



## THE BREAKDOWN OF SPONTANEOUS ORDER: SMITH AND HAYEK DIVERGE

**Brian C. Albrecht\***

ABSTRACT: In papers on the history of thought, writers often lump Adam Smith and F. A. Hayek together. Both Smith and Hayek are classical liberal, free-market economists. Each emphasized the spontaneous order that develops without any person planning the order. They also discuss the benefits of such spontaneous orders. Yet, as with any two great thinkers, Smith and Hayek had important differences. This paper adds to the literature by clarifying

---

\* M.Sc. 2014, Barcelona Graduate School of Economics; Ph.D. Candidate 2019, University of Minnesota Student, Department of Economics, University of Minnesota. Email: albre155@umn.edu. I would like to thank Doug Casson for suggesting that I further study Smith and Hayek and participants of The Philosophy, Politics & Economics of Liberty colloquium at The Mercatus Center for providing excellent feedback. All remaining errors are mine.

one such difference. Smith believes that on some margins, particularly education, ends that are not achieved through the spontaneous order should be promoted by governmental action. Hayek is skeptical of the ability and benefit of picking particular ends to promote through government intervention. For Hayek, the beneficial attribute of a spontaneous order is its general application.

#### INTRODUCTION

Imagine a farmer who notices his crops aren't growing. Any fool on the street can see the general problem: it is obvious that the corn is struggling to grow. One horticulturist comes by and suggests using fertilizer on the parts that are barely out of the ground. The right medicine will help. Another suggests the need to completely reseed the bad parts. The suggestions for improvement are different. Both name the same general issue, yet they offer different solutions. That is roughly the difference between Adam Smith and F. A. Hayek on the patchy parts of spontaneous order. The academic literature up to this point has focused on how these authors agree on the good parts of spontaneous order. This paper highlights the areas where Smith and Hayek disagree about what can be done to remedy the bad parts.

Smith and Hayek are both spontaneous order theorizers. Both write about the historical importance of spontaneous order. Both write about the normative value of spontaneous order. Both fall under the title of classical liberal. In many ways, Smith and Hayek are in strong agreement on many areas of philosophy, politics, and economics. Of all the twentieth-century theorists, Hayek has added the most to Adam Smith's vision of a self-correcting, spontaneous system. It is fair to say that spontaneous order is modern jargon for the "invisible hand" that Smith made famous.

The “spontaneous order” tradition of classical liberalism clashes with the “rationalism” framework of thinkers such as Thomas Hobbes. Rationalists believe that “natural reason” is needed to decide the right rules of society.<sup>1</sup> For the rationalist, reason pervades humanity at both the levels of the individual and society. In contrast, for the spontaneous order theorist, reason only exists at the level of the individual. From the perspective of spontaneous order theorists, a human being has reason but a society does not. For people like Smith and Hayek, a society cannot have reason because a society is not the result of human design.<sup>2</sup>

Unfortunately, the spontaneous order versus rationalist division is the point where many previous writers have stopped. Scholars lump Smith and Hayek together in the spontaneous order tradition. Steven Horowitz traces the similarities between Smith, Hayek and Carl Menger, saying “These three theorists belong to a continuous line of intellectual inquiry that constitutes a distinct approach to social analysis and to the discovery of the most desirable political order.”<sup>3</sup> Norman Barry similarly identifies Smith and Hayek solely as spontaneous order theorists.<sup>4</sup> Even Hayek stops at the distinction between spontaneous order and rationalism.<sup>5</sup>

However, the distinction between rationalism and spontaneous order theorists leaves something missing. Writers have not wrestled with the differences between Smith and Hayek on the problems with spontaneously developed orders. Craig Smith makes a finer

---

<sup>1</sup> See Norman Barry, *The Tradition of Spontaneous Order*, LITERATURE OF LIBERTY, Summer 1982, at 7, 9.

<sup>2</sup> *Id.* at 9–10.

<sup>3</sup> Steven Horowitz, *From Smith to Menger to Hayek: Liberalism in the Spontaneous-Order Tradition*, 6 INDEP. REV. 81–82 (2001).

<sup>4</sup> See Barry, *supra* note 1.

<sup>5</sup> F.A. HAYEK, *THE CONSTITUTION OF LIBERTY* 108–11 (Ronald Hamowy ed., Univ. Chi. Press 2011) (1960).

taxonomy on classical liberal thinkers, but puts Smith and Hayek together.<sup>6</sup> When can political economists spot a problem and suggest improvements? When might it be beneficial to instruct the government to improve something? These are important questions of normative political philosophy. But this margin is missing when the distinction is between Hobbes (rationalism) and Hayek (spontaneous order). This margin also happens to be where two giants within spontaneous order theorizing, Adam Smith and F. A. Hayek, disagree. Smith and Hayek offer conflicting ideas for managing the problems of spontaneous order. The goal of this paper is to distinguish their different advice.

This paper has two objectives. The first is to explain some of the benefits that Smith and Hayek see in spontaneous order. I show that Hayek and Smith give spontaneous order great credit in the structuring of economic and legal issues, which is true from a positive and normative perspective.

