

THE BEST OF THE OLL #29

Norman P. Barry, “Hayek’s Theory of Spontaneous Order II: Legal Orders” (1982)

“A spontaneous system of rules will be more efficient to the needs of the ‘Great Society’ precisely because it has survived an evolutionary process: a process in which not reason but natural selection determines which rules and institutions are appropriate.”



Norman P. Barry (1944-2008)

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Editor's Introduction

Norman Patrick Barry (1944-2008) was an English political philosopher who taught at the University of Buckingham and wrote on the thought of Friedrich Hayek, classical liberal political philosophy, business ethics, and Adam Smith's theory of "the invisible hand." Some of his works include *Hayek's Social and Economic Philosophy* (1979), *An Introduction to Modern Political Theory* (1981), *On Classical Liberalism and Libertarianism* (1987), *The Invisible Hand in Economics and Politics* (1988), *Business Ethics* (1998), and *Anglo-American Capitalism and the Ethics of Business* (1999).

Friedrich von Hayek (1899-1992) was one of the most important free market economists of the 20th century. He was a member of the "Austrian school of economics", taught at the London School of Economics, wrote extensively on banking and monetary theory, the socialist calculation debate, and the theory of spontaneous orders. He was instrumental in helping reinvigorate classical liberalism after the Second World War by helping to found the Mont Pelerin Society with Milton Friedman and others. Hayek won the Nobel Prize for Economics in 1974. Among his many important works are *The Road to Serfdom* (1944) his critique of government regulation during the Second World War, *The Constitution of Liberty* (1960) his vision of limited constitutional government, and the three volume *Law, Legislation, and Liberty* (1973-79) in which he develops his theory of spontaneous orders to encompass society as a whole. Hayek is now also famous for his then unheeded criticism of John Maynard Keynes during the 1930s.

One of Hayek's many important contributions to social and economic theory was the idea of "spontaneous order" which he took from Adam Ferguson (1723-1816) and applied more rigorously, firstly to the sphere of economics, and then to the sphere of law. Ferguson observed that many social structures were "the result of human action, but not the execution of any human design" (1782). In Barry's bibliographical essay he explores Hayek's seminal contributions to the theory of spontaneous order, first in the area of economics and then in the area of law which occupied Hayek in the latter part of his life. We have divided Barry's essay into two parts, the first on spontaneous economic orders, and the second on spontaneous legal orders.

"One of Hayek's most important contributions to knowledge is his penetrating exposure of those intentionalist policies which have set in train a seemingly ineluctable process of disintegration of the cosmos, that self-regulating order of events that once constituted western liberal society. Allied to this, and almost in defiance of his own belief in evolutionary processes, is his complex set of radical reforms which is designed to arrest this decline."

Norman Barry, “Hayek’s Theory of Spontaneous Order II: Legal Orders” (1982)¹

THE STRUCTURE OF A LEGAL ORDER

Social Cosmos: Spontaneous Order vs. Constructivistic Rationalism

The most important aspect of the unity of Hayek’s method is his attempt to explain the nature of legal and social institutions with the same intellectual tools which he used in the explanation of economic phenomena: tools that stress natural processes rather than reason and artifice. In an essay, “The Principles of a Liberal Social Order,” Hayek said:

Under the enforcement of universal rules of just conduct, protecting a recognizable private domain of individuals, a spontaneous order of human activities of much greater complexity will form itself than could ever be produced by deliberate arrangement. . . [64]

The problem here is the explanation of the origin of the ‘universal rules of just conduct.’ Do they emerge spontaneously? Or is some element of constructivistic rationalism required for the explanation of these rules that service a *catallaxy*? While Hayek has always been favorable to the common law, as opposed to statute, in the *Constitution of Liberty* he did suggest that the growth and development of a *catallaxy* could take place within the context of general codes of law that define the conditions of freedom. [65] However, in his trilogy, *Law, Legislation and Liberty*, there is almost an exclusive emphasis on the virtues of spontaneously developing law and institutions. The explanation for this change lies in the fact that although Hayek concedes that codified law may be more certain than judge-made law, this advantage is nullified if it leads to the view that “*only* what is thus expressed in statutes should have the force of law” [66] (italics in original). Spontaneous legal orders will contain rules that have yet to be formulated in words. Hayek does not regard a social system (or *cosmos*) as completely self-regulating and self-

correcting, since he recognizes a role for coercive government in the enforcement of rules and concedes that ‘legislation’ will be required for the correction of ‘law’ that may have developed in an inappropriate manner. But the task allocated to evolution in the explanation of genuine law is clearly meant to parallel that of the ‘invisible hand’ in the explanation of harmony in the market economy.

