal conditions of human existence. This does not mean a double standard of morality: the standard and the basic principles remain the same, but their application to either case requires precise definitions" (1964, p. 54).

28 Since each individual may choose to vote with his feet and leave a given polity with his family and his property if he judges that the cost in terms of blood and treasure to defend it as an independent political entity is not worthwhile, it is perfectly possible for a polity to realize that a commitment for its defense would likely be a suicidal pact and surrender its independence instead. Furthermore, such individual right to leave, in my understanding, can be exercised at any time, well into the conflagration.

BIBLOGRAPHY

Buchanan, J. M. (1979). *What Should Economists Do?* Indianapolis, IN: Liberty Fund, Inc.

__________. (2000). *The Power to Tax - The Collected Works of James M. Buchanan,* vol. IX, Indianapolis, IN: Liberty Fund, Inc.

__________. (2005). *Why I, Too, Am Not a Conservative - The Normative Vision of Classical Liberalism*. Cheltenham, UK: Edward Elgar Publishing Limited.

Calzada, G. A. (2005). Mises and Rothbard on War Finance, *Procesos de Mercado, Revista Europea de Economía Política,* II, no. 1, pp. 147-170.

Dickson, P. G. M. (1967). *The Financial Revolution in England, a Study in the Development of Public Credit, 1688–1756*. London, UK: Macmillan.

Ferguson, N. (2008). *The Ascent of Money, a Financial History of the World*. New York: Penguin Press.

Glasner, D. (2005). *Free Banking and Monetary Reform*. Cambridge, U.K.: Cambridge University Press.

Hamilton, A. (1904). *The Works of Alexander Hamilton*, edited by Henry Cabot Lodge (Federal Edition) in 12 volumes, Volume 4, "On the Establishment of a Mint," 1790. New York, NY: G.P. Putnam's Sons. Available online: *http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=1381&chapter=64330&layout=html&Itemid=27*

Higgs, R. (1987). *Crisis and Leviathan, Critical Episodes in the Growth of American Government*. Oxford: Oxford University Press.

Hobbes, T. (1994). *Leviathan*. Indianapolis, IN: Hackett Publishing Company, Inc.

__________. (1839). *The English Works of Thomas Hobbes of Malmesbury;* Now First Collected and Edited by Sir William Molesworth, Bart, (London: Bohn, 1839-45). 11 vols. Vol. 6. Chapter: Behemoth: the history of the causes of the civil wars of England, and of the counsels and artifices by which they were carried on from the year 1640 to the year 1660. Accessed from: *http://oll.libertyfund.org/title/770/89921 on 2013-02-04*

Huerta de Soto, J. (2001). *Socialismo, Cálculo Económico y Función Empresarial*. 2ª. ed., Madrid, Spain: Unión Editorial.

Laures, J. S. J. (2008). *The Political Economy of Juan de Mariana*. Auburn, AL: Mises Institute.

Levin, M. (1982). A Hobbesian Minimal State. *Philosophy and Public Affairs,* 11, no. 4 (Autumn 1982), pp. 338-353.

López, J. L. (1768). *Historia Legal de la Bula Llamada "in Coena Domini"*. Reprint, La Vergne, TN: Kessinger Legacy Reprints, 2011.

Mack, E. (1986). The Ethics of Taxation: Rights Versus Public Goods. *Taxation and The Deficit Economy*, edited by Dwight Lee, Chapter 18. San Francisco, Ca: Pacific Research Institute, pp. 487-515.

Magliocca, G. N. *The Gold Clause Cases and Constitutional Necessity*, n.d. Eletronic copy available at: *http://ssrn.com/abstract=1707175*.

Mises, L. V. (2006). *Nation State, and Economy*. Indianapolis, IN: Liberty Fund, Inc.

Narveson, J. (2001). *The Libertarian Idea*. Peterborough, Canada: Broadview Press Ltd.

Nozick, R. (1974). *Anarchy, State and Utopia*. New York, NY: Basic Books.

Rand, A. (2005). The Ethics of Emergencies. *The Virtue of Selfishness*. Centenial Signet Edition. New York, NY: New American Library, a division of Penguin Group, first signet printing 1964.

Selgin, G. & W., Lawrence H. (January 1999). A Fiscal Theory of Government's Role in Money. *Economic Inquiry*

Smith, V. C. (1990). *The Rationale of Central Banking and the Free Banking Alternative*. Indianapolis, IN: Liberty Fund, Inc.

Sylla, R.; Richard Tilly and Gabriel Tortella, eds. (2007). *The State, the Financial System, and Economic Modernization*. Cambridge: Cambridge University Press.