The second and main point engages with the differences between the two authors. I explore how the authors disagree about the beneficial limits of spontaneous order in the “Great Society”<sup>7</sup> and the ways in which spontaneous order may be improved, finding that Smith is more optimistic about specific government actions to achieve noble ends. Whereas Smith identifies government interventions, such as education and poor relief, as necessary to correct the failures of a spontaneous market order, Hayek believes that law should support the structure that has already developed

---

<sup>6</sup> See CRAIG SMITH, *ADAM SMITH’S POLITICAL PHILOSOPHY* 2 (2006).

<sup>7</sup> A term used by Hayek to describe “where millions of people interact.” 1 F.A. HAYEK, *LAW, LEGISLATION AND LIBERTY* 8-9 (Univ. Chi. Press 1973). Smith uses the term to describe an extensive division of labour. 1 ADAM SMITH, *AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS* 96 (Edwin Cannan ed., Univ. Chi. Press 1976) (1776).

spontaneously without government action. I conclude this paper by considering the cause of this disagreement.

For the purposes of this analysis, I focus on Smith's two works, *The Wealth of Nations* and *The Theory of Moral Sentiments*, and Hayek's exposition in his magnum opus, the three volumes of *Law, Legislation, and Liberty*.

### I. SPONTANEOUS ORDER

The main contribution of this paper is the second objective stated earlier, elaborating on the differences between Smith and Hayek on spontaneous order. Yet, readers should not underestimate the importance of spontaneous order for Smith. As I will show, both writers are concerned with a well-functioning order and never go so far as to try to construct any part of society. Previous writers are correct in describing both Hayek and Smith as spontaneous order theorists.

In Norman Barry's essay on the spontaneous order tradition, he defined spontaneous order as "those regularities in society, or orders of events, which are neither (1) the product of deliberate human contrivance (such as a statutory code of law or a *dirigiste* economic plan) nor (2) akin to *purely natural* phenomena (such as the weather, which exists quite independently of human intervention)."<sup>8</sup> Spontaneous order is a third realm, consisting of human action, but not human design.

The study of spontaneous order has a long history in Western thought. It falls within methodological individualism and has its clearest beginning in the Scottish Enlightenment with writers such as Adam Smith, David Hume, and Adam Ferguson.<sup>9</sup> These Scottish writers and Hayek are in agreement on the major benefits of

---

<sup>8</sup> Barry, *supra* note 1, at 8.

<sup>9</sup> *Id.* at 21.

spontaneous order.<sup>10</sup> In *The Wealth of Nations* Smith writes that “Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man.”<sup>11</sup> Smith and Hayek are not only in broad agreement on the positive claims about spontaneous forces in history, but also on the normative implications.<sup>12</sup>

In most of the 20th century, the spontaneous order tradition was overshadowed by what Hayek called “constructivistic rationalism.”<sup>13</sup> Rationalism holds that “human institutions will serve human purposes only if they have been deliberately designed for these purposes. . . . [W]e should so re-design society and its institutions that all our actions will be wholly guided by known purposes.”<sup>14</sup> This is an appealing notion, given the success of the physical sciences and their control. However, rationalism conflicts with the spontaneous order theories, especially about the basis of society. Hume articulates the classic critique of rationalism by arguing that reason alone is incapable of determining and implementing a moral and legal order.<sup>15</sup> Hume means that reason, separate from experience, is not enough to design an order.<sup>16</sup> Tradition, experience, and habits of human nature are vital tools in this development of a social order.

Spontaneous order theories do not reject the power of individual reason. Instead, these theories argue that *a priori* or top-

---

<sup>10</sup> *Id.* at 21-22.

<sup>11</sup> 2 ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 208 (Edwin Cannan ed., Univ. Chi. Press 1976) (1776).

<sup>12</sup> See Horowitz, *supra* note 3, at 92.

<sup>13</sup> 1 HAYEK, *supra* note 7, at 5.

<sup>14</sup> *Id.* at 8-9.

<sup>15</sup> See DAVID HUME, ENQUIRIES CONCERNING THE HUMAN UNDERSTANDING AND CONCERNING THE PRINCIPLES OF MORALS 164 (L.A. Selby-Bigge ed., 2d ed. 1902).

<sup>16</sup> See *id.*

down, externally imposed design is impossible.<sup>17</sup> The order must develop from the ground up. Since the term “spontaneous order” is ambiguous, Hayek offered the terms “self-generating order” and “self-organizing structures” as substitutes.<sup>18</sup> A spontaneous order is a system that is held together by unintended consequences.<sup>19</sup> Hayek saw the “notion of unintended consequences as being the central subject matter of all social sciences.”<sup>20</sup> For Smith and Hayek, social science was primarily the study of such spontaneous orders.<sup>21</sup> These orders develop in different realms, combining to form the order of a Great Society.<sup>22</sup>

#### A. SPONTANEOUS ECONOMIC ORDER

One spontaneous order that both Hayek and Smith promote as beneficial is often called “economic.”