“Just because ‘discovered,’ as opposed to ‘made,’ law is a product of accident this does not make it efficient law, in the sense of it providing an appropriate framework for the order of the market.”

However, many contemporary classical liberals argue that Hayek’s analogy fails: that just because ‘discovered,’ as opposed to ‘made,’ law is a product of accident this does not make it efficient law, in the sense of it providing an appropriate framework for the order of the market. The elimination of reason from the construction of the rules of an economic system would seem to commit Hayek to a certain kind of conservatism and quietism in the face of some ineluctible flow of events, despite his own personal commitment to economic liberalism and his recommendation of quite radical institutional reforms.

Spontaneous ‘Nomos’ vs. Rationalist Law Common Law vs. Statute Law

In *Rules and Order* Hayek defines ‘order’ as . . . a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest. . . [67] (italics in original)

This means that a social order is a structure of interrelated parts that displays *predictability* and *regularity* because of rules that govern its behavior. In a legal order such rules may be a product of command (and Hayek maintains that in any social system some of its

¹ Norman Barry, "Bibliographical Essay: The Tradition of Spontaneous Order" in *Literature of Liberty: A Review of Contemporary Liberal Thought*, Summer 1982, vol. 5, No. 2, pp. 7-58. <oll.libertyfund.org/title/1303/100682>. This extract includes the section dealing with Hayek’s theory of spontaneous orders in the legal sphere.

rules will have to be of this type). However, his claim is that greater regularity and predictability, and therefore complexity, will exist in orders where the bulk of the rules that govern interdependency have emerged spontaneously. The point he is making here is the anti-rationalist one that rules are not the product of a mind, abstracted from experience, as in the Hobbesian model. Rather rules and society have developed, as Ferguson and the eighteenth-century writers insisted, coterminously. As a result, 'law' (in the sense of those rules of just conduct which govern individual relationships) differs from, and precedes, 'legislation' (that body of deliberate commands which is addressed to specific purposes). 'Discovered' law is called *nomos*[68] and is consistent with the order of a free society. This is because, since it is concerned with no overall purpose of its own, *nomos* enables an unknown number of individual purposes to be fulfilled. Its domain is the protection of the person, of property, and the enforcement of contracts.

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In this argument Hayek is, in effect, restating some familiar themes concerning the virtue of the common law system which he himself has detected in the

writings of Hale, Burke, and the European historical school of jurisprudence. However, undoubtedly a major influence on his post-*Constitution of Liberty* jurisprudence has been the late Bruno Leoni's *Freedom and the Law*. [69] This is perhaps the most sophisticated expression of the evolutionary theory of law; for Leoni does not merely rely on the 'wisdom of history' but constructs a direct analogy between law and the market. Law develops in a case by case manner during which judges fit and adapt existing law to circumstances so as to produce an overall order which, although it may not be 'efficient' in a technical, rationalistic sense, any more than competitive markets are 'perfect,' is more stable than that created by statute. Statute law may appear to be more predictable because it is written down, whereas common law ('lawyers' law') may not actually be known until a judge has 'discovered' it, statute law is in fact much more capricious precisely because, in the modern world especially, statutes change frequently according to the whims of legislatures. Hayek's position is similar to Leoni's anti-statute approach in all important respects: because it is impossible to predict human (legislative) behavior, a structure of law which is not the result of will and cannot be known in its entirety, paradoxically, displays more regularities than a written code. Furthermore, because the future is unknowable and unpredictable, no code could be designed to cope with all possible cases. This is why judicial activity, as a form of 'puzzle-solving,' is essential to Hayek's jurisprudence. [70]

