

BOOK REVIEW

PRIVATE GOVERNANCE: CREATING ORDER IN ECONOMIC AND SOCIAL LIFE

EDWARD P. STRINGHAM

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Leave people alone, and they will figure things out. This simple thesis, the heart of Edward Stringham's *Private Governance*, is the touchstone for a myriad of examples from history and the present demonstrating that individuals, and not the state, are best suited for the complicated work of enterprise and ordered liberty.

In fourteen crisply-written chapters divided into three main parts, Stringham takes us on a brisk tour through the theoretical underpinnings of private governance, the ways in which private associations have developed extraordinarily sophisticated systems for regulating their own endeavors, and a more abstract consideration of how, philosophically and economically, private governance is

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superior to other state-heavy approaches to the complexity and interconnectedness of modernity.

Stringham's debt to Friedrich Hayek is apparent throughout the book, and it is a debt that Stringham readily acknowledges and willingly repays. From the dedication page—which is inscribed *To legal centralists of all parties*, in a clear riff on Hayek's dedication of *The Road to Serfdom*—all the way through to the concluding chapter, "The Unseen Beauty that Underpins Markets," Stringham follows Hayek's fundamental insight that the free market organizes information and individual desires in ways that state planners simply cannot. But Stringham also challenges and goes beyond the teachings of his master in many exciting ways. In Chapter Thirteen, for example, "Applying Hayek's Insights about Discovery and Spontaneous Order to Governance," Stringham pushes Hayek's views on spontaneous order and competition as a discovery process into a realm of pure common law that Hayek himself was reluctant to embrace. Whereas Hayek stopped short of advocating for competing legal systems within a given polity, teaching instead that "governance and [the] legal system [should be] monopolized by the state" (p. 214), Stringham follows Bruno Leoni in taking the law out of the hands of legislatures and supreme courts and placing it back at the local level, among juries, judges, and those immediately affected by legal decision-making.

Apart from these very well-argued rebuttals to some of the finer points of Hayek's revolutionary *oeuvre*, the core of Stringham's book is a ringing vindication of Hayekian spontaneous order. Focusing mainly on various stock markets, including the London Stock Exchange, and the Amsterdam Beurs trading shares of the Dutch East India Company and other joint-stock ventures in the early 1600s, Stringham shows with clear arguments buttressed by meticulous research that private associations, and not states, time and again seized on new opportunities and developed the rules for pursuing those opportunities both profitably and equitably. PayPal, Stringham shows us in Chapter Seven, followed essentially the same course of private governance in the absence of state oversight as did the earlier moneymakers in the seventeenth century. And, branching off from finance, Stringham details, in Chapter Eight, how private policing in California, from early Gold Rush anarchy through to the hyper-regulated San Francisco of today, has been a

consistent source of order and security, both in the absence of, and despite, meddling by state-provided police.

While Stringham kept the scope of his book within the western hemisphere—which, to be sure, provides him with all the examples he needs to show that Hayek was splendidly right about private governance—future works might take advantage of the rich possibilities for expanding the Hayekian foundation beyond Europe and the United States. For example, in Japan during the Tokugawa Period (1600–1868), private associations providing insurance and moral guidance to members operated in nearly complete autonomy from state oversight. These eleemosynary cooperatives, called *kō* (講), were so successful that they perdure to this day in the form of (now heavily regulated) life insurance companies.¹ The Japanese village-level governance of the commons (*iriai* 入会) has also been widely documented, and proves Stringham’s and Hayek’s points with elegant, serendipitous simplicity. Likewise, also in Japan, the impromptu office of the *hoshōnin* (保証人), or contract guarantor, functions analogously to the guarantors Stringham lauds as having helped advance contractual stability in the West. Similar examples of bottom-up, spontaneously ordered associations abound in nearly every society. Stringham has tapped into a rich vein of inquiry that seems to lead much farther afield than even he may have initially realized.

While this book is a triumph of argument, research, and expository writing, there are ways in which Stringham might have made his book even stronger. From a presentational standpoint, while I certainly appreciate and privately applaud his occasional one-liners directed against the academic and political Left, I nevertheless felt that gratuitous insults, as funny as they are, detract needlessly from the solid force of Stringham’s argument. For example, Stringham ends a paragraph on private policing solutions in the 1850s in California having greatly reduced security expenses with this roundelay: “That’s hope and change I can believe in.” (p. 118) On the next page, Stringham shows that the private police in California adhered far more strictly to the rule of law than do the state authorities in the US today, and then takes another jab: “In

¹ See Najita (2009).

terms of numbers, these San Francisco vigilantes look like Gandhi compared to the president of the United States.” (p. 119) These lines are cute, but I fail to see what they add to Stringham’s main ideas, which are already very strong without them.

In a much larger sense, there are also ways in which Stringham fails to answer potential counterarguments from those—and in academia they will be legion—who do not agree with his clear-eyed historical deconstruction of the Left’s statolatry. Take the title of his book, for instance. For nearly anyone who has come through a humanities graduate program at an American university, “governance” will probably fit immediately into one context: Foucault’s “governmentality” and the entire literature that has accreted around it. While Stringham very capably shows that the state did not facilitate market interactions directly—to my mind, Stringham has put it beyond dispute that the market fends beautifully for itself—he leaves himself open to the Foucauldian rebuttal that the free-marketeers of the nineteenth and twentieth centuries and beyond have merely internalized the discursive norms generated by the panopticon state, thus making additional oversight superfluous. Stringham comes close to addressing Foucault on p. 136 when he touches on the “internal moral constraints” arguments of Adam Smith and Leo Tolstoy, but despite this near-miss I did not see Foucault mentioned even once in Stringham’s book. Foucault is the modern academy’s Harry Houdini costume, allowing them (they think) to wriggle out of even drum-tight arguments with ease. By heading the postmodernists off at the pass, Stringham might have shored up his book even more redoubtably than he already has.

These cavils aside, Stringham is to be commended for his bold and wonderfully-argued thesis, and for the research that he has done in supporting his claims. Kudos to him, in particular, for wading into 2008’s troubled waters and showing how the market was trying to correct itself by means of credit default swaps and other innovative financial instruments, only to be stymied by the eternally ham-fisted intervention of governmental agencies like the Securities and Exchange Commission. (The SEC conducted no fewer than eight investigations of Bernie Madoff’s pyramid scheme, for instance, but did nothing, while other investors caught on to what Madoff was up to and shut him out of the fair-play

club—just as Stringham and Hayek would have predicted they would. [pp. 182ff]) This book is a delight to read, is packed with accessible and fascinating information, is confident enough to tweak the noses of the Left (even if Stringham tweaks a bit much in some places), and is a recommended—required—read for anyone interested in the beauty of spontaneous order, far removed from the shadow of the state.

REFERENCES

Najita, Tetsuo. 2009. *Ordinary Economies in Japan: A Historical Perspective, 1750–1950*. Berkeley: University of California Press.