##### 1. *Smith’s Economic Order*

Smith’s research program can be viewed as trying to understand how institutions are constructed in order that self-interested cooperation among distant strangers becomes a productive and beneficial activity.<sup>23</sup> From Smith’s point of view, proper institutions can direct self-interest towards ends that are beneficial to anonymous individuals and the broader social order. However, a problem exists in knowing how to help others. Luckily,

---

<sup>17</sup> Barry, *supra* note 1, at 9-10.

<sup>18</sup> 1 HAYEK, *supra* note 7, at 37.

<sup>19</sup> See Barry, *supra* note 1, at 34.

<sup>20</sup> SMITH, *supra* note 6, at 9.

<sup>21</sup> Peter J. Boettke, *The Theory of Spontaneous Order and Cultural Evolution in the Social Theory of F.A. Hayek*, 3 CULTURAL DYNAMICS 63 (1990).

<sup>22</sup> “[E]very individual may, in addition to being a member of the Great Society, be a member of numerous other spontaneous sub-orders or partial societies... existing within the comprehensive Great Society” 1 HAYEK, *supra* note 7, at 47.

<sup>23</sup> See Horwitz, *supra* note 3, at 84.

Smith noted, exchange and barter are as powerful as reason and speech in demonstrating need and convincing others in society.<sup>24</sup> If people want bread in London, the price rises and convinces others to produce that good. An efficient order will help this coordination.

The modern market system is characterized by a high division of labor. This division of labor provides a connection between remote means and ends that is not the effect of any human wisdom. "This division of labour, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion."<sup>25</sup> No person or small group can consciously move from self-subsistence to a complex division of labor. Instead, advancement comes from a slow and gradual transition due to individual's propensity to truck, barter, and exchange goods. That makes the market a spontaneous order. Smith's *The Wealth of Nations* is a type of "'general equilibrium' theory of economic society in which a self-regulating system of spontaneous order is reconstructed out of the basic impulses in human nature."<sup>26</sup>

Economic development comes about spontaneously without any direction from a central figure. For Smith, people are led by an "invisible hand," which directs their self-interested actions to the benefit of others.

By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an *invisible hand* to promote an end which was no part of his intention. Nor is it always the worse for the society that it

---

<sup>24</sup> See 1 SMITH, *supra* note 7, at 17-8.

<sup>25</sup> *Id.* at 17.

<sup>26</sup> Barry, *supra* note 1, at 25.

was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote.<sup>27</sup>

This idea of an “invisible hand” appears in both *The Theory of Moral Sentiments* and *The Wealth of Nations*. In *The Theory of Moral Sentiments*, Smith talks about how people are compelled to buy the products of other people’s labor and diffuse the wealth through society.<sup>28</sup> In *The Wealth of Nations*, he explains that self-interest produces benefits for the society, even though individuals do not have society in their minds.<sup>29</sup> In both cases, an individual’s self-interested decisions help the greater society without such benefits being the result of any human design.

## 2. Hayek’s Economic Order

Hayek repeats Smith’s idea of an “invisible hand” and develops it in two important and related ways. First, Hayek sees the division of knowledge as important to society in the same way as the division of labor. The division of knowledge is a spontaneously developed order that allows people to deal with scarcity. “We shall see that it is impossible, not only to replace the spontaneous order by organization and at the same time to utilize as much of the dispersed knowledge of all its members as possible, but also to improve or correct this order by interfering in it by direct commands.”<sup>30</sup> For Hayek, people use the division of knowledge through a market and provide a large benefit to others.

Secondly, Hayek expands Smith’s theory by focusing on how market prices convey diffused knowledge. Market prices are a way

---

<sup>27</sup> 1 SMITH, *supra* note 7, at 477-78 (emphasis added).

<sup>28</sup> See ADAM SMITH, *THE THEORY OF MORAL SENTIMENTS* 215 (Knud Haakonssen ed., Cambridge Univ. Press 2002) (1759).

<sup>29</sup> See SMITH, *supra* note 6, at 13.

<sup>30</sup> 1 HAYEK, *supra* note 7, at 51.

to channel the division of knowledge, a division that Hayek found so important. The problem of economic order arises from “the fact that knowledge of the circumstances of which we must make use never exists in concentrated or integrated form, but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess.”<sup>31</sup> Allocating resources requires knowledge that is dispersed among people, families, and firms. This economic knowledge cannot be known by any individual or institution. It cannot be used by some social planner. An effective system makes knowledge of both the demand for goods and the supply publicly available, which can only be done through the price system. Prices direct people toward goods that people want and away from those they do not. Prices allow people to help society by creating value and enable a spontaneous order by providing a way to overcome dispersed knowledge.<sup>32</sup> Smith and Hayek realize that the economic benefits that many modern people enjoy are a result of a powerful spontaneous order outside of any individual or group’s control.

#### B. SPONTANEOUS LEGAL ORDER

A second realm where Smith and Hayek acknowledge the benefits of spontaneous order is for the development of law. Before a legal system came into place in human history, there were rules that spontaneously developed.

##### 1. *Smith’s Legal Order*

*The Theory of Moral Sentiments* emphasizes the idea of an “impartial spectator” who people use to judge praiseworthy action.