Cultural Transmission of Rules of Conduct

However, Hayek adds to these not unfamiliar themes something rather more controversial. This is the argument that a spontaneous system of rules will be more efficient (than known alternatives) to the needs of what he calls the 'Great Society' precisely because it has survived an evolutionary process: a process in which not reason but *natural selection* determines which rules and institutions are appropriate. [71] The history of institutions consists of a kind of Darwinian struggle out of which certain rules and procedures prove to be more durable than others; and a society progresses not by designing institutions for specific purposes but by adapting those that have emerged independently of men's wills to new circumstances. Furthermore, societies progress to the extent that they 'imitate'

known successful rules and practices rather than construct them in some calculating manner.[72]

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The mechanism in this process is what Hayek calls ‘cultural transmission.’[73] This means that the rules and institutions that we inherit are neither (1) the product of a biological causality which is traceable to genetic structures (as the extreme socio-biologists would have it) nor (2) do they emanate from an unaided reason. They are ‘learnt rules’ which, although they may not yet be formulated explicitly, have been transmitted through a process of cultural evolution. Since an evolutionary order is unpredictable it follows that “we will have less power over the details of such an order that we would of one which we produce by arrangement.”[74]

The fact that we cannot fully comprehend or state such rules is not a reason for doubting their efficacy, since that efficacy itself would appear to be a function of their very survival. While Hayek wants to use this argument against a rationalistic legal positivism which erroneously supposes that all laws are mere conventions which are alterable at will, he frequently writes as if we must passively accept a given structure of rules precisely because it is undesigned. It may be true that “law existed for ages before it occurred to man that he could make or alter it.”[75] It does not follow, however, that such law is necessarily ‘efficient’ or appropriate to the order of classical liberalism (which Hayek favors for reasons other than those to do with evolution). The doctrine of the cultural evolution of rules of conduct would seem to bind man in a more decisive way than, say, the ‘laws’ of economics, which merely indicate the necessary boundaries within which free and rational action takes place.

Hayek's Traditionalist Evolutionism and Liberalism

It is in the epilogue to volume III of *Law, Legislation and Liberty*, “Three Sources of Human Values,” that Hayek's anti-rationalism seems to collapse into an uncritical traditionalism. In merging legal and moral rules into simply those rules that have developed culturally, he says: “Tradition is not something constant but the product of a process guided not by reason but by success.”[76] Also, the limitations of the human mind dictate that ‘*all progress must be based on tradition*’[77] (italics in original). Furthermore, not only are ethical rules relative to particular traditions, but we are incapacitated from recommending alteration, apart from minor tinkering, of such rules because, since the future is unknowable, we cannot predict the consequences of such alteration. This extreme anti-rationalism follows directly from Hayek's claim that mind itself is explicable only in terms of cultural transmission: “all enduring structures up to the brain and society are a product of selective evolution.”[78] This clearly differentiates him from the rationalistic classical liberalism of, for example, Ludwig von Mises, who based a theory of *laissez-faire* economics and politics on the universal properties of the human mind.

The difficulty with Hayek's analysis is that social evolution does not necessarily culminate in the classical liberalism that he so clearly favors: there are many non-liberal institutions which have indeed survived. The period of the dominance of the open society, the market economy and minimal government may then be regarded as perhaps a chance mutation in a course of evolution which is proceeding in quite another direction, an evanescent torch in an inexorably darkening world. Yet if we are intellectually tied to tradition, and if our ‘reason’ is too fragile an instrument to recommend satisfactory alternatives, how are we to evaluate critically that statist and anti-individualist order of society which seems to have as much claim to be a product of evolution as any other social structure?

The problem is that the spontaneous formation of a market is not the same thing as the evolution of a legal system, although neither is designed. In a market there is a mechanism, the price system, which does coordinate the actions of economic agents to produce an efficient order (though even here the presence of externalities constitutes ‘disorder’); but there is no

similar mechanism at work in a legal system. In Hayek's analysis it looks as if rules and practices are *functional* merely because they have survived rather than because they adequately service a liberal order. One striking example, from the British experience, is the constitutional rule that parliament is sovereign. This is a product of evolution yet is probably the single most important institutional cause of the undermining of the rule of law and the breakdown of the market economy in that country.

