The Problem of Order
Law, Politics, and Cooperation

PLS 232
Winter 2012

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The end of the law is, not to abolish or restrain, but to preserve and enlarge freedom.
For in all the states of created beings capable of laws, where there is no law there is no freedom.

- John Locke -

Course Description:

The rise of the modern world, the wealth, the technology, and the freedoms that we enjoy come from an ability to order ourselves in mutually beneficial ways. Yet despite the amazing successes the world has seen, other—often well-meaning—attempts at order have created dire poverty, mass deprivation, and political oppression of a magnitude previously unimagined. How can something like law be so beneficial at one place or time and so devastating at another? It is the purpose of this course to provide an introduction to the analysis of law and its strengths and weaknesses in solving the problem of order.

The focus of this course is on those organizational principles that are mutually beneficial and the tools available for their analysis. This will lead us through such topics as transaction cost economics, a comparison of the dominant two legal systems in the world, the relationship between law and the society, examples of the destructive powers of law, and examples of successful ordering that has occurred outside of the boundaries of what would commonly be accepted as “law.” Though our interest is in order generally, we are primarily interested in systems that rely more on cooperation than coercion—or, in other words, systems that value freedom. Hence, much of our analysis will be of the American experiments with law and successful systems of self-government.

Readings:

- Colin Turnbull. The Mountain People.

Supplemental readings will be on reserve in the library or available online as indicated in the syllabus.

Course Requirements:

Grades are based on two exams, reaction papers, and a term paper. The midterm will account for 30% of the course grade, the final exam 30%, the reaction papers 15%, and the paper the remaining 25%.

Reaction papers are short (one page or less) “reactions” to the day’s readings that you will compose at the immediate beginning of the class. In them you are to provide a brief synthesis of the key points of that day’s reading and your impressions, likes, dislikes, or ideas that it inspired. You will not
know which days will be selected for the papers, so always read, always think about the ideas, and always be prepared for me to spring one on you. As a general rule there will be no make-up papers. However, I will drop the lowest score when computing the course grade—so you essentially have an “extra.”

I look forward to works that are both original and unique. Plagiarism or other forms of academic dishonesty are unacceptable and you may be penalized as prescribed in the student handbook. If you are unsure of what plagiarism is, or exactly how much you and a friend can collaborate on class work, please talk with me.

Course Outline

I. Order’s Direction
Jan 9
● No reading

Jan 11

Jan 13
● Thomas Aquinas. Summa Theologica. FS: QQ. 91, 94-95 (Available online)

Jan 16
● Excerpts from Thomas Hobbes (Available online).

II. Prisoner’s Dilemma
Jan 18

Jan 20
● Turnbull Chaps. 1, 5-6.

Jan 23
● Turnbull chaps. 7, 9-10.

Jan 25

III. Self-Interested Order
Jan 27
● Ridley, pp. 1-34

Jan 30
● Ridley, 35-84 and 103-148

Feb 1
● Ridley, 150-169 and 195-210
Feb 3

IV. Contracting Cooperation
Feb 6

Feb 8 and 10

Feb 13

Feb 15
• Friedman, Chapters 10 and 12 (stop at “contracts between fewer than two parties…”). (Access online)

Feb 17
• Ridley, 211-247.

Feb 20

Feb 22
MIDTERM

V. Legal Order
Feb 24
• Excerpts from Rousseau (Available online)

March 5
• Merryman, pp. 1-47.

March 7

March 9

VI. Legal Positivism
March 12

March 14
March 16

March 19

March 21-23
• “Slavery by Another Name” documentary.

**VII. Order without Law?**
March 26
• Ellickson, pp. 1-64

March 28
• Ellickson, pp. 65-103 and 123-136.

March 30
• John Reid, *Law for the Elephant,* chaps 1 and 8 (On reserve).

**VIII. Law without Order?**
April 2
• Scott. “The Trouble with the View From Above” (Available online).

April 4-6
• Hernando De Soto. 1989. *The Other Path.* Chaps 1-2, 5 and 8 (on Reserve).

April 9-13
Presentations (all papers due on the 9th).

**Final** Date to be determined.