---

<sup>31</sup> F.A. Hayek, *The Use of Knowledge in Society*, 35 AM. ECON. REV. 519, (1945).

<sup>32</sup> See Horowitz, *supra* note 3, at 86-88.

Each person judges his own action by assessing how an impartial spectator would judge that action. If the action would be praised, the person considers it the right action. By seeking to match the pitch of emotions to that of spectators, we develop a spontaneous order that guides our actions. In a spontaneous order, rules are not issued completely by conscious intention. Instead, habits develop “[a]s we become familiar with an innovation whose utility is apparent to us, we absorb it into our habitual practice.”<sup>33</sup> “[C]ustom has rendered [the proper actions as judged by an ‘impartial spectator’] habitual” to people and they draw on their experience out of habit.<sup>34</sup> These habits developed spontaneously into general rules before any legal system or legal norms.

Having developed an understanding of how habits formed, Smith proceeds to extend this spontaneous order to key social institutions such as property, law and government.<sup>35</sup> Smith believes that legislators or judges do not have the knowledge required to maximize happiness. Therefore, Smith warns against arrogant rationalist philosophers who believe they can arrange happiness, independently of experience. These philosophers forget that “in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse to impress upon it.”<sup>36</sup> The “invisible hand” is as much a metaphor to describe how a society responds to ignorance as it is a metaphor to explain the connection between the private and public good.<sup>37</sup>

---

<sup>33</sup> SMITH, *supra* note 6, at 36.

<sup>34</sup> SMITH, *supra* note 28, at 235.

<sup>35</sup> See SMITH, *supra* note 6, at 39-48.

<sup>36</sup> SMITH, *supra* note 28, at 275.

<sup>37</sup> Barry, *supra* note 1, at 26.

## 2. Hayek's Legal Order

Hayek follows closely with Smith in legal philosophy, just as he does in economics. Hayek starts with habits and customs, since he believes that humans are rule-following animals. "Habits survive, in Hayek's view, because they succeed. They allow an efficient reaction to the environment which permits the survival of the holder of the habit."<sup>38</sup> Like the market, Hayek believes that the rules of just conduct, which develop by habit, evolve gradually. These rules help people deal with their uncertainty and lack of knowledge.<sup>39</sup>

Habits, customs, and just rules of conduct develop into law. Hayek argues that social institutions, such as government and law, are not designed to serve any preconceived purpose, but evolve from the decisions of people in society.<sup>40</sup> Hayek views law as a spontaneous formation that gradually evolves from practice. Such institutions are adaptations to the circumstances and limited knowledge of primitive groups that seek to offer conflict resolution. "Law for Hayek predates the conscious act of lawmaking and government is an institution which is developed to enhance and to enforce law that already exists in a customary sense."<sup>41</sup> Socialization into society cannot be broken down to pure rational reflection by an individual.<sup>42</sup>

---

<sup>38</sup> SMITH, *supra* note 6, at 121.

<sup>39</sup> See HAYEK, *supra* note 5, at 127.

<sup>40</sup> See 1 HAYEK, *supra* note 7, at 97.

<sup>41</sup> SMITH, *supra* note 6, at 137.

<sup>42</sup> *Id.* at 36.

## II. GOVERNMENT AND THE BREAKDOWN OF SPONTANEOUS ORDER

So far I have focused on the beneficial aspects of spontaneous order identified by Smith and Hayek. Most theorists of spontaneous order focus on the benefits, with only few recent exceptions.<sup>43</sup> Yet, both Smith and Hayek understand that certain aspects of spontaneous orders need changing.<sup>44</sup> Not everything spontaneous is good. People need not sit helplessly and watch everything develop spontaneously. For example, the spontaneous order that emerges in an organization (say, a business) might be harmful to the goals of the organization. Therefore, the organization needs a change of policy. This type of tinkering happens regularly with organizations and is beneficial to society.<sup>45</sup>

The spontaneous order of the Great Society can develop in similarly negative ways. Neither Smith nor Hayek argue that orders would develop completely spontaneously without any insight from actors within the order. In recent back and forth between Erik Angner, Bruce Caldwell and Julian Reiss, one point of common emphasis is that while Hayek believes spontaneous orders tend to be desirable, they are not necessarily so.<sup>46</sup> Smith also is aware of the problems that develop in a spontaneous order.<sup>47</sup> More importantly for this paper, Smith and Hayek believe that the government in particular could sometimes act to improve the outcomes of a spontaneous order.

---

<sup>43</sup> See, e.g., Nona P. Martin & Virgil Henry Storr, *On Perverse Emergent Orders*, 1 STUDS. IN EMERGENT ORD. 73 (2008).

<sup>44</sup> Barry briefly discusses Smith's skepticism to spontaneous orders. See *supra* note 1, at 22.

<sup>45</sup> 1 HAYEK, *supra* note 7, at 46.

<sup>46</sup> See Erik Angner, *Did Hayek Commit the Naturalistic Fallacy?*, 26 J. HIST. ECON. THOUGHT 350, 356-57 (2004); Bruce Caldwell & Julian Reiss, 28 J. HIST. ECON. THOUGHT 359, 364 (2006).