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In fact, Hayek implicitly concedes part of the rationalist libertarian's argument in that much of his social philosophy does consist of rational criticism of anti-liberal and anti-individualist economic and political institutions. He admits that the common law does not automatically develop in desirable directions, and may even protect ‘class’ interests, so that it will have to be modified by legislation.[79] Presumably such artificial correction must be sanctioned by the principles of classical liberalism and individualism. But even here the normative principles that are used must be part of an ongoing tradition. It is epistemologically impossible to stand outside a tradition of conduct and appraise or reject it in its entirety: “Ethics is not a matter of choice. We have not designed it and cannot design it.”[80]

Law and Liberty: The Problem of Criteria To Distinguish Liberal and Non-Liberal Orders

Those modifications that have to be made to an ongoing system will normally take the form of additional rules of just conduct. Again Hayek does not offer any *substantive* criterion for the evaluation of such proposals: all that is required is that new rules be universalizable within an ongoing system. But, as is well known, this is a purely formal criterion, so that it is possible for a variety of quite different rules to be universalized within a given structure.

Perhaps, Hayek's explanation of the emergence of a self-regulating liberal order can be ‘saved’ by interpreting his argument to mean that which is a product of evolution is simply what would have occurred were it not for arbitrary interventions of a constructivistic kind. However, this could lead to an un-Hayekian anarcho-capitalism in which a rationalistic natural law guarantees each individual the right to ‘opt out’ of the state, and this is clearly not what he has in mind. The liberal order contains an organization (*taxis*), [81] the state, which operates through designed law (*thesis*); and this institution is charged with specific purposes. The rationale of this organization seems to be cultural and evolutionary in that, according to Hayek, experience indicates that a form of the state is required to enforce the rules of just conduct and supply public goods.

Hayek argues that the activities of government can be constrained by the meta-legal principle of the rule of law; rules should be perfectly general, binding on everybody, not be retrospective in application, and should name no individual or group. He does not in fact place substantive limitations on the actions of political authorities but insists only that they conform to certain formal requirements. In this sense law and liberty are consistent, since general rules set boundaries within which people may choose rather than be directed to specific tasks. In Hayek's legal theory a free order would appear to be a *predictable* order: as long as a person knows in advance how a law will affect him, and can therefore plan his life so as to avoid that law, he cannot be regarded as unfree.[82]

This contrasts strongly with the natural rights theory of a liberal order in which the boundaries of an individual's liberty are set by the moral requirement that he should not violate the rights of others rather

than by certain formal requirements of legality. Under the Hayekian view, general prohibitions which did not require any positive action on the part of individuals could reduce dramatically the range of choices open to them, but they would not, paradoxically, count as restraints on liberty. Curiously, a regime which had a number of mild commands or instructions but few general prohibitions would not count therefore as a free order. In fact, Hayek's own definition of freedom under law breaks down with his justification of conscription, since this is clearly a direct command. That such a command is predictable and perfectly general does not make it any the less destructive of personal liberty. It follows from Hayek's refusal to countenance a more substantive structure of natural law and morality, and his commitment to the outcomes of an undesigned evolutionary process, that it is difficult to distinguish between free and unfree orders. The general consensus of opinion is that Hayek's requirements of legality are necessary but not sufficient conditions for the operation of the order of classical liberalism.

