

Spontaneous Order and the Law  
Law 7831  
Fall 2021  
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Office Hours: By appointment

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### *Required Texts*

- Ellickson, R. *Order Without Law: How Neighbors Settle Disputes*, Cambridge, MA: Harvard University Press, 1991.
- Hayek, F.A. *Law, Legislation and Liberty, Vol. 1: Rules and Order*, Chicago: University of Chicago Press, 1973.
- Hayek, F.A. *The Fatal Conceit: The Errors of Socialism*, Chicago: University of Chicago Press, 1988.
- Smith, A. *The Theory of Moral Sentiments*. Indianapolis, IN: Liberty Fund, 1759/1982. [Selections as Handout]
- Wilson, B. *The Property Species: Mine, Yours, and the Human Mind*, New York: Oxford University Press, 2020.

### *Course Description*

This course uses a combination of hands-on learning in laboratory experiments and Socratic roundtable discussions of readings to explore how spontaneous, self-generating orders emerge out of apparent chaos in law and economics. The three guiding texts are Robert Ellickson's *Order Without Law*, F. A. Hayek's *Law, Legislation, and Liberty, Volume 1: Rules and Order*, and Bart Wilson's *The Property Species: Mine, Yours, and the Human Mind*. Students who take this course will learn how experimental economics can be used to understand how exchange systems work and how rules of property emerge to undergird exchange. By building on this experience students will develop projects to explore different applications to the theory and law of property.

### *School of Law Learning Outcomes*

1. Graduates will research legal issues effectively and efficiently.
2. Graduates will demonstrate the ability to write effectively as needed for the competent practice of law.
3. Graduates will orally communicate in a professional manner that is audience appropriate.

### *Course Learning Outcomes*

Upon completion of the course, students will be able to:

1. Explain how Ellickson's observations on how neighbors settle disputes informs his thesis on order without law.
2. Articulate and critique Hayek's philosophical arguments on rules and order.
3. Assess the claim that property is a universal and uniquely human custom.
4. Compose an original answer to the question, what is property?

5. Present, explain, and evaluate how your thinking on law and property has evolved over the course.
6. Ask cogent, thought-provoking questions based upon critical reading of texts.

### *Requirements and Methods of Evaluation*

Your course grade will be determined by your performance in accord with the following point distribution:

Class Participation	25%
Laboratory Experiments	5%
Questions on Readings	20%
<u>Essays (8 total)</u>	<u>50%</u>
Total	100%

There will be no midterm or final exams.

*Class participation includes:* being informed, paying attention, and fully participating in the discussion. You should inform the instructors by email or phone message if you are unable to attend a class. Class starts at 4:15 p.m. sharp. If you are tardy, it counts as an unexcused absence.

You will be expected to write **8 expository essays** in which you discuss the meaning that you are discovering as you explore the ideas of spontaneous order and the law. Your task is to develop this connection with references to the texts in a paper of approximately 750 words. Include the word count at the top of the paper. Each essay can draw on any of the prior text assignments, class discussions and experiments. In preparation for each essay, you should be writing and rewriting at least 250 words each week there is no essay due to prime your next essay's thesis. If you have any questions regarding the grade of your essay, we will ask for copies of this preparatory work.

Here are some words of advice for your essay:

- *I write entirely to find out what I'm thinking, what I'm looking at, what I see and what it means.*  
~ Joan Didion
- *Don't apologize for anything, don't leave anything out; look and say what it's really like – but you must see something that throws new light on the facts.* ~Wittgenstein

### Chapman University Academic Integrity Policy

Chapman University is a community of scholars, which emphasizes the mutual responsibility of all members to seek knowledge honestly and in good faith. Students are responsible for doing their own work, and academic dishonesty of any kind will not be tolerated anywhere in the university.

### Students with Disabilities

In compliance with ADA guidelines, students who have any condition, either permanent or temporary, that may affect their ability to perform in this class are encouraged to contact Assistant Dean for Student Affairs, Nidhi Vogt, or the University Disability Services Office. Dean Vogt's office is located in the law school (Kennedy Hall) on the third floor and she can be reached at [nvogt@chapman.edu](mailto:nvogt@chapman.edu) or 714-628-2681. You also may contact the Office of Disability Services at 714-516-4520 or [www.chapman.edu/disabilities](http://www.chapman.edu/disabilities). Due to the nature of anonymous grading, if your request for an accommodation is granted, please do not discuss with your professors any accommodations. Accommodations will be handled by Dean Vogt and the Registrar's Office. The granting of any accommodation will not be retroactive and cannot jeopardize the academic standards or integrity of the course.

### Chapman University Equity and Diversity Policy

Chapman University is committed to ensuring equality and valuing diversity. Students and professors are reminded to show respect at all times as outlined in Chapman's Harassment and Discrimination Policy. Please see the full description of this policy at <http://www.chapman.edu/faculty-staff/human-resources/eoo.aspx>. Any violations of this policy should be discussed with the professor, the dean of students and/or otherwise reported in accordance with this policy.

### **Tentative Course Schedule and Outline**

Monday, 8/16

Discussion of syllabus

Ellickson, R. *Order Without Law*, Part I: Shasta County.

Monday, 8/23

Hayek, F.A. *Law, Legislation and Liberty: Rules and Order*, Introduction & Chapters 1-2.

Experiment

Essay #1 Due

Monday, 8/30

Ellickson, R. *Order Without Law*, Chapter 11.

Wilson, B., et al. "An Experimental Economic History of Whalers' Rules of Capture," *Journal of Law, Economics, and Organization*, 28(4), October, 2012.

Experiment

Essay #2 Due

Monday, 9/13

Kimbrough, E.O., Smith, V.L., and Wilson, B.J. "Exchange, Theft, and the Social Formation of Property," *Journal of Economic Behavior and Organization*, 74(3), 2010.

Wilson, B. *The Property Species*, Epigraph, Cover Art Note, Prologue & Chapter 1.

Monday, 9/20

Smith, A. *The Theory of Moral Sentiments*, Part I. Section I & Section III.

Essay #3 Due

Monday, 9/27

Hayek, F.A. *Law, Legislation and Liberty: Rules and Order*, Chapters 3-4.

Monday, 10/4

Smith, A. *The Theory of Moral Sentiments*, Part III; Part VI. Section II.

Essay #4 Due

Monday, 10/11

Wilson, B. *The Property Species*, Chapters 2-4.

Monday, 10/18

Hayek, F.A. *Law, Legislation and Liberty: Rules and Order*, Chapters 5-6.

Essay #5 Due

Monday, 10/25

Wilson, B. *The Property Species*, Chapters 5-7.

Experiment

Essay #6 Due

Monday, 11/1

Wilson, B. *The Property Species*, Chapters 8-9 & Epilogue.

Monday, 11/8

Hayek, F.A. *The Fatal Conceit*, Introduction & Chapters 1-3.

Essay #7 Due

Monday, 11/15

Hayek, F.A. *The Fatal Conceit*, Chapters 4-6.

Monday, 11/22

Essay #8 Due and Student Presentations