<sup>47</sup> See AMARTYA SEN, *THE IDEA OF JUSTICE* (2011).

#### A. BREAKDOWN IN HAYEK

First, I will start with Hayek, who focuses on the role of a judge in developing a beneficial order. In the developing a spontaneous order, the government has two roles.<sup>48</sup> The chief role is to provide the framework to support the general rules and enforce them.<sup>49</sup> This is the proper role that makes government unique from all other organizations.<sup>50</sup> This is the role of the judge.<sup>51</sup> In *Law, Legislation, and Liberty*, Hayek lays out his idea of law and how judges facilitate the law.<sup>52</sup> Law develops spontaneously and includes general rules of just conduct. The law is beneficial because it provides a system for the coordinating of plans. In that sense, the law can improve poor outcomes by facilitating coordination among members of a society.<sup>53</sup>

However, that does not mean that the law has specific goals, such as providing for housing or even fairness. Hayek is clear that the law, which comes spontaneously from general rules, must be independent of purpose.<sup>54</sup> The law must apply generally, unlike the mandates coming from the head of an organization.<sup>55</sup> The law supports broad rules, but not specific ends.<sup>56</sup> The judge is the chief supporter of the law.<sup>57</sup> The proper role for all law is to guide expectations.<sup>58</sup> The tough part is that by satisfying some people's expectations, others must be disappointed. Judges work to better

---

<sup>48</sup> 1 HAYEK, *supra* note 7, at 47-48.

<sup>49</sup> *Id.* at 47.

<sup>50</sup> *Id.* at 97.

<sup>51</sup> *Id.* at 86-87.

<sup>52</sup> *See id.* 72-94.

<sup>53</sup> *See id.* at 87.

<sup>54</sup> *See id.* at 85.

<sup>55</sup> *Id.* at 86.

<sup>56</sup> *See id.*

<sup>57</sup> *See id.*

<sup>58</sup> *See id.* at 89.

correct the law to match expectations. The gradual evolution of rules of just conduct relies on judges to improve them. Yet the system as a whole does not owe its result to deliberate design.<sup>59</sup>

Hayek's perspective contrasts with the view that law has particular purposes. Hayek defines the nature of law as "purpose-independent rules" meant to provide a framework for the interaction between people.<sup>60</sup> Laws should apply to "an unknown number of future instances" in order to provide a "protected domain."<sup>61</sup> This would "enable an order of actions to form itself wherein the individuals can make feasible plans."<sup>62</sup> Since law is a spontaneous order that is not designed by anyone, it cannot have a purpose.<sup>63</sup> An order having goals is a nonsensical statement, like saying the weather has goals.<sup>64</sup> However, it is still possible to distinguish between a just and unjust order. The values of a just order are general, not particular ends.<sup>65</sup> Because of this generality presumption, "it can never be advantageous to supplement the rules governing a spontaneous order by isolated and subsidiary commands concerning those activities where the actions are guided by the general rules of conduct."<sup>66</sup>

Because of the law's general purpose, it is not the proper role of law to help particular groups.<sup>67</sup> If in the past, the law was incorrect in favoring one group, it should not then be overcompensated to hurt that same group.<sup>68</sup> Hayek is skeptical of the ability to choose

---

<sup>59</sup> See *id.* at 100.

<sup>60</sup> *Id.* at 85.

<sup>61</sup> *Id.* at 86.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 112-15.

<sup>64</sup> *Id.* at 113.

<sup>65</sup> See *id.* at 105.

<sup>66</sup> *Id.* at 51.

<sup>67</sup> See *id.* at 142.

<sup>68</sup> See *id.* at 142-43.

any particular ends, such as more education.<sup>69</sup> “[A]lthough we can endeavour to improve a spontaneous order by revising the general rules on which it rests, and can supplement its results by the efforts of various organizations, we cannot improve the results by specific commands that deprive its members of the possibility of using their knowledge for their purposes.”<sup>70</sup> The extreme example where the government chooses ends is socialism, where prices and output are centrally determined.

The major reason Hayek rejects the approach of correcting problems of spontaneous order by choosing ends is because of the division of knowledge.<sup>71</sup> “[I]t is impossible, not only to replace the spontaneous order by organization and at the same time to utilize as much of the dispersed knowledge of all its members as possible, but also to improve or correct his order by interfering in it by direct commands.”<sup>72</sup> For this reason, the role of the law and the judge is to help coordinate people’s actions, allowing people to use their division of knowledge. Because the government’s main role is to enforce the law, any limit on the law is also a limit on the government.<sup>73</sup>

According to Hayek, beyond enforcing laws, government also has administrative roles that make it like other organizations. The government must pass legislation to carry out these organizational roles. This describes the role of the legislator, which is different from a judge. However, this distinction has been blurred by so-called “social” goals.<sup>74</sup> These other goals lead to productive services by the government like schools and health services. Such services

---

<sup>69</sup> *See id.* at 142.

<sup>70</sup> *Id.* at 51.

<sup>71</sup> *Id.*

<sup>72</sup> *See id.*

<sup>73</sup> *See id.* at 97.