THE BREAKDOWN OF THE COSMOS

One of Hayek's most important contributions to knowledge is his penetrating exposure of those intentionalist policies which have set in train a seemingly ineluctible process of disintegration of the *cosmos*, that self-regulating order of events that once constituted western liberal society. Allied to this, and almost in defiance of his own belief in evolutionary processes, is his complex set of radical reforms which is *designed* to arrest this decline. The major causes of this disruption are attempts to regulate an economy by inflationary methods; the granting of privileges to groups, especially trade unions, by way of 'legislation,' which distorts the functioning of the labor market; the attempt to re-distribute income away from that impersonal allocation made by the market on the ground of an entirely subjective theory of 'social justice'; and the tendency for law to be cast in the form of commands addressed to specific purposes rather than in the form of general rules. The combined effect of these measures is to divert a *cosmos*, in a politically-determined manner, away from its natural course (the destination of which can never be known). A 'road to serfdom' scenario will develop, in which ever-increasing

amounts of coercion will have to be used as people naturally try to avoid the effects of the original intervention.

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Political Interventionism vs. Market Self-Correction

In fact, the dramatic kind of disruption of a spontaneous order that Hayek predicted would follow from interventionism has not actually occurred. Western welfare states have not (yet) collapsed into tyranny and serfdom under the weight of welfarist legislation and other forms of intervention. Rather they have become immobile, stagnant, and unable to make the best use of the dispersed knowledge that characterizes an open society. This is because democratic politics, subject to few constitutional restraints, has enabled groups to secure privileges for themselves and encouraged the spread of incomes in society to be a function of political rather than economic mechanisms.[83] Instead of liberal democracy maximizing the public interest (i.e., the interest each person has in such things as a stable currency, the rule of law and the predictability of government action), competition for votes produces *coalitions of interest groups*, which are held together by privileges which only government can grant. Such a political order is inherently unstable because there are no natural, correcting mechanisms in it that are equivalent to those in the market. Thus instead of being an organization charged with necessary but specific purposes, government becomes a machine for the solving of all problems and the meeting of all grievances. But as Hayek points out: “It is a fact that most of the grievances of particular individuals or

groups can be removed only by measures which create new grievances elsewhere.”[84]

“Apart from monetary disturbances, the reason the market economy appears to be unstable is that continual intervention has impaired its self-correcting mechanisms. The biggest destabilizing factors here, according to Hayek, are the trade unions, which are able to prevent automatic adjustment in the labor market by keeping the price of labor above its market clearing price.”

Apart from monetary disturbances, the reason the market economy appears to be unstable is that continual intervention has impaired its self-correcting mechanisms. The biggest destabilizing factors here, according to Hayek, are the trade unions, which are able to prevent automatic adjustment in the labor market by keeping the price of labor above its market clearing price. They are able to do this, in many western countries, because of certain legal privileges: such as their exemption from the law of tort (in industrial disputes) and their exploitation of tolerant picketing laws. The former privilege is a breach of Hayek's ‘rule of law’ doctrine, since it prevents the application of a general rule to particular groups and could not possibly be universalized within a legal order. This privilege is a product of statute law, and it is inconceivable that such a rule would have emerged spontaneously from the common law process. Aside from the distortions caused by inflation, the existence of union privilege and disincentives to work caused by welfare and housing policies constitute the major causes of unemployment. They are almost universally ignored by Keynesian macroeconomists, who deal only in holistic aggregates. These theorists erroneously interpret extensive unemployment as evidence of some inherent disequilibrating tendency in the system rather than as an indication of some deficiency in the

adjustment process which can be traced back to a constructivistic intervention. As long as these defects remain unremedied monetary policy can have little or no permanent effect on unemployment.[85]

The Myth of Social Justice

Hayek's objections to social justice similarly turn on the misallocative effect such essentially arbitrary redistributive measures have on the equilibrating process of a *catallaxy*. [86] Thus his concern, here, is not with the violation of a right to legitimately acquired property which social justice entails; his argument is that coercive redistributions of income reduce the real output of a *catallaxy* by suppressing those inequalities that act as signals to attract labor and capital to their most productive uses. He maintains that in the absence of such signals labor and capital will have to be directed by government.