<sup>74</sup> *Id.* at 132.

are necessarily aimed at specific ends.<sup>75</sup> Isolated actions must always be the approach of legislation.<sup>76</sup> The mind could not deliberately create rules that are independent of results.<sup>77</sup> Such actions necessarily step outside the proper role of government.<sup>78</sup> When legislation moves beyond supporting the administrative duties of the government (meant to support the overall order) and instead the government starts seeking ends that are not the overall order, it must lose knowledge.<sup>79</sup> Because of the hierarchy in organizations, information funnels through a small group of minds. The goals of the members in liberal society will only be achieved if first, everyone can exercise their knowledge, and second, authority is limited to general principles to which the community has already committed.<sup>80</sup>

However, Hayek's exact meaning isn't clear. Hayek emphasizes his viewpoint that nothing can directly command a spontaneous order,<sup>81</sup> but it's unclear what he considers a command.<sup>82</sup> For example, take the taxation of cigarettes. It is possible to argue that this tax is not a command, since it is not direct. However, if a command is anything that prohibits individuals from using their knowledge, regulations and taxes would be commands, from Hayek's view, since they distort knowledge.<sup>83</sup>

---

<sup>75</sup> *See id.* at 140.

<sup>76</sup> *See id.* at 125.

<sup>77</sup> *See id.* at 97.

<sup>78</sup> *See id.* at 47.

<sup>79</sup> *See id.* at 51.

<sup>80</sup> *See id.*

<sup>81</sup> *See id.*

<sup>82</sup> *See id.* at 49.

<sup>83</sup> *See id.* at 51.

## B. BREAKDOWN IN SMITH

Smith is more positive about government's ability, whether made by judge or legislator, to improve certain ends. For example, Smith directly disagrees with Hayek on the proper role in correcting for past ills. Smith says when regulation is in favor of the worker it is always just.<sup>84</sup> This is directly against Hayek's argument in *Law, Legislation, and Liberty*.<sup>85</sup> For Hayek, a law is unjust if it is biased toward the worker or towards the master.<sup>86</sup> A bias is still a bias. However, someone looking for a Hayekian stance in Smith could find it. That's what Hayek did.<sup>87</sup> Smith might be saying that since the bias is always present, if we ever see a law that appears in favor of workers, it has not overshoot or overcorrected, but instead is simply less biased than before.<sup>88</sup> This is because the government always goes to the employers for advice, never the workers. It also is because present law prohibits price setting by workers, but not by masters.

In Book V of *The Wealth of Nations*, Smith continues to support the picking of particular ends, this time about poor relief.<sup>89</sup> Smith believes it is possible to distinguish between "luxury" and "necessary" use of wagons.<sup>90</sup> Therefore, a tax on luxury carts would be a simple form of poor relief.<sup>91</sup> By imposing this tax, Smith sees a

---

<sup>84</sup> See 1 SMITH, *supra* note 7, at 159.

<sup>85</sup> See 1 HAYEK, *supra* note 7, at 89.

<sup>86</sup> *Id.*

<sup>87</sup> See Peter J. Boettke, *F.A. Hayek as an Intellectual Historian of Economics*, in HISTORIANS OF ECONOMICS AND ECONOMIC THOUGHT 117 (Steven G. Medema & Warren J. Samuels eds., 2001); Jerry Z. Muller, *The Limits of Spontaneous Order*, in LIBERALISM, CONSERVATISM, AND HAYEK'S IDEA OF SPONTANEOUS ORDER 197, 200 (Louis Hunt & Peter McNamara eds., 2007).

<sup>88</sup> See 1 SMITH, *supra* note 7, at 159.

<sup>89</sup> See 2 SMITH, *supra* note 11, at 246.

<sup>90</sup> *Id.*

<sup>91</sup> See *id.*

way to support necessary carts. Such legislation seeks to improve a specific end at the cost of a different group. In this example, the legislation discourages one group of carts and encourages another. This form of direct poor relief is in contrast to Hayek's support for a guaranteed basic income.<sup>92</sup> Instead, Hayek sees a guaranteed basic income as preventing individuals from having specific claims on another group of people.<sup>93</sup> For Hayek, the generality of any law is key.<sup>94</sup> The benefit of a guaranteed basic income is that it applies to all people at all times. Also, income transfers can distort market information less than other legislation.<sup>95</sup>

The area where Smith is most willing to use government to choose ends is for education.<sup>96</sup> Smith was deeply concerned about the effects of the division of labor.<sup>97</sup> "[S]ome attention of government is necessary in order to prevent the almost entire corruption and degeneracy of the great body of people."<sup>98</sup> "[T]his is the state into which the labouring poor, that is, the great body of the people, must necessarily fall, unless government takes some pains to prevent it."<sup>99</sup> According to Smith, the division of labor destroys the intellect of the great masses of society.<sup>100</sup> The government is required to prevent the degradation of the mass of people.<sup>101</sup> Smith thus identifies a particular end worth improving, education, and proposes steps that the government should take to correct that.<sup>102</sup>

---

<sup>92</sup> See 3 F. A. HAYEK, *LAW LEGISLATION AND LIBERTY* 55 (Univ. Chi. Press 1979).