The argument for social justice usually turns upon an alleged distinction between production and distribution: it is assumed that there is a ‘given’ volume of goods and services which can be distributed according to abstract moral principles, such as ‘desert,’ ‘need,’ or ‘merit,’ rather than according to the principles by which the goods and services were produced in the first place. In *catallactics*, however, there is no such distinction: income is distributed according to the anticipated marginal productivity of factors and the consequence of redistributing it in any other way will be a diminution of the volume of goods and services. A person's income in a free society, then, is a function of the *value* of his services to his fellow men; it has logically nothing to do with any ‘merit’ or ‘desert’ (in a moral sense) in his actions.[87] Hayek argues that modern societies, which persist in using merit as a criterion of income, display remnants of the morality of the closed or intimate society. If this is so, however, it implies that these societies have not spontaneously generated a morality appropriate to the economic order of capitalism.

A *catallactic* order is a constantly changing system so that the prices paid to labor services must vary considerably over time. Any attempt to impose a pattern of earnings based on non-economic criteria on this order would spell not merely the end of economic efficiency, but would also bring about the collapse of the *cosmos*, since the enforcement of that pattern necessitates a vast increase in the law of *thesis*.

“He certainly gives us no guidance as to the justice or injustice of particular property holdings prior to the operation of an exchange process. Presumably his stance must be the conservative one that we ought not to disturb the existing structure by, say, the application of a natural law rectification rule, because this would disturb a prevailing order of expectations; the consequences of such disturbance cannot, of course, be known.”

Hayek's arguments against social justice are of a purely consequentialist kind in that they derive from the misallocative tendencies of redistributive policies and from their long-run effect on the order of liberty. While Hayek claims that expressions such as ‘social justice’ are linguistically meaningless, he does not extend his philosophical arguments into the *ethics* of property. He certainly gives us no guidance as to the justice or injustice of particular property holdings prior to the operation of an exchange process. Presumably his stance must be the conservative one that we ought not to disturb the existing structure by, say, the application of a natural law rectification rule, because this would disturb a prevailing order of expectations; the consequences of such disturbance cannot, of course, be known.

The Problem of Controlling Government

While it is clear that political systems do not automatically develop corrective mechanisms, it is noticeable that Hayek does not want to restore the workings of the *catallaxy* and *cosmos* by rationalistic natural law limitations on what governments may actually do but, rather, to subject their behavior to strict legalistic and formalistic requirements. Thus in his complex, and somewhat unrealistic, constitutional reform proposals, he hopes to introduce a new version of the separation of powers, in which democratically elected parliaments would enact that public law which

is required for government activity, while a separately-elected assembly (less subject to party politics) would be charged with the making of the general rules of just conduct.[88] Thus the Governmental Assembly would decide on what projects taxation would be spent, while the Legislative Assembly would determine what form the tax rules should take. There are in principle no limitations on the government's power to tax and therefore no substantive limits on government spending; of course, the free market in money will prevent government expenditure being financed by the economically damaging and dishonest method of inflation, but there is no actual limit on government spending.

“The main disruptive threat to the preservation of a spontaneous order (is) the inevitable formation, under present democratic rules, of coalitions of interests which divert the stream of income in a catallaxy to politically-favored groups—to the ultimate harm of all.”

Hayek is no doubt correct in identifying the main disruptive threat to the preservation of a spontaneous order as the inevitable formation, under present democratic rules, of coalitions of interests which divert the stream of income in a *catallaxy* to politically-favored groups—to the ultimate harm of all. The problem is that there is a ‘public good’ trap here in that no rational individual, given the normal behavioral assumptions of classical liberalism, can have any incentive to promote the public interest. This is why there must be an element of constructivist rationalism in any explanation of the order of a free society. Men will have to design those institutions that will automatically encourage them to maximize their long-run interests.[89]