<sup>93</sup> See *id.*

<sup>94</sup> See 1 HAYEK, *supra* note 7, at 85-87.

<sup>95</sup> See Anthony B. Atkinson & Joseph E. Stiglitz, *The Design of Tax Structure: Direct Versus Indirect Taxation*, 6 J. PUB. ECON. 55 (1976).

<sup>96</sup> See 2 SMITH, *supra* note 11, at 282-309.

<sup>97</sup> See *id.* at 305.

<sup>98</sup> *Id.* at 302.

<sup>99</sup> *Id.* at 303.

<sup>100</sup> See *id.* at 305.

<sup>101</sup> See *id.* at 303.

<sup>102</sup> See *id.* at 305.

Specifically, Smith thinks the government must prioritize the encouragement of primary education. Smith even suggests forcing young children to attend school,<sup>103</sup> also explaining why obligatory education would be a bad idea at the university level.<sup>104</sup> However, for children, the situation is different. Since young children cannot work, education provides a force against their intellectual degradation and benefits their future employment.<sup>105</sup> Such early education might be the only opportunity to prevent the moral and intellectual problems of the division of labor.<sup>106</sup> Therefore, compulsory education can be justified.<sup>107</sup>

To be clear, forcing education on poor children is not what Smith directly encouraged. He suggested prizes for children instead.<sup>108</sup> Yet, he did leave the option available for the state to dictate education. Once the children are in school, Smith suggests that the payment of education might still better come from individuals who receive the benefit.<sup>109</sup> Although paying for education from the general fund is acceptable,<sup>110</sup> the best policy for Smith would use what modern economists call “nudges.”<sup>111</sup> Such a policy suggestion goes against Smith’s earlier claims about the importance of local knowledge.<sup>112</sup> Instead, the government would reject that knowledge and encourage or even impose an end the government wants. The government wants more educated students so it directly educates them.

---

<sup>103</sup> *See id.*

<sup>104</sup> *See id.* at 285.

<sup>105</sup> *See id.* at 306.

<sup>106</sup> *See id.* at 305.

<sup>107</sup> *See id.*

<sup>108</sup> *See id.* at 306.

<sup>109</sup> *See id.*

<sup>110</sup> *See id.* at 340.

<sup>111</sup> RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* (2008).

<sup>112</sup> *See, e.g.,* 1 SMITH, *supra* note 7, at 478.

Beyond primary education, Smith believes that education could be required for certain occupations.

The public can impose upon almost the whole body of the people the necessity of acquiring those most essential parts of education, by obliging every man to undergo an examination or probation in them before he can obtain the freedom in any corporation, or be allowed to set up any trade either in a village or town corporate.<sup>113</sup>

Again, Smith foresees something troublesome, what I call a breakdown of spontaneous order. Smith worries about people without education who are working, and he thinks that the government can improve ends by requiring education.<sup>114</sup> This ignores the local information that Hayek emphasizes.<sup>115</sup> Of course, such nudges allow people to work and use their own knowledge.<sup>116</sup> Smith is no dictator or constructivist, rather he tries to use the market forces to achieve the end.<sup>117</sup> He thinks that institutions could be tweaked to align public and private interests.<sup>118</sup> The policies still distort information that individuals can use.

### III. POSSIBLE REASONS FOR THE DIFFERENCES

On the margin, Smith and Hayek have different approaches to improving the negative outcomes of a spontaneous order. One explanation of the split is given by Laurent Dobuzinskis, who sees Smith as emphasizing both of the sentiments of liberty and

---

<sup>113</sup> 2 SMITH, *supra* note 11, at 306.

<sup>114</sup> *See id.* at 305.

<sup>115</sup> *See* 1 HAYEK, *supra* note 7, at 51.

<sup>116</sup> *See* STEVEN JOHNSON, THE CASE FOR PROGRESS IN A NETWORKED AGE (2012).

<sup>117</sup> *See* 2 SMITH, *supra* note 11, at 306.

<sup>118</sup> *See* 1 SMITH, *supra* note 7, at 152-53.

sympathy.<sup>119</sup> In contrast, Hayek focuses almost exclusively on liberty since he is a “classical liberal for whom private property rights were paramount.”<sup>120</sup> Smith’s concern with sympathy might come from his different understanding of justice. Smith emphasizes the role that non-market institutions can play a part in providing public goods, such as basic education, regulation, and economic support for the poor.<sup>121</sup> Indeed, Smith sees intervention in the interest of the poor as beneficial to the society; “When the regulation, therefore, is in favour of the workmen, it is always just and equitable.”<sup>122</sup>

Smith’s sympathy might also be the reason why Jeremy Bentham complains that Smith is unable to see all the virtues of the market economy.<sup>123</sup> Smith criticizes the “prodigals and projectors” that were a natural part of a market.<sup>124</sup> Smith also supports state regulation of financial transactions since a totally spontaneous, unregulated market can easily pave the way for “[a] great part of the capital of the country” being “kept out of the hands which were most likely to make a profitable and advantage use of it, and thrown into those which were most likely to waste and destroy it.”<sup>125</sup> Ultimately, Amartya Sen argues that Smith believes that injustice could be reduced through government institutions.<sup>126</sup> This must be done with an intervention into the workings of

---

<sup>119</sup> Laurent Dobuzinkis, “The Adam Smith Problem” Revisited: Comparing Hayek’s and Fouillée’s Answers, 1 *STUD. EMERGENT ORD.* 92, 92-93 (2008).