CONCLUSION

In conclusion, it may be suggested that Hayek's theory of spontaneous order is the product of two related but distinct influences that do not always tend in the same direction. As an economic theorist, his explanation of the co-ordinating properties of the *catallaxy* trades very heavily on those mechanisms that produce order, and which can be given a rational explanation. But as a legal and social theorist, he leans, by contrast, very heavily on a conservative and traditionalist approach which, from Hale onwards, is so distrustful of reason that it instructs us to submit blindly to a flow of events over which we can have little control. But in this latter approach, reason may be so disabled that it is impossible to assess critically this flow of events. The evidence suggests, however, that there is no necessary tendency to equilibrium in a legal order, in which case spontaneous evolution will have to be arrested and diverted under the authority of 'reason.' But such is the force of Hayek's anti-rationalism that it tells just as much against a rationalist justification of the capitalist order of classical liberalism (which is largely derived from a moral order that enshrines an abstract and universalist structure of individual rights) as it does against the familiar varieties of rationalistic collectivism. Hayek's claim, following Hume, to 'whittle down' the claims of reason may have succeeded all too well in that his belief in spontaneous evolution, and his formalistic criteria for the evaluation of government activity, may well inhibit the search for those ground rules which are required for the servicing a free society. In some ways, his evolutionary gloss on the theory of spontaneous order distinguishes him from other writers in that tradition (for example, Menger) who do not preclude the use of reason in the critical evaluation of the outcomes of an undesigned process.

Notes

[For a full citation of books quoted in these notes see the Bibliography at <oll.libertyfund.org/title/1305/100453>]

[64] Hayek, "Principles of a Liberal Social Order," in *Studies in Philosophy, Politics and Economics*, p. 162.

[65] See, Hayek, *The Constitution of Liberty*, chapter 13.

[66] Hayek, *Law Legislation and Liberty*, vol. II, Rules and Order, p. 116.

[67] Hayek, *Law Legislation and Liberty*, vol. I, Rules and Order, p. 36.

[68] See Hayek, *Rules and Order*, chapter 5.

[69] Bruno Leoni, *Freedom and the Law* (1961).

[70] Hayek, *Rules and Order*, pp. 18–23.

[71] Hayek, *Constitution of Liberty*, pp. 58–61.

[72] See, "Rules, Perception and Intelligibility," *Studies in Philosophy, Politics and Economics*, p. 47.

[73] See Hayek's Epilogue, "Three Sources of Human Values," *Law, Legislation and Liberty*, vol. III, The Political Order of a Free People, pp. 154–155.

[74] Hayek, *Rules and Order*, p. 41.

[75] Hayek, *Rules and Order*, p. 73.

[76] Hayek, "Three Sources of Human Values," p. 166, (see note 73 above).

[77] Hayek, "Three Sources of Human Values," p. 167.

[78] Hayek, "Three Sources of Human Values," p. 158.

[79] Hayek, *Rules and Order*, p. 88.

[80] Hayek, "Three Sources of Human Values," p. 167.

[81] Hayek, *Rules and Order*, pp. 48–54.

[82] Hayek, *The Constitution of Liberty*, pp. 207–210.

[83] Hayek, *The Political Order of a Free People*, p. 13.

[84] Hayek, *Rules and Order*, p. 144.

[85] See especially "The Campaign Against Keynesian Inflation," pp. 191–217.

[86] See, Hayek, *Law, Legislation and Liberty*, vol. II, The Mirage of Social Justice, chapter 10.

[87] Hayek, *The Constitution of Liberty*, pp. 93–9.

[88] See, *The Political Order of a Free People*, chapter 17.

[89] For a contractarian critique of Hayek's doctrine of evolution, see James Buchanan, "Law and the Invisible Hand," in *Freedom in Constitutional Contract*, pp. 25–39.

Further Information

SOURCE

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FURTHER READING

Other works by F.A. Hayek (1899-1992) <oll.libertyfund.org/person/52>

School of Thought: Austrian School of Economics <oll.libertyfund.org/collection/8>

Topic: Spontaneous Order <oll.libertyfund.org/collection/104>.

“The distinctive principle of Western social philosophy is individualism. It aims at the creation of a sphere in which the individual is free to think, to choose, and to act without being restrained by the interference of the social apparatus of coercion and oppression, the State.”
[Ludwig von Mises, “Liberty and Property” (1958)]



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Another useful sampling of the contents of the OLL website is the collection of weekly *Quotations about Liberty and Power* which are organized by themes such as Free Trade, Money and Banking, Natural Rights, and so on. See for example, Richard Cobden's "I have a dream" speech <oll.libertyfund.org/quote/326>.

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