<sup>120</sup> *Id.* at 93-94.

<sup>121</sup> SEN *supra* note 47, at 259.

<sup>122</sup> 1 SMITH, *supra* note 7, at 159.

<sup>123</sup> SEN *supra* note 47, at 259.

<sup>124</sup> JEREMY BENTHAM, DEFENCE OF USURY: SHEWING THE IMPOLICY OF THE PRESENT LEGAL RESTRAINTS ON THE TERMS OF PECUNIARY BARGAIN 134 (1818).

<sup>125</sup> 1 SMITH, *supra* note 7, at 379.

<sup>126</sup> SEN *supra* note 47, at 267.

spontaneous order. Smith is also concerned about the degradation of human morals because of the division of labor.<sup>127</sup>

Hayek has a different conception of justice.

“[C]orrections” of the distribution brought about in a spontaneous process by particular acts of interference can never be just in the sense of satisfying a rule equally appreciable to all. Every single act of this kind will give rise to demands by others to be treated on the same principle.<sup>128</sup>

From Hayek’s view, the purpose of judges is to select those rules that worked in the past and hold them up to make it more likely that individuals’ expectations will match the real rules.<sup>129</sup> This system of order provides justice precisely because it develops from general rules of behavior and not in pursuit of any individual’s purpose.<sup>130</sup> Although people might agree on means or approaches, society cannot possibly agree on ends.<sup>131</sup> While people’s rules can proscribe types of action, such rules should not reference the ends which any part of society aims.<sup>132</sup> While Hayek supports a guaranteed basic income, he is clear that specific ends could not be dictated by the government.<sup>133</sup> Government cannot provide for “social justice.”<sup>134</sup> In fact, Hayek writes a whole book lambasting the idea of social justice.<sup>135</sup> Justice cannot be judged based on the ends actually realized.<sup>136</sup>

---

<sup>127</sup> See 2 SMITH, *supra* note 11, at 318.

<sup>128</sup> 2 F.A. HAYEK, *LAW, LEGISLATION AND LIBERTY* 142 (Univ. Chi. Press 1973).

<sup>129</sup> See 1 HAYEK, *supra* note 7, at 119.

<sup>130</sup> See *id.* at 113.

<sup>131</sup> See *id.* at 95.

<sup>132</sup> See *id.* at 142.

<sup>133</sup> See 3 HAYEK, *supra* note 92, at 55.

<sup>134</sup> 1 HAYEK, *supra* note 7, at 142.

<sup>135</sup> See 2 HAYEK, *supra* note 128.

<sup>136</sup> See 1 HAYEK, *supra* note 7, at 118.

These different conceptions of justice ultimately led Smith and Hayek to evaluate the spontaneous order of the Great Society. It causes them to see differently the problems that develop and what can be done to solve them. Hayek, who believes that what is just manifests itself in general acceptable rules of order, sees limited justification for interfering with a spontaneous order.<sup>137</sup> Such interference could only be justified on grounds that the interference furthered the overall order and the coordination of plans.<sup>138</sup> Smith, however, sees a reason for the government to achieve certain ends.<sup>139</sup>

#### CONCLUSION

In this paper, I examined the two most prominent figures of the spontaneous order tradition within classical liberalism, Adam Smith and F. A. Hayek. Both authors are proponents of a belief in a spontaneous order that does not need extensive governmental intervention. While one can walk away with various interpretations of Smith, it is clear that Smith formulates the first detailed statement of the natural tendency of coordination if society is left alone.<sup>140</sup> Smith has a strong belief in markets as an efficient way to allocate resources and believes the best laws develop naturally within society. Hayek is in agreement with both of these propositions. He emphasizes diffused knowledge as the reason against planning.

The differences between Hayek and Smith arise when one looks at the limited role that each author believes the government should play. In *The Wealth of Nations*, Smith argues for state education and poor relief to counter problems that develop in a spontaneous

---

<sup>137</sup> See *id.* at 118-122.

<sup>138</sup> See *id.* at 123.

<sup>139</sup> See 2 SMITH, *supra* note 11, at 309.

<sup>140</sup> Barry, *supra* note 1, at 28.

order. Smith explains that these failures are due to the division of labor, which leaves large numbers of the population uneducated, inactive, and alienated from work.<sup>141</sup> Hayek claims that social order has no purpose beyond the individual. Therefore, Hayek believes that the law can't exist to help certain people. Only individuals have goals, and no one knows the objectives of individuals better than the individuals themselves.<sup>142</sup> This is a key distinction between the two giants of spontaneous order theory.

---

<sup>141</sup> See 2 SMITH, *supra* note 11, at 305.

<sup>142</sup> See SMITH, *supra* note 6